

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia is a longstanding constitutional democracy with a federal parliamentary form of government in which citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

Federal and state police are under the firm control of the civilian authorities and carried out their functions in accordance with the law. There were occasional reports that police committed abuses.

The country has a population of approximately 19,500,000. Its highly developed market-based economy, which includes manufacturing, mining, agriculture, and services, provided citizens with an average per capita income of approximately \$18,700. A wide range of government programs offered assistance for disadvantaged citizens.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. There were occasional reports that police beat or otherwise abused persons. Several inquiries during the year, including one prepared by the United Nations Human Rights Commission, expressed concern over the impact of prolonged mandatory detention on the health and psychological wellbeing of asylum seekers. Some leaders in the ethnic and immigrant communities and opposition political party members expressed continued concern at conditions in immigration detention centers and instances of vilification of immigrants and minorities. The Government administered many programs to improve the socioeconomic conditions of Aboriginals and Torres Straits Islanders, who together form about 2 percent of the population, and to address longstanding discrimination against them. Societal violence and discrimination against women were problems that were being addressed actively. There were some instances of forced labor in the past, but none were identified during the year. There was some trafficking in women, which the Government was taking steps to address. There was ongoing criticism of the 1996 Federal Workplace Relations Act by domestic labor unions and the International Labor Organization (ILO), particularly in regard to the law's restrictions on multi-enterprise agency bargaining and its emphasis on individual employment contracts. The ILO asserted that these provisions are in violation of international labor covenants. Australia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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. However, a report by the Australian Institute of Criminology, an agency of the Attorney General's Department, revealed that in 2001, 87 persons had died in prison, in police custody, or in the course of arrest, a slight decrease from the 91 deaths in 2000. Police fatally shot four persons and the cause of death was not identified in two cases. Of the remainder, 25 deaths were attributed to suicide by hanging, 31 to natural causes, 20 to multiple injuries sustained during high-speed car chases, 3 to unspecified injuries, 1 to a drug overdose, and 1 to self-inflicted gunshot wounds. The police were cleared in all cases in which they were involved (*see* Section 1.c.).

On January 8, a woman died in the Villawood immigrant detention center near Sydney, the only known death in an immigration detention facility. A coroner's inquest found that death resulted from injuries sustained in a fall; no determination could be made as to the cause of the fall.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits all such practices; however, there were occasional reports that police mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination among police and prison custodians persisted. Amnesty International (AI) reported several incidents that involved such abuses. State and territorial police forces have internal affairs units that investigate allegations of abuse and report to a civilian ombudsman. In the 12 months prior to June 30, 73 New South Wales police officers were charged with criminal offenses ranging from assault to inappropriate access to information. Seven Queensland police officers were charged with criminal offenses during the same period.

In 2001, the most recent year for which statistics were available, there were 87 deaths in custody or during arrest (*see* Section 1.a.). In past cases where deadly force was used, the circumstances of the case were reviewed and police were sanctioned in cases where abuses were found to occur. There were no cases during the year in which police were disciplined for the unjustified use of force.

According to the 2001 census, Aboriginal adults represented 2.2 percent of the adult population but approximately 20 percent of the total prison population, with incarceration rates approximately 15 times that of nonindigenous citizens. Aboriginals accounted for 22 percent of the deaths in custody that year; five died in police custody or during attempts by police to detain them, and fourteen in prison. Of the five deaths in custody, three resulted from injuries and two were found to be justifiable homicides. Of the 14 prison deaths, 8 were suicides by hanging and 6 resulted from natural causes.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Within the country, each state and territory is responsible for managing its own prisons. After a 2001 death in custody, the Tasmanian government implemented extensive reforms in prison operations.

The Federal government oversaw six immigration detention facilities located in the country and several offshore facilities in the Australian territory of Christmas Island and in the countries of Nauru and Papua New Guinea. These facilities were used to detain individuals who attempted to enter the country unlawfully, pending determinations on their applications for refugee status. In May the 6 onshore centers held 1,258 detainees. By the end of November, the two offshore facilities on Nauru and on Manus Island in Papua New Guinea held 812 asylum seekers. These included 137 on Nauru and 87 on Manus Island whose applications for refugee status had been approved, but who had not been resettled yet. At that point, of the 1,497 asylum seekers who had received determinations of status, 736 claims were upheld and 761 rejected; only 5 persons still had not received an asylum review decision (*see* Section 2.d.).

Media reports, confirmed by the Government, indicated that at least one person died while in immigration detention during the year. This followed the deaths of three persons in 2001 and one in December 2000 (*see* Section 1.a.). Hunger strikes, protests, and arson occurred during the year at immigration detention facilities over allegedly poor sanitary conditions, inadequate access to telephones, limited recreational opportunities, decisions to deny refugee status, and delays in processing final appeals of asylum claims. In March approximately 50 detainees escaped from the Woomera detention center after a group of refugee activists broke into the facility. Most of the fugitives were captured within a few days, but a few remained at large at year's end.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice. The law provides that law enforcement officials may arrest persons without a warrant if there are reasonable grounds to believe a person has committed an offense. Law enforcement officials can seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear. Once individuals are arrested, they must be informed immediately of the grounds of arrest and of their rights under the law. Once taken into custody, a detainee must be brought before a magistrate for a bail hearing at the next sitting of the court. Persons charged with criminal offenses were generally released on bail unless considered a flight risk or charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees. Detainees held without bail pending trial generally were segregated from the rest of the prison population.

In June the Australian Council of Civil Liberties urged a review of the mandatory detention procedures for unauthorized immigrants in effect since 1994, citing a lack

of international precedent for detaining asylum seekers and a need for independent oversight of the facilities. The Government responded by noting that immigration detention facilities were monitored by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), using standards developed in consultation with the Commonwealth Ombudsman's office, and were open to inspection by the Ombudsman's office and the independent federal Human Rights and Equal Opportunity Commission (HREOC).

During the year, the Government granted the U.N. High Commission on Refugees (UNHCR) access to these facilities. In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the detention centers and reported on its findings; the U.N. High Commissioner for Human Rights' Special Envoy released another report on the facilities in July. Both reports were critical of the facilities and the Government's policy of detaining children, unaccompanied minors, the elderly, and asylum seekers with disabilities. The Government rejected both reports, asserting they misrepresented government policy, contained many inaccuracies, and commented on issues well beyond the scope of their mandate.

In November 2000, HREOC asserted that in detaining a number of permanent resident convicts indefinitely pending deportation, the Government was in breach of the U.N. International Covenant on Civil and Political Rights. HREOC's March 2001 report asserted that as many as 70 permanent residents, most with Vietnamese nationality, had completed their prison terms but were still in custody pending deportation. A bilateral agreement later that year allowed the return of 35 Vietnamese nationals, and, at year's end, 10 remained in custody pending deportation.

Neither the Constitution nor the law address exile; however, the Government did not use forced exile.

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

There is a well-developed system of federal and state courts, with the High Court at its apex. The Federal Court and the High Court have very limited roles, with most criminal and civil trials conducted by state and territorial courts.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A magistrate conducts local court trials. In higher courts such as the state district or county courts and the state or territorial supreme courts, there is generally a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict.

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. There were two reported incidents during the year of telephone interceptions of trade union communications, one by the Defense Signals Directorate and the other by the Cole Royal Commission in connection with criminal activity in the building industry. The Government investigated both incidents and concluded that there was insufficient evidence to substantiate allegations that the security forces covertly monitored labor unions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution does not provide for freedom of speech and of the press; however, in two decisions the High Court has indicated that freedom of political discourse is implied in the Constitution. The High Court also has supported implied constitutional freedom of speech and of the press involving public political discourse. Citizens and the media freely criticized the Government without reprisal. Government officials have occasionally won libel suits against the independent media; however, such judgments have not impeded vigorous media criticism. An independent press, an effective judiciary, and a functioning democratic political system combine to support freedom of speech and of the press, including academic freedom.

b. Freedom of Peaceful Assembly and Association.—While the right to peaceful assembly is not codified in law, citizens exercised it without government restriction. There is no explicit right to freedom of association; however, the Government generally respected this right in practice.

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

For a more detailed discussion see the 2002 *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 Government encourages immigration by skilled migrants, family members, and refugees who enter through legal channels.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe third country. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. There is no provision for first asylum. Federal immigration officials adjudicate refugee status claims based on UNHCR standards. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence.

In September 2001, Parliament passed legislation that retroactively removed the right of any noncitizen to apply for a permanent protection visa (i.e., the right to live and work permanently in the country as a refugee) if that person's entry was unlawful and occurred in one of several "excised" territories along the country's northern arc: Christmas Island; Ashmore and Cartier Islands; the Cocos Islands; and any sea or resource installation designated by the Government.

Under the law, foreign nationals arriving at a national border without prior entry authorization are automatically detained. Individuals may be released pending full adjudication of their asylum claim only if they meet certain criteria such as age, ill health, or experience of torture or other trauma. However, most asylum seekers were undocumented, with claims that could not be immediately verified, and did not meet release criteria; they were detained for the length of the asylum adjudication process. Upon approval of an asylum claim, a temporary protection visa valid for 3 years is granted. This status, first established in 1999, grants full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. Prior to 1999, asylum claimants were either granted or denied permanent protection visas. This status still exists, and a full protection visa may be issued at any stage of the asylum adjudication process, but those entering unlawfully through an "excised" or designated territory are excluded. In September the Government began the process of reviewing protection claims for the first group granted temporary protection status in 1999. It was not clear what action would be taken with those whose claim to continued protection was not upheld; however, denials of asylum claims may be appealed successively to the Minister for Immigration and Multicultural and Indigenous Affairs, an independent Refugee Review Tribunal, and a Federal court.

In 2001–02 the Government recorded 1,645 unlawful arrivals in the country on 22 boats. A significant rise in asylum claims since 1999, coupled with insufficient staff and resources, has slowed processing of protection claims by DIMIA. The average detention period for those arriving unlawfully by boat during the year was 155 days; however, appealed cases took approximately 15 weeks to process. Previously, the average processing time for a primary decision on a refugee application had been only 6 weeks. However, a small number of asylum seekers have been detained for years pending review and appeal of their claims. In 2001 the Government decided that detention of asylum seekers would not generally be funded for longer than 14 weeks, giving DIMIA a financial incentive to expedite case handling.

The Government's detention policy has led to extensive litigation by human rights and refugee advocacy groups, which charged that the sometimes-lengthy detentions violated the human rights of asylum seekers. In September 2001, HREOC criticized the new Border Protection Act and related legislation, charging that they failed to apply human rights protections equally within all territories. Citing the U.N. International Covenant on Civil and Political Rights (ICCPR) to which the country is a party, HREOC asserted that the country did not ensure that all individuals within its sovereign territory received the basic human rights protections recognized in the ICCPR.

In 2001 HREOC asserted that the Migration Amendment Bill improperly abridged asylum seekers' right to pursue legal proceedings against the Federal government for breaches of human rights obligations. Other nongovernmental organizations (NGOs) such as Human Rights Watch voiced similar criticism.

During the year, there were hunger strikes and protests in centers over lengthy processing of final status determinations. In January and again in June, approximately 150 detainees at the Woomera Detention Center went on a hunger strike; up to 40 detainees sewed their lips together in protest. In March and again in June, a group of refugee advocates broke into the Woomera Detention Center, facilitating the escape of approximately 50 detainees on the first occasion and 35 on the second. Most of the fugitives in both incidents were captured within a few days, but more than 10 remained at large at year's end. In April about 100 detainees rioted at the Curtin Detention Center in Western Australia, injuring 28 staff and setting several buildings on fire (*see* Section 1.c.). At the end of December, detainees at five deten-

tion centers set fire to buildings, with damages estimated at \$4.35 million (A\$8 million). Five detainees were charged with arson.

In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the detention centers. After visiting five facilities, the U.N. group reported that “collective depression” was driving asylum seekers to acts of self-harm and attempted suicide. The investigation expressed deep concern about the policy of detaining children, infants, unaccompanied minors, pregnant women, the elderly, and asylum seekers with disabilities. The Government rejected this criticism, saying that it considered its detention policy successful and saw no reason to modify it.

During the year, the HREOC examined whether the Government’s policy of detaining all unauthorized arrivals, including children, breached the Convention on the Rights of the Child to which the country is a party. Their report had not been made public at year’s end. Public submissions presented to the HREOC expressed serious concerns over the effects of prolonged mandatory detention on children.

In July the U.N. High Commissioner for Human Rights’ Special Envoy released a report on Human Rights and Immigration Detention in Australia. The report called the Government’s policy on asylum seekers a “great human tragedy.” The envoy charged that the conditions inside the Woomera Detention Centre breached the Convention on the Rights of Child and an international covenant relating to torture and other cruel and degrading treatment. The envoy cited prolonged detention periods as a major concern, alleging these sometimes resulted from lengthy and cumbersome appeal procedures and unnecessary delays. The Government dismissed the report as fundamentally and factually flawed, unbalanced, and emotive, charging it misrepresented government policy and ignored the fact that people in immigration detention had arrived in the country illegally.

However, the Government did act to resolve problems at the centers identified during a yearlong inquiry concluded in early 2001. The inquiry cited infrastructure and management shortcomings at the Woomera Detention Center and inadequate government oversight of the private security firm hired to manage the facility. It concluded that poor supervision at Woomera had allowed humiliating or verbally abusive treatment of detainees by some guards, and also cited improper handling of a child abuse complaint at the facility. The report recommended 16 changes to procedures at the centers, including improvements related to child welfare. The Government publicly supported the report’s recommendations and implemented improvements to facilities and services during the year. This included construction of new recreational facilities and extensive landscaping as well as improvements to the educational courses offered at detention centers, including new life skills classes.

During 2001 ships carrying would-be asylum seekers attempting to enter the country illegally were denied permission to enter the country’s ports or territorial waters. Some of the ships were rerouted to the country’s offshore immigration detention facilities on Christmas Island and in Nauru and Papua New Guinea. In some cases, the would-be asylum seekers reportedly took actions designed to force the Government to allow them to enter the country’s territorial waters and to land, such as setting fire to their ships. In these cases, naval vessels effected rescues but did not allow landings or entry to territorial waters. In 2001–02 the Government recorded 1,628 attempted interceptions of intending immigrants on 11 boats that were diverted to offshore processing centers on Manus Island in Papua New Guinea and to Nauru. New Zealand accepted 133 asylum seekers for evaluation and possible resettlement. Immigration officials processed applications for asylum presented at the offshore processing centers. In November DIMIA confirmed that they had made a primary determination of all but 5 of their allocated caseload of 1,502 asylum-seeker claims. Of these, the applications of 141 Afghans, 551 Iraqis, and 44 nationals of other countries were approved. Claims made by the remaining 761 had been rejected, but were eligible for review. As of November, the country had accepted 110 refugees from Manus Island and 192 refugees from Nauru for resettlement. In August departmental officials confirmed that an Afghan man had died at the offshore immigration center on Nauru. A post-mortem examination by Nauruan authorities concluded that the man had died of natural causes.

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 exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In November 2001, citizens elected the Liberal-National Party Coalition to a third 3-year term of office. There also were elections in four of the country’s eight states and territories during 2001. The Australian Labor Party (ALP) won all four elections and controlled all state and territorial legislatures at year’s end. In February in South Australia

voters elected a Labor Party government and in July citizens in Tasmania reelected the Labor Party to a second 4-year term. In November Victoria voters reelected the Labor Party to a second 4-year term.

There are no legal impediments to public office for women and indigenous people. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office. There are 61 female members in the 226-seat Parliament. There are 4 female Ministers in the 30-member Federal government Cabinet. There is one female Premier of Chief of State and/or Territories, the Chief Minister of the Northern Territory.

Aboriginals were underrepresented among the political leadership (*see* Section 5, Indigenous People). One Aboriginal was elected to the Federal Senate in the October 1998 elections. During 2001 an Aboriginal woman was elected to the West Australian state parliament (the first indigenous woman to be elected to a state legislature) and four Aboriginals, including a woman, were elected to the Northern Territory 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. The Government in general has cooperated with human rights groups; however, on occasion it has made it clear that it did not agree with conclusions in reports by some organizations.

The most significant of the country's human rights groups is the federally funded but independent HREOC. During the year, the HREOC examined the Government policy of detaining all unauthorized arrivals, including children, and whether this policy breached the Convention on the Rights of the Child (*see* Section 2.d.).

Overall, the number of complaints of discrimination received by the HREOC rose slightly, from 1,263 in 2000–2001 to 1,271 in 2001–02. Approximately 55 percent of all cases were not accepted, either because they did not fall within HREOC's mandate or because no discrimination was shown. Another 30 percent were resolved through conciliation, and 14 percent were withdrawn before action could be taken.

In March, after an April and May 2001 visit, the U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination released his report on the human rights situation in the country. His report indicated that despite efforts by the authorities, much remained to be done to eradicate the legacy of racial discrimination and reduce the social inequalities and extreme poverty that affected the majority of Aboriginals. His recommendations to the Government included: Provide fresh impetus for reconciliation; enter into negotiations with Aboriginal representatives to rectify the "discriminatory nature" of 1998 amendments to the Native Title Act; find a humane solution to the question of the "Stolen Generation" (*see* Section 5); and intensify efforts to combat racism and poverty experienced by Aboriginals. He further recommended that the Government accede to the Convention on the Elimination of All Forms of Discrimination against Women.

In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the country's detention centers and issued a report criticizing the Government's detention policy (*see* Section 2.d.).

In 2000 the U.N. Human Rights Commission (UNHRC) urged the Government to do more to secure a stronger, decisionmaking role for indigenous citizens in regard to their traditional lands and natural resources. The UNHRC also urged the Government to do more to provide remedies to members of the Stolen Generation (*see* Section 5). In addition, the UNHRC recommended review of mandatory sentencing policies (*see* Section 5) and mandatory detention of illegal arrivals (*see* Section 2.d.). The Government responded that many of the recommendations were neither necessary nor desirable and reiterated its belief that mandatory detention of illegal arrivals was consistent with its treaty obligations. However, in October the newly elected government of the Northern Territory repealed the territory's mandatory sentencing laws (*see* Section 5).

In 2000 the ILO's Commission on Freedom of Association made a series of recommendations regarding the country's labor laws, especially the Workplace Relations Act and the Trade Practices Act (*see* Sections 6.a. and 6.b.). The Government responded by stating that the ILO's comments "reflect an inadequate understanding of the nation's law," and that the ILO failed to understand the domestic role of certain labor laws. The Government rejected all of the ILO's recommendations.

In 2000 the Government announced the results of a review of its cooperation with U.N. human rights treaty committees. While maintaining its commitment to involvement with the committees, the Government decided to limit visits by such com-

mittees to cases where a “compelling reason” existed for the visit. In addition, the Government stated that it would not delay removal of unsuccessful asylum seekers on the basis of an appeal to one of the U.N. human rights mechanisms; previously, such persons had been allowed to remain pending the resolution of that appeal.

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

The law prohibits discrimination based on these factors, and the Government and an independent judiciary vigorously enforced the prohibition.

According to a study in 2000 by the Australian Institute of Criminology, 37 murders of homosexual men in New South Wales between 1989 and 1999 were hate crimes. A followup study by the institute found that the perpetrators in these cases were young, exceptionally brutal, and believed society approved of their actions. In its 2000–2001 report, the HREOC stated that it received complaints about discrimination based on sexual orientation; its 2001–02 report did not specifically identify complaints about discrimination based on sexual orientation.

Women.—Violence against women was a problem, but there was no consensus on its extent. Some observers estimated that domestic violence might affect as many as one family in three or four. Domestic violence was believed to be particularly prevalent in certain Aboriginal communities, but only the states of Western Australia and Queensland undertook comprehensive studies into domestic violence in the Aboriginal community. It was widely agreed that responses to the problem have been ineffectual.

The Government recognized that domestic violence and economic discrimination were serious problems, and the statutorily independent Sex Discrimination Commissioner actively addressed these and other areas of discrimination. A 1996 Australian Bureau of Statistics (ABS) study (the latest year for which statistics are available) found that 2.6 percent of 6,333 women surveyed who were married or in a common-law relationship had experienced an incident of violence by their partner in the previous 12-month period, and that almost one in four of these women experienced violence by a partner at some time during the relationship.

Prostitution is legal or decriminalized in several states and territories. In some locations, state and local governments inspected brothels to prevent mistreatment of the workers and to assure compliance with health regulations. Child sex tourism is prohibited within the country and for citizens overseas.

There were 14,074 victims of sexual assault recorded by the police in 1999 (the latest figures publicly available; they do not distinguish by gender), a decrease of 1.8 percent from 1998. This amounted to approximately 74 victims of sexual assault per 100,000 persons. Spousal rape is illegal under the state criminal codes.

Past occurrence of female genital mutilation (FGM) was insignificant. However, in the last few years, small numbers of girls from immigrant communities in which FGM is traditionally practiced were mutilated. The Government implemented a national educational program on FGM, in a community health context, to combat the practice. The program was designed to prevent FGM, to assist women and girls who already have been subjected to it, and to promote a consistent approach to the issue nationwide. The Government also allocated funds for the development of state and territory legislation to combat FGM. All states and territories except Queensland and Western Australia have enacted legislation against FGM. In all states and territories where FGM legislation existed, it was a crime either to perform FGM or to remove a child from the jurisdiction for the purpose of having FGM performed. Punishment for these crimes could include up to 7 years in prison.

Trafficking in women from Asia and the former Soviet Union for the sex trade was a limited problem (see Section 6.f.).

Sexual harassment is prohibited by the Sex Discrimination Act. The HREOC 2001–02 report detailed several cases of sexual harassment; HREOC received 195 harassment complaints during this period.

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women’s rights organizations at the federal, state, and local levels. A federally funded Office of the Status of Women monitored women’s rights. The federal Sex Discrimination Commissioner receives complaints and attempts to resolve those that are deemed valid. According to the HREOC 2001–02 report, sex discrimination complaints rose by 18 percent during this reporting period, and 399 new cases were filed during the year. Of these, women filed 88 percent and 85 percent were employment related. Through June the ABS estimated that women’s full-time average ordinary weekly earnings were 80.15 percent of men’s. However, a study released by the Australian Institute of Management in May 2000 found that women were paid only 66 percent of their male counterparts’ wages. This study also found that there were fewer female board members in both large and small companies than in the previous year. Some members of op-

position political parties attributed the difference to changes in workplace laws, such as the 1996 Workplace Relations Act, which relies on the use of individual employment contracts that are negotiated privately and thus do not necessarily foster equal pay outcomes. Other commentators suggested that an “old boy’s network” could make it difficult for women to negotiate salaries equal to those of their male counterparts.

Children.—The Government demonstrated its strong commitment to children’s rights and welfare through its publicly funded systems of education and medical care. The Government provides a minimum benefit of 16.8 percent of the cost of a first child’s childcare to all parents (with a smaller benefit for additional children), which increases to as much as 100 percent for the lowest income families.

According to the Productivity Commission’s Report on government Services, which was released in 2001, the structure of school education varied among states and territories. Formal schooling begins with 6 to 7 years of primary school followed by 5 to 6 years of secondary school, depending upon the state or territory. Education was compulsory, free, and universal in all states and territories for children between 6 and 15 years of age (and to 16 years of age in Tasmania). Most children in urban areas attended school regularly, and children in rural areas participated in school through radio programs or received government subsidies for boarding school. The report stated that 67 percent of all children completed 12 years of schooling (normally through the final year of secondary education).

The Government provided universal health insurance to all citizens from birth on a copayment basis. There was no discrimination between children and adults or between males and females in the provision of health care.

The HREOC receives complaints regarding children and attempts to resolve those that it finds valid. Similarly, the six states and two territories investigate complaints of neglect or child abuse and institute practical measures aimed at protecting the child when such complaints prove founded. The Government has enacted strict legislation aimed at restricting the trade in, and possession of, child pornography; it allows suspected pedophiles to be tried in the country regardless of where the crime was committed. There was no societal pattern of abuse.

The Government and domestic NGOs responded promptly to the problem of a small number of children who had been smuggled into the country, some for the sex trade (*see* Section 6.f.). The NGO Childwise, formerly End Child Prostitution, Pornography and Trafficking, conducted an aggressive public education campaign to raise awareness of the issue and offer strategies to combat trafficking in children. Childwise successfully lobbied the Government to conduct police checks of unaccompanied children entering the country to verify that they are not part of a trafficking operation (*see* Section 6.f.). In 2000 the Department of Family and Community Services released its plan of action against the commercial sexual exploitation of children; however, no information regarding activities resulting from this plan was available.

In 1992 the High Court ruled that the right to consent to the sterilization of a minor was not within the ordinary scope of a parental or guardianship powers, except in limited circumstances. The High Court ruled that the decision to undertake sterilization procedures should be made by an independent body. The Government made the federal Family Courts the arbiters in such cases; since 1998, it has been illegal for a physician to conduct sterilization of a minor without authorization from the Family Court. Physicians who performed such procedures without court authorization were subject to both criminal and civil action. In April a report into the sterilization of girls and young women with disabilities, commissioned by the federal Sex Discrimination Commissioner, found that the official data were unreliable and that anecdotal evidence suggested that girls continued to be sterilized in numbers that far exceeded the number of lawful authorizations.

During 2001 HREOC asserted that under the Convention on the Rights of the Child, the country’s mandatory immigration detention policy violated a child’s right not to be deprived of his or her liberty unlawfully or arbitrarily (*see* Section 2.d.).

Persons with Disabilities.—Legislation prohibits discrimination against persons with disabilities in employment, education, or other state services. The Disability Discrimination Commissioner promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The Commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities.

The law makes it illegal to discriminate against a person on the grounds of disability in employment, education, provision of goods, services, and facilities, access to premises, and other areas. The law also provides for investigation of discrimina-

tion complaints by the HREOC, authorizes fines against violators, and awards damages to victims of discrimination.

The 2001–02 HREOC report stated that 478 disability complaints were filed during the 2001–02 reporting year, including 17 complaints of discrimination based on mental disability and 17 complaints based on learning disabilities. Of these 52 percent were employment related and 27 percent concerned the provision of goods and services. The complaints covered a 12-month period.

Indigenous Persons.—The law prohibits discrimination on grounds of race, color, descent, or national or ethnic origin. DIMIA, in conjunction with the elected Aboriginal and Torres Straits Islander Commission (ATSIC), has the main responsibility for initiating, coordinating, and monitoring all government efforts to improve the quality of life of indigenous people. A wide variety of government initiatives and programs seek to improve all aspects of Aboriginal and Torres Straits Islander life. In 2001–02 the Government planned to spend approximately \$1.27 billion (A\$2.34 billion) on indigenous-specific programs in areas such as health, housing, education, and employment. In real terms, the Government increased funding for Aboriginal benefits by 5 percent over the previous fiscal year. However, indigenous citizens continue to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, elevated levels of unemployment, and general discrimination, which contribute to a feeling of powerlessness. Poverty and low average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see Section 3).

However, Aboriginals and Torres Strait Islanders can participate in government decisionmaking that affects them through the ATSIC. Every 3 years, indigenous people elect representatives to 35 regional councils and the Torres Strait Regional Authority, who in turn choose the 17 commissioners who make up the ATSIC Board. The ATSIC Board advocates for indigenous people on all issues affecting indigenous people and at all levels of government. ATSIC triennial elections for 380 regional councilors were conducted in October. By the end of November, all the regional councils had met and elected the 16 Commissioners who, together with an elected representative from the Torres Strait, form the new ATSIC Board. In December the ATSIC Board re-elected the current Chairman and Vice-Chairman of ATSIC to another term. Voter participation in the elections was higher than in the 1999 elections, and there was a greater than 50 percent turnover in representatives at both the Regional Council and Commission level. Female membership on the 16-member Commission fell from 5 to only 1 member.

Government programs, including a \$427 million (A\$785 million) indigenous land fund and a “Federal Social Justice Package,” are aimed at reducing the challenges faced by indigenous citizens. The indigenous land fund is a trust fund and enables indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The 1993 Native Title Act, which was amended in 1998, established a National Native Title Tribunal to resolve native title applications through mediation. The Tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. During the year, the ATSIC noted that the amended act provided gains for Aboriginal people but still contained “substantial pain” for native title claimants. Aboriginal leaders were pleased by the removal of a time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights.

In August the High Court ruled that native title rights did not extend to mineral or petroleum resources, and that in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed. In December the High Court rejected the Yorta Yorta people’s land claim, ending the country’s longest-running native title case. The Yorta Yorta claim covered more than 1000 square miles along the Murray River, which flows through New South Wales, Victoria, and South Australia. The court required that the Yorta Yorta people, in order to claim ownership, demonstrate that they had, without interruption and throughout the period of white settlement, practiced a system of native law and tradition on the land in question. Aboriginal leaders voiced concern that this decision would make future claims untenable by establishing too great a burden of proof.

A 1993 survey indicated that 14.25 percent of the country’s land is owned or controlled by Aboriginal people, according to the Australian Surveying and Land Information Group. In 2000 the UNHRC stated that the country should do more to se-

cure for indigenous citizens a stronger role in decisionmaking over their traditional lands and natural resources. Also in 2000, the U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed concern that the Government's Native Title amendments would allow the states and territories to pass legislation containing provisions "reducing further the protection of native title claimants." The CERD declared "unsatisfactory" the Government's response to concerns about the Native Title regime expressed in 1999. The Government responded later that year that the laws were passed after full debate in a democratically elected legislature and that the states have a sovereign right to determine land use policy.

According to an ABS report released in March, in 2001 indigenous people throughout the country were imprisoned at 15 times the rate of nonindigenous people. The indigenous incarceration rate was 1,829 per 100,000 adult population, in contrast to a nonindigenous rate of 121 per 100,000. The AIC reported in June 2001 that the incarceration rate among indigenous youth in 2000 was 17.4 times that of nonindigenous youth. Over 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2001 Aboriginal juveniles accounted for 55 percent of those between the ages of 10 to 17 in juvenile corrective institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, such as unemployment, homelessness, and boredom.

In the past, there was controversy over state mandatory sentencing laws. These laws set automatic prison terms for those with multiple convictions for certain crimes. Human rights groups criticized mandatory sentencing laws, which allegedly resulted in prison terms for relatively minor crimes and disproportionately affected Aboriginals. In 2000 the U.N. Human Rights Commission issued an assessment of the country's human rights record that was highly critical of mandatory sentencing (see Section 4). The Federal government responded that democratically elected governments passed such laws after full political debate, making it inappropriate for the Federal government to intervene. The Government of the Northern Territory repealed the territory's mandatory sentencing laws in 2001. The ATSIC welcomed this repeal and called upon Western Australia, whose legislation was less sweeping and had been less controversial than that of the Northern Territory, to follow suit. Western Australia continued to retain its mandatory sentencing laws, which made any person (adult or juvenile) committing the crime of home burglary three or more times subject to a mandatory minimum prison sentence.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination among police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of systematic discrimination; these statements were based on anecdotal information and lacked statistical confirmation.

The ABS report Australia's Health 2000 concluded that the average life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person. The indigenous infant mortality rate was 2.8 times and the maternal mortality rate was 4 times the rates found in nonindigenous populations. According to the Australian Institute of Health and Welfare, between 1998 and 2000, tuberculosis and hepatitis A and B rates among indigenous people were, respectively, 3.9 times greater, 5.2 times greater, and 6 times greater than rates among the nonindigenous.

According to the Department of Family and Community Services, indigenous youth were 2.5 times more likely than nonindigenous youth to leave school before completing high school. The ATSIC 2000–2001 report estimated that the indigenous unemployment rate was 23 percent, 3 times that of the general population, and that employment was concentrated mainly in government and the indigenous service industry sectors, or in low-skilled jobs. Indigenous citizens were nearly 3 times more likely to be working as laborers and related workers and only half as likely to be employed as managers and administrators or in professional occupations, according to the latest available (1998) figures from the ABS.

In August 1999, the Government, in identical motions passed by both Houses of the Federal Parliament, expressed public regret for past mistreatment of the Aboriginal minority; however, the Government-sponsored motion of reconciliation was criticized by many Aboriginal leaders as not going far enough. Prime Minister Howard acknowledged the "most blemished chapter in our national history" and submitted a seven-point motion to Parliament. Howard proposed that Parliament express "its deep and sincere regret" that Aboriginals had "suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel." However, both Aboriginal and opposition leaders stated that only a full apology would be sufficient. The Government also continued to

oppose an official apology for the “Stolen Generation” of Aboriginal children, who were taken from their parents by the Government from 1910 until the early 1970s and raised by foster parents and orphanages. The Government’s position remained that the present generation had no responsibility to apologize for the wrongs of a previous generation.

In 2000 a federal court ruled against two claims for government compensation by members of the “Stolen Generation,” stating that they did not provide sufficient proof that they had been taken without parental consent. However, the presiding judge stressed that the ruling did not settle the question of compensation for “stolen” children as a whole. Also in 2000, the UNHRC urged the Government to do more to provide a remedy for members of the “Stolen Generation” (see Section 4). During this year, the High Court dismissed a hearing request by claimants in the 2000 case. There were new calls for a reparations commission for the “Stolen Generation,” including an ATSIC proposal that the Government establish a Reparations Tribunal to avoid costly future legal battles.

Following the 1997 publication of HREOC’s landmark report on the “Stolen Generation” entitled “Bringing Them Home,” the Federal government allocated \$34.27 million (A\$63 million) over 4 years to a comprehensive package of initiatives to facilitate family reunification and assist victims in coping with separation trauma. At the end of the fiscal year, all \$34.27 million had been disbursed. In addition, the 2001–02 federal budget allocated a further \$29.32 million (A\$53.9 million) over a 4-year period for programs under this initiative.

The Government’s approach toward Aboriginals emphasized a “practical reconciliation” aimed at raising the health, education, and living standards of indigenous people. Following the 2001 parliamentary elections, the Prime Minister designated a minister to serve as both Minister Assisting the Prime Minister for Reconciliation and Minister of Immigration and Multicultural and Indigenous Affairs. The latter portfolio includes oversight of the Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs, previously its own department. The mandate of the Council for Aboriginal Reconciliation (CAR), created by Parliament in 1991, expired in 2000. The CAR’s final report was released in December 2000 and included recommendations for a constitutional amendment to make racial discrimination unlawful, as well as federal and state performance benchmarks and timelines to overcome Aboriginal disadvantage and enactment of legislation furthering reconciliation principles. It also called for preparation of parliamentary legislation providing for a referendum on deleting Section 25 of the Constitution, which denies voting rights in Federal elections to any person previously denied the franchise on racial grounds under State laws. (In practice, this section has no impact, as there are no race-based exclusions in state voting laws.) The report also recommended that appropriate recognition be given to the Aboriginal people and Torres Strait Islanders as the original inhabitants of the land.

In 2000 federal and state government leaders agreed to promote the economic welfare of indigenous people and reduce economic disparity. Under the agreement, a Federal-State leadership group, the Council of Australian governments (CAR), would monitor progress toward these goals. At year’s end, the Government had not acted on the CAR recommendations for a referendum, a Constitutional amendment, or recognition of the Aboriginal and Torres Strait Islanders as original inhabitants of the land.

Reconciliation Australia, Ltd., a private foundation with government funding, replaced CAR in 2000. Chairman Geoff Clark called on the foundation to strive for a true reconciliation guaranteed by both formal recognition of indigenous rights and a treaty. However, the Government remained opposed to a treaty on the principle that treaties could exist only between nations. There was some discussion of reconciliation treaties between Aboriginals and individual states; at year’s end, no legislative action had been taken.

On July 22, the Federal government commemorated the opening of a government-funded “reconciliation park” in Canberra.

The NGO Aboriginal Tent Embassy in Canberra set up a small structure on public land opposite the Old Parliament building and worked to publicize Aboriginal grievances. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights.

National/Racial/Ethnic Minorities.—Although Asians are less than 5 percent of the population, they make up 40 percent of new immigrants. Public opinion surveys had indicated concern with the number of new immigrants, and in 1996 the Government reduced the annual nonrefugee immigration quota by 10 percent to a maximum of 74,000. It was subsequently raised to approximately 80,000 and expanded

to 93,000 during the year. The annual quota for humanitarian resettlement of refugees remained constant at approximately 12,000. However, a marked increase in unauthorized boat arrivals from the Middle East during the period from 1998–2001 heightened public concern that “queue jumpers” and alien smugglers were abusing the country’s refugee program. Leaders in the ethnic and immigrant communities expressed concern that increased numbers of illegal arrivals and violence at migrant detention centers had contributed to incidents of vilification of immigrants and minorities. Following the September 11, 2001, terrorist attacks, there were allegations of verbal harassment and threats against Muslim residents, and a mosque in Brisbane was attacked by an arsonist. In December a former security officer convicted of the arson was sentenced to 6 years in prison.

In March 116 NGOs, churches, unions, and government agencies joined the Acting Race Discrimination Commissioner at a 2-day national conference on tackling racism in the country. According to the 2001–02 HREOC report, the number of racial discrimination complaints fell by 30 percent during the year. Of 186 reported cases, 35 percent involved employment; 29 percent involved provision of goods, services, and facilities; and 19 percent alleged “racial hatred.” Non-English speakers filed 31 percent of the complaints and Aboriginals and Torres Strait Islanders only 13 percent. However, following the deaths of 88 citizens in an October terrorist bombing in Bali, the press reported an increase in racially motivated incidents.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers, including public servants, freedom of association domestically and internationally, and workers exercised this right in practice. The law also provides for employer associations. In August 2001, an ABS survey indicated that union membership had declined slightly, to 24.5 percent of the workforce.

Unions carry out their functions free from government or political control, but most local affiliates belonged to state branches of the ALP. Union members made up at least 50 percent of the delegates to ALP State and Territory conferences, but unions did not participate or vote as a bloc.

The 1996 Federal Workplace Relations Act contained curbs on union power, restrictions on strikes (*see* Sectionb.), and an unfair-dismissal system which limited redress and compensation claims by employees. Several unions have objected to the law, alleging it violated the right to assembly provided for in several ILO conventions that the Government has signed. The primary curb on union power is the abolition of closed shops and union demarcations. This provision could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures. The only enterprise union to be registered under the provisions of the act, the Ansett Pilots Association, disappeared following the decision of company administrators to close down Ansett Airlines at the beginning of the year.

Unions may form and join federations or confederations freely, and they actively participated in international bodies. However, in March 2000, the ILO’s Committee on Freedom of Association also recommended that the Government take measures, including amending legislation, to ensure that in the future trade union organizations are entitled to maintain contacts with international trade union organizations and to participate in their legitimate activities. The Government rejected this recommendation.

b. The Right to Organize and Bargain Collectively.—The law at all levels (federal, state, and territories) provides workers with the right to organize and bargain collectively, and the law protects them from antiunion discrimination; the Government respected these rights in practice. In August the Western Australian Labor government enacted the Labor Relations Reform Act of 2002. The act repealed laws that permitted individual contracts to override collective agreements, reversed many of the discriminatory measures against trade unions contained in 1997 legislation, and removed requirements that unions undertake complicated pre-strike ballots.

At a federal level, the negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). In 2001–02, the AIRC certified 6,738 enterprise agreements, which was an increase of 8 percent from the number certified in 1997–98. The federal, state, and territorial governments administered centralized minimum-wage awards and provided quasi-judicial arbitration of disputes, supplemented by industry-wide or company-by-company collective bargaining. The Workplace Relations Act provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers. These agreements were subject to far fewer government regulations than the awards; however, AWAs must meet comparable standards for basic working con-

ditions as an award in the same sector. The Office of the Employment Advocate reported that the OAE and AIRC had approved 290,029 AWAs since March 1997. This year 8,338 AWAs were approved, covering 5,074 employers. In 2000 the ILO recommended that the Government amend legislation so that workplace agreements did not undermine the right to bargain collectively; the Government rejected this recommendation. Ending a long-running dispute, in 2001 a federal court ruled that a mining company could offer individual employment contracts with superior conditions (as compared to workers covered by collective bargaining agreements) to iron ore miners in the Pilbara region of Western Australia. However, workers could not be compelled to accept the individual work agreements, and unions retained the right not only to represent employees who supported collective bargaining but also those who elected to accept an individual work agreement.

An implicit right to strike was legalized in 1994 legislation. The 1996 Workplace Relations Act significantly restricted the right of workers to take industrial action, including heavy fines for labor unrest during the life of an agreement and tougher secondary-boycott provisions, and confined it to the period of bargaining, where it remains a protected action. Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action during the formal period of bargaining over a new enterprise agreement. In April 1999, a union successfully challenged this provision in federal court; the court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because it was in support of maintaining existing wages and conditions. Parliament has rejected on four occasions the Government's proposed associated legislative changes to the Federal Trade Practices law, which would have provided companies with resort to legal action if they were subject to secondary boycott action. There has been no significant increase in industrial actions taken outside the bargaining period, and the decision has not been appealed to date.

During the year, the most notable national industrial actions were against the airline industry and component parts manufacturers associated with the motor vehicle industry. There were also short localized strikes by nurses, teachers, and construction workers. The Bureau of Statistics reported 684 industrial disputes for 2001-02, down 2 percent from the previous year; over the same period, workdays lost due to strikes fell by 6 percent to 329,300. During the year, the national union federation, the Australian Council of Trade Unions (ACTU), also campaigned to increase the minimum wage, to establish a new benchmark for weekly working hours (especially as related to mandatory overtime), and to protect employee entitlements in the face of numerous company collapses. In one important case, the Industrial Relations Commission refused the ACTU's request to set a standard for "reasonable working hours" but allowed workers to refuse without penalty to work unreasonable overtime. Laws and regulations prohibit retribution against strikers and labor leaders, and they were effectively enforced. In practice employers avoided available legal remedies such as secondary boycott injunctions in order to preserve amicable long-term relationships with their unions.

In 2000 the ILO's Committee on Freedom of Association recommended substantial changes to the Workplace Relations Act and the Trade Practices Act after examining complaints of antiunion discrimination raised by both domestic and international trade unions over the Government's role in a 1998 labor dispute involving stevedores. Specifically, the ILO recommended that the Government amend the Workplace Relations Act to eliminate the linkage between restrictions on strike action and legal provisions on interference with trade and commerce. The ILO also criticized the Government's use of serving defense force personnel as replacement workers in the 1998 strike. The Government stated, in response to the recommendations, that the ILO's comments "reflect an inadequate understanding of Australian law." The Government rejected all of the ILO's recommendations.

There are no export processing zones. The Darwin Trade Development Zone, Northern Territory, attempted to increase exports via a geographically defined free trade zone. In practice the Darwin initiative was focused almost exclusively on Asian trading partners to the north and west.

c. Prohibition of Forced or Bonded Labor.—Although there are no federal laws prohibiting it, forced labor, including forced and bonded labor by children, generally is not practiced. While there were instances of such practices in the past, there were no reports of this activity during the year.

d. Status of Child Labor Practices and Minimum Age for Employment.—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, which were enforced by state educational authorities, effectively prevented most children from joining the work force until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network

of laws, which varied from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations.

The country has not ratified ILO Convention 182 on the worst forms of child labor.

Federal law does not explicitly prohibit forced and bonded labor by children, but such practices generally were not known to occur, although there have been instances of such abuses in past years (*see* Section 6.f.). As a result of the April 1999 discovery of children working in several clothing sweatshops in Sydney and Melbourne, the Attorney General's Department stated that it would study existing laws and consider whether new legislation would strengthen the Government's ability to combat the problem. The Federal government took no action on this problem during the year; however, the state governments of Victoria and New South Wales enacted legislation to strengthen protections for children in the workplace in 2001. In November 2001, the Victoria state government substantially raised fines for child labor abuses within the state.

Most cases of abuse in the last several years have involved members of ethnic communities from nations where child labor is not uncommon.

e. Acceptable Conditions of Work.—Although a formal minimum wage exists, it has not been relevant in wage agreements since the 1960s. Instead, differing minimum wage rates for individual trades and professions covered 80 percent of all workers; all rates were enough to provide a decent standard of living for a worker and family.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribed a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions were set by a series of "awards" (basic contracts for individual industries). Some awards specified that workers must have a 24- or 48-hour rest break each week while others specified only the number of days off per number of days worked.

Over the past 2 decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2001 there were 2.1 million persons (27 percent of the workforce) employed as casual or temporary workers, even though government statistics indicated that over 50 percent had been employed in the same job for over 12 months, and 67 percent worked regular hours. Such employees were not entitled to certain employment benefits such as sick leave or annual leave, but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace.

The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas required that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. Reports of abuse of foreign workers generally referred to permanent residents who performed work in their homes in the clothing and construction industries.

f. Trafficking in Persons.—Legislation enacted in late 1999 targets criminal practices associated with trafficking, and other laws address smuggling of migrants. Trafficking in persons from Asia, particularly women, was a limited problem that the Government took steps to address as part of a broader effort against "people smuggling," defined as "illegally bringing noncitizens into the country." Smuggling of persons in all forms, including trafficking, is prohibited by the Migration Act, with penalties of up to 20 years' imprisonment. In 2001 Parliament also enacted the Border Protection Act, which authorized the boarding and searching of vessels in international waters, if suspected of smuggling of or trafficking in persons.

In February Indonesia and Australia co-chaired a 38-country Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. The conference participants established a series of expert working groups to develop ways to combat people smuggling and trafficking.

Also in February, the Government established a new position of Ambassador for People Smuggling Issues, with responsibility for promoting a coherent and effective international approach to combating people smuggling (particularly in the Asia-Pa-

cific region), assisting as appropriate in the negotiation of international agreements for return, readmission, and resettlement of persons brought into Australia, and working for the prosecution of smugglers and traffickers in persons. The Ambassador also was tasked with following up on the results of the Regional Ministerial conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime.

The country is a destination for trafficked women. In 2001 the Australian Institute of Criminology issued a report entitled *Organized Crime in People Smuggling and Trafficking to Australia*, which observed that the incidence of trafficking appeared to be low. However, the Government, NGOs, and journalists agreed that an unknown number of women were being trafficked into the country each year. DIMIA and the Australian Federal Police reported that women from Thailand, the Philippines, Malaysia, China, Indonesia, South Korea, Vietnam, and parts of the former Soviet Union were brought into the country for the purpose of prostitution, entering with fraudulently obtained tourist or student visas. There were also reports of women trafficked into the country from Afghanistan and Iraq. In the past, there were reports of trafficking in women to work in sweatshops in the textile, clothing, and footwear industries as well as in service industries, sometimes as bonded labor. However, there were no such reports during the year.

There have been some instances of organized crime groups forcing foreign women to work as sex workers. Some reports indicated that women working in the sex industry became mired in debt or were physically forced to keep working, and that women in irregular immigration status were pressured to accept hazardous working conditions. Some women were subjected to indentured sexual servitude to pay debts to their traffickers. In the past, women were found locked in safe houses with barred windows or under 24-hour escort, with limited access to medical care or the outside world. Some women were lured by offers of employment as waitresses, maids, or dancers and were not aware that they would be employed as prostitutes after entering the country. In some cases, women were coerced by criminal elements operating in their home countries. There were also reports of young women, primarily from Asia, sold into the sex industry by impoverished families. However, available evidence indicated that such cases were not widespread, and that most women working in the sex industry were not coerced.

Prostitution is legal or decriminalized in many areas of the states and territories, but health and safety standards varied widely and were not well enforced. In 1999 the Criminal Code Amendment (Slavery and Sexual Servitude) Act came into force. The act modernized the country's slavery laws, and contained new provisions directed at slavery, sexual servitude, and deceptive recruiting to address the growing and lucrative trade in persons for the purposes of sexual exploitation. Under the act, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Where a person engaged to provide sexual services is not free to cease or to leave because of force or threats, those responsible face penalties of up to 15 years' imprisonment, or 19 years if the victim is under age 18. A person who deceptively induces another person to provide sexual services faces a penalty of up to 7 years' imprisonment, or 9 years if the victim is under age 18. The act provides for penalties of up to 25 years' imprisonment and was part of a federal, state, and territory package of legislation. However, prosecution has been hampered by the difficulty of identifying victims or traffickers and the unwillingness or inability of witnesses to testify. No prosecutions have been brought under this federal law to date.

In 1994 the Government amended the Federal Crimes Act to provide for offences such as child sex tourism and related matters. (Under the laws of various states, it already was illegal for an adult to have sexual relations with a child.) These provisions allowed for the investigation and prosecution of citizens who traveled overseas and engaged in illegal sexual conduct with children. Under the act, there have been 16 investigations to date, resulting in 10 convictions and two dismissals. Four cases were pending at year's end.

In 2001 the Government amended the criminal code provisions relating to child sex tourism and sexual slavery and servitude better to protect the interests of child complainants and child witnesses. These amendments recognized that child complainants and child witnesses were particularly vulnerable because of their age and nature of the crime involved. The provisions protect the children's privacy and protect the children from intrusive cross-examination while giving evidence, allowing them to give evidence by means of closed circuit television.

During the year, the Customs Service increased monitoring of all travelers suspected of involvement in the sex trade, either as employees or employers.

In 2001 DIMIA created an antitrafficking unit in New South Wales to assess the extent of trafficking in the Sydney area; at year's end, the assessment was ongoing.

Also in 2001, Australian Aid (AUSAID) began a development project to build the capacity of local agencies working to prevent trafficking in Southeast Asia. Through AUSAID, the country also sponsored training courses for travel agents and others to help prevent child sex tourism. It also contributed \$3.48 million (A\$6.4 million) to a three-year multidonor U.N. Development Program project to combat trafficking in women and children and an International Organization for Migration project to assist in the return and reintegration of trafficked and vulnerable women in Southeast Asian countries.

There were no NGOs devoted specifically to trafficking victims; however, assistance was available through NGOs that ran shelters for women and youth; sex worker organizations; and Project Respect, a consortium of organizations that combat exploitation or trafficking of adults and children for pornography. Some of these NGOs received government funding; others were funded privately.

BRUNEI

Brunei Darussalam is a small, wealthy Islamic country ruled by the same family for over 600 years. It was a British Protectorate from 1888 until 1959 when a self-governing constitutional monarchy was created, with the British retaining responsibility for foreign affairs and defense until 1984, when the sultanate became a fully independent and sovereign nation. The 1959 Constitution provided for the first delegation of political power by the late Sultan Omar Ali Saifuddin to a council of state with popular representation. After a failed rebellion in 1962, the Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers were renewed regularly, most recently in June under the present ruler, Sultan Haji Hassanal Bolkiah. In 2000 the Foreign Minister confirmed that a review of the Constitution was submitted to the Sultan for approval, and that "an element of an election" was in this report. However, to date there has been no word on when the revised Constitution might be forthcoming. Although not all the articles of the Constitution were suspended, the state of emergency places few limits on the Sultan's power. The Sultan also serves as Prime Minister, Minister of Defense, Minister of Finance, Chancellor of the national university, Superintendent General of the Royal Brunei Police Force, and Head of the Islamic faith. The Constitution does not specifically provide for an independent judiciary and all higher court judges are appointed by the Sultan; however, in general the courts appear to act independently.

The police force, which has responsibility for internal security, and which includes an Internal Security Department, reports to the Sultan, who maintains firm control over it.

The country's large oil and natural gas reserves, coupled with its population of 345,000, give it a high per capita gross domestic product of over \$14,000. The worldwide recovery in oil prices that began in 1998 helped to restore the country's cash flow; however, the economy still continued to feel the effects of the Amedeo Development Corporation's 1997–98 collapse. The Government accused the corporation's head, the Sultan's brother Prince Jefri, of misappropriating \$16 billion of the country's foreign reserves. In October 2001, the Government set up Global Evergreen Pte Ltd., which by mid-2002 had reached a satisfactory settlement with all of Amedeo's creditors.

The Government generally respected its citizens' human rights in several areas; however, its record was poor in other areas, particularly with regard to civil liberties, and problems remained. Citizens did not have the right to change the Government, and they generally avoided political activity of any kind because of the official atmosphere of disapproval concerning such activities. Citizens do not exercise freedom of speech, freedom of press, freedom of assembly, or freedom of association. Labor rights were circumscribed and foreign workers sometimes were subjected to exploitation. Other human rights problems continued, including restrictions on religious freedom. Occasional spousal violence against women remained a problem, although the Government addressed the issue at many levels. Discrimination against women 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.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory punishment for 42 drug related and other criminal offenses. Sentences of caning are carried out in the presence of a doctor who monitors implementation and who has the authority to interrupt and postpone the punishment for medical reasons. Caning was included as part of the sentencing in 80 percent of criminal convictions. Many convicted persons reportedly preferred caning to lengthy incarceration.

Prison conditions generally met international standards. There was no overcrowding and a new facility was opened in Tutong to accommodate a growing prison population. By year's end, there was still a need for a separate juvenile detention facility as juveniles typically served their sentences in adult detention centers. Male and female prisoners were housed separately. Prisoners received regular medical checkups. Remand cells at police stations were Spartan.

Human rights monitors were not reported to have requested prison visits; however, foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

d. Arbitrary Arrest, Detention, or Exile.—The law provides for a prompt judicial determination regarding the validity of an arrest. However, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. The Government occasionally used the ISA to detain persons suspected of antigovernment activity; however, information on the detainees was published only after they were released.

There were no known arrests for publishing or distributing antigovernment literature during the year. However, in the past, the Government has not hesitated to arrest and intern citizens for such activities.

There were no arrests for religious missionary activities during the year. In late 2000 and early 2001, the Government used the ISA to detain at least seven Christian citizens, several of whom had converted from Islam, for alleged subversive activities. All were released in 2001. Government officials maintained that the detentions were for security rather than religious reasons (*see* Section 2.c.). Three of the Muslim converts to Christianity were believed to have reverted to their original faith after undergoing "rehabilitation." Rehabilitation may entail pressure, ceremonial renunciations, or schooling.

Normally a magistrate must endorse a warrant for arrest. Warrants were issued without this endorsement on rare occasions, such as when police were unable to obtain the endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests, without warrants, of persons caught in the physical act of committing a crime.

Several detainees, who played a pivotal role in the abortive 1962 rebellion and were detained without trial for 12 years from 1962 to 1973, subsequently escaped to live in self imposed exile in Malaysia. They began to return to Brunei in the mid-nineties and were rearrested. The detainees were released from detention after swearing an oath of loyalty to the Sultan and admitting to political "crimes." Several were given government positions. The leader of the 1962 rebellion, Sheikh Azahari bin Sheikh Mahmud, died in exile in Indonesia during the year.

Under a colonial-era law, the Sultan may forcibly exile, either permanently or temporarily, any person deemed to be a threat to the safety, peace, or welfare of the country. Since independence there have been no cases of banishment of citizens.

e. Denial of Fair Public Trial.—The Constitution does not provide specifically for an independent judiciary. However, in 1996 the appellate level High Court ruled that the court had powers independent of the prosecution. The Government has not challenged yet the High Court's finding that magistrates have the legal power to discharge and acquit a defendant, even when the prosecution does not request the discharge. In general the courts appeared to act independently during the year.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. Procedural safeguards include the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There were no known instances of government interference with the judiciary and there were no trials of political opponents during the year.

The civil law, based on English common law, provides citizens with a fair and efficient judicial process. Shari'a (Islamic law) supersedes civil law in some areas, including divorce, inheritance, and some sexual crimes. Shari'a law is not applied to non-Muslims. In September the first group of lawyers trained in both civil and

Shari'a law graduated and were expected to assist in the proposed alignment of the two legal systems into a comprehensive legal code. The country does not have a "Law Society" (bar association) to promote lawyers' public accountability. The law lacks provisions to allow companies or individuals to sue the Government, which traditionally resolves disputes with generous, non-negotiable settlements, or, in some cases, simply refuses to settle. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law permits government intrusion into the privacy of individual persons, families, and homes. However, such intrusion rarely occurred, except in cases of enforcement of "khalwat", an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse. On these occasions, religious enforcement officers may use appropriate force to enter a home, building or vehicle to detain suspects.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—Under the emergency powers that have been in effect since 1962, the Government restricts significantly freedom of speech and freedom of the press.

On October 1, 2001, legislation that could further reduce press freedom took effect. Among other restrictions, it requires that the local newspapers obtain operating licenses, as well as prior government approval of foreign editorial staff, journalists, and printers. The law also gives the Government the right to bar distribution of foreign publications and requires distributors of foreign publications to obtain a government permit. The new law allows the Government to close a newspaper without prior notice and without showing cause. Journalists deemed to have published or written "false and malicious" reports were subjected to fines or prison sentences.

Prior to the promulgation of this new law, there were no laws specifically restricting freedom of speech and freedom of the press; however, the Government used its authority to protect public safety, morals, health, and domestic security to restrict these freedoms. Editions of foreign newspapers or magazines with articles that were found to be objectionable, embarrassing, or critical of the Sultan, the royal family, or the Government were not allowed into the country at times. Magazine articles with a Christian theme reportedly were censored (*see* Section 2.c.). However, the growing use of fax machines, the Internet, and access to satellite transmissions made it increasingly difficult to keep such material from entering the country.

The country's largest circulation daily newspaper, the Borneo Bulletin, appeared to practice self censorship in its choice of topics to avoid angering the Government. However, letters to the editor often included comments critical of the Government's handling of certain social, economic, and environmental issues. The Government on occasion responded to public opinion on some issues concerning social or environmental problems. There was one Malay language press, the Media Permata, which circulates approximately 5,000 newspapers. There was also one Chinese language newspaper.

A second daily English-language newspaper, the News Express, featured a letters page where citizens and residents expressed their views and complaints, often about government services and, increasingly, about government policy. The newspapers' willingness to publish these expressions of opinion represented a modest extension of press freedom. During the year, the newspaper was raided on several occasions by the Immigration Department and subsequently charged with a number of offenses. In September the News Express and three journalists were sued successfully for slander and defamation by a private legal firm, which was awarded substantial damages. The company that owned the newspaper declared bankruptcy and closed.

Although the only television station was government owned, three Malaysian television channels were received locally. Two satellite television networks were available, offering a total of 28 different channels, including the Cable News Network, the British Broadcasting Corporation World News, and several entertainment and sports channels.

The Government's tolerance of political criticism was not tested because there was no organized opposition. However, the English language newspaper, the Borneo Bulletin was advised by police not to publish any stories about the activities of the Consumers' Association of Borneo's (CAB), a quasi-human rights organization (*see* Section 4). During the year, citizens generally made almost no criticism of the Government for fear of official disapproval and risk of surveillance. In the past, the Government did not hesitate to arrest those who attempted to propagate unwelcome political views. The Government placed no apparent restrictions on Internet use, which

was widespread. Two popular electronic bulletin boards contained postings that sometimes were critical of government actions. The country's primary Internet service provider was state owned.

The Government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received.

b. Freedom of Peaceful Assembly and Association.—Under the emergency powers in effect since 1962, the Government significantly restricts the right to assemble. Freedom to assemble for political purposes was not tested seriously during the year.

Political parties are allowed, but may not engage in "activities that endanger people." Civil servants and security force personnel, who together make up 60 percent of all employed citizens, are not permitted to join political parties. There are two registered parties in the country: The Brunei Solidarity National Party (PPKB) and the Brunei People's Awareness Party (PAKAR). Both parties pledged their support to the Sultan and the system of government, although they criticized administrative deficiencies. During the year, the parties largely were inactive, their few activities often went unpublicized, their organizations were marred by internal strife, and they were hindered by membership restrictions.

The country had few nongovernmental organizations (NGOs), all of which were based locally and focused on a specific mission. There were no international NGOs active in the country. Most domestic NGOs were business or social associations; none dealt with political or human rights issues. Any NGO seeking to operate in the country is required to apply for permission under the Companies Act. The activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community, continued to be restricted by the Government. Muslims were not allowed by the Government to be members of these organizations.

c. Freedom of Religion.—The Constitution states that "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafeite sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." However, the Government routinely restricted the practice of non-Islamic religions.

The Government voiced alarm about "outsiders" preaching radical Islamic fundamentalist or unorthodox beliefs. For example, the Islamist Al-Arqam movement remained banned. Citizens deemed to have been influenced by such preaching (usually students returning from overseas study) were assigned to study seminars organized by mainstream Islamic religious leaders. The Government seemed at least as concerned with these so-called Islamic "opportunists" as with unwelcome political views. The Government investigated and used its Internal Security Apparatus against persons whom it considered to be purveyors of radical Islam or non-Muslims who attempted to proselytize.

The Government reinforces the legitimacy of the hereditary monarchy and the observance of traditional and Islamic values through a national ideology known as the Melayu Islam Beraja or "Malay Muslim Monarchy." In 1993 the Government participated in issuing the Kuala Lumpur Declaration, which affirms the right of all persons to a wide range of human rights, including freedom of religion. Despite this and constitutional provisions providing for the full and unconstrained exercise of religious freedom, the Government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and ignoring requests to expand, repair, or build new churches, temples, and shrines. However, in 1998, the Government allowed the Catholic Church to establish the first apostolic prefecture in the country and to install a Bruneian of Chinese origin as the country's first apostolic prefect. This development constituted a modest step in the direction of improved religious freedom, but in general there was no broad trend toward increased religious freedom during the year.

Non-Muslims who proselytize may be arrested or detained, and possibly held without charges for an extended period of time. In late 2000 and early 2001, the Government used the ISA to detain at least seven Christians, three of whom were converts from Islam, for allegedly subversive activities. The remaining three detainees, Malai Taufick bin Haji Mashor, Awang Yunis bin Marang, and Awang Haji bin Abdullah were released in October 2001, after spending 9 months in detention. There were credible reports that one of the Christian detainees, Taufick, was tortured and beaten during his first month of detention but that his treatment improved when he was transferred to another prison. When released, Taufick was placed under 1-year house arrest. A second detainee, Yunis, reportedly returned to

work and was allowed to attend church services, but was not permitted to speak in public or travel outside of the country. Government officials maintained that the detentions were security-related (*see* Section 1.d.).

The Government routinely censored magazine articles on other faiths, blacking out or removing photographs of crucifixes and other Christian religious symbols during the year. In addition, government officials guarded against the distribution and sale of items featuring undesirable photographs of religious symbols.

The authorities conducted raids sporadically on clubs frequented by foreign residents and foreign workers in order to confiscate alcohol and foodstuffs that were not prepared in accordance with "halal" requirements (the Islamic requirements for the slaughter of animals and the prohibition on inclusion of pork products in any food). The majority of citizens regarded these actions as upholding Islam. In July 2000, the Government briefly detained local members of a small Islamic group for questioning after reports that group members in Malaysia were involved in an arms theft. No new information was available at year's end.

The Ministry of Education requires courses on Islam or the national ideology, the Malay Muslim monarchy, and prohibits the teaching of other religions. The Ministry requires that all students, including non-Muslims, follow a course of study on the Islamic faith and learn Arabic script. The International School of Brunei and the Jerudong International School are exempt from these requirements. Private Christian mission schools were not allowed to give Christian instruction and were required to give instruction on Islam. However, the Government did not prohibit or restrict parents from giving religious instruction to children in their own homes. In January 2000, the Government responded to objections from parents and religious leaders and set aside tentative plans to require more Islamic courses in private, non-Islamic parochial schools.

The Government requires residents to carry an identity card that states the bearer's religion. Visitors to the country must identify their religion on their landing cards.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Government restricts the movement of former political prisoners during the first year of their release. Generally the Government does not restrict the freedom of movement of its citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad which is granted routinely.

In May immigration officials prohibited 13 foreign financial accountants working for Global Evergreen (a quasi-government company established to settle claims against the AMEDEO Development Corporation) from leaving the country based on allegations that the employees held invalid work visas. The group was allowed to leave the country shortly after media reports on their plight appeared in the international press. The Home Affairs Ministry and Immigration Department denied any wrongdoing in the case and indicated that it was routine practice to ensure that all foreign employees used the correct work visa.

No legal provision exists for granting temporary refuge, first asylum, or refugee status to those seeking such refuge or asylum. Under the law, persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

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

Citizens may not change the Government; the country is a monarchy, and there are no established democratic processes. Under the continuing state of emergency, there is no parliament, and political authority and control rests entirely with the Sultan. Individuals may seek to express their views or to influence government decisions and policies by writing letters to a local newspaper or by petitioning the Sultan or handing him letters when he appears in public (*see* Section 2.a.).

The country attempted to institutionalize a form of popular representation based on a traditional system of village chiefs who are elected by secret ballot by all adults. Candidates must be approved by the Government and must generally be Malay. These leaders communicate constituents' wishes through a variety of channels, including periodic meetings chaired by the Home Affairs Minister, with several officials appointed by the Sultan. In 1996 the Sultan presided at the first, and thus far the only, General Assembly of the Mukim (a group of villages) and village consultative council. Over 1,000 village chiefs from 150 villages and 35 Mukim participated as delegates. The delegates were elected from among individual villagers, and

the Government described the Assembly as a grass-roots level political system. However, the Sultan appoints all of the council's advisors. Meetings between senior government officials and Mukim representatives allowed for airing of local grievances and concerns.

Members of the Sultan's appointed Cabinet serve as his principal advisors.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent. The Sultan's sister, Princess Masna, was the second ranking official in the Ministry of Foreign Affairs, and a woman was appointed the country's Ambassador to France during the year. In 1999 the first female High Court judge was appointed. The director of the Anticorruption Bureau, the Solicitor General, and the Assistant Solicitor General were women.

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

The Consumers' Association of Brunei (CAB), established in March, addresses human rights but is primarily focused on consumer rights. However, after the CAB publicized poor working and living conditions and alleged abuses (including torture) by factory management of Bangladeshi workers involved in protest work stoppages, the organization received a letter from the Commissioner of Police requesting CAB to show reason why it should not be deregistered for exceeding its mandate (*see* Section 6.e.). No new information was available at year's end. However, senior CAB members reportedly were subjected to surveillance during the year.

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

The Constitution does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, and social status.

Women.—The extent of spousal abuse is unknown. During the year, cases of abuse occurred, although specific figures were not available. As of 2001, there were 86 reported cases of domestic abuse, 4 reported cases on attacks on ex-wives, and 3 reported cases of child abuse. The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit exists within the police department to investigate domestic abuse and child abuse complaints. Female officers staff the unit. A hotline was in service for abused spouses and the public to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year, approximately 10 women and at least 7 young female rape victims aged between 9 and 15, stayed at the Taman Noor Hidayah, a women's shelter run by the SAS Unit. The local press reported that female victims were restricted to the shelter while waiting for their cases to be brought to court, resulting in considerable pressure from the victims' families to leave the shelter and drop charges to avoid social stigma.

Islamic courts staffed by both male and female officials offered counseling to married couples in domestic violence cases. However, there appeared to be a movement away from the practice of encouraging wives to reconcile with flagrantly abusive spouses. In November the Government sponsored a seminar entitled the "Loving Nation" in which a number of social problems, such as domestic violence, were discussed. Islamic religious authorities recognize wife beating as grounds for divorce.

In 2000 two members of the Royal Brunei Armed Forces were sentenced to 4 years' imprisonment and three strokes of the cane for the attempted molestation and sodomy of a 20-year-old deaf girl.

Another area of apparent abuse involved female domestic servants, most of whom were foreign workers (*see* Sections 6.c., 6.e., and 6.f.). While the level of violence in society was low, the beating of servants—or refusing them the right to leave the house on days off, sometimes on grounds that they "might encounter the wrong company"—was less socially unacceptable behavior. Since most female domestics were foreign workers who were highly dependent on their employers, those subject to abuse were more likely to be unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the Government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted.

Prostitution is illegal. Women entering the country for purposes of prostitution generally were deported swiftly (*see* Section 6.f.).

In accordance with Koranic precepts, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. Under the law, citizenship is transmitted through the father. This has resulted in a number of "stateless" residents, who are entitled to live in the country

and to be documented for travel by the Government, but who do not enjoy the full privileges of citizenship, including the right to own land. Recent legislation allows female citizens who are married to foreigners or bear children by foreign fathers to transmit citizenship to their children.

Although men are eligible for permanent positions in government service whether or not they hold university degrees, women without university degrees are eligible to hold government positions only on a month-to-month basis. While some previous inequities have been eliminated, women in month-to-month positions continued to receive slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

There were no separate pay scales for men and women, and in recent years there has been a major influx of women into the work force. Women served in a wide variety of capacities in the armed forces. The number of female university graduates increased, and nearly two-thirds of the country's university's entering class was female.

Religious authorities strongly encouraged Muslim women to wear the tudong, a traditional head covering, and most women did so. The custom was practiced in most government departments, all female students in government-operated schools were required to wear the tudong, and female students in nongovernment schools also were encouraged to wear it. However, there was no official pressure on non-Muslim women to wear the tudong.

The 1999 Married Women's Law significantly improved the rights of non-Muslim married women with respect to maintenance, property, and domestic violence. The 1999 changes to the Islamic Family Law (particularly in regard to Women's Position in Marriage and Divorce) were expected to improve the marital rights of Muslim women. Recent changes to the family law facilitated divorce proceedings for women and permitted women to retain the family home after their divorce.

Children.—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provides most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first nine years; after which, it is still free but no longer compulsory. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high, and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. During the year, at least 7 young female victims aged between 9 and 15 years were raped (*see* Section 5).

Persons with Disabilities.—The law does not mandate accessibility or other assistance for persons with disabilities. The Government attempted to provide educational services for children with disabilities, although these efforts were not adequate yet.

Indigenous Persons.—Indigenous people comprised 6 percent of the population; they were integrated into society, and enjoyed the same rights as other citizens.

National/Racial/Ethnic Minorities.—Some members of non-Malay minorities, such as ethnic Chinese, including those born and raised in the country, were not automatically accorded citizenship and its attendant rights and had to travel abroad as stateless persons.

Section 6. Worker Rights

a. The Right of Association.—Trade unions are legal but must be registered with the Government. The Government did not prevent the legal registration of trade unions, nor did it dissolve any. While unions are legal and easy to register, conditions were not conducive to the development of trade unions. There was no encouragement of workers to form trade unions, and existing unions were not active. The three registered trade unions were all in the oil sector and had a total membership of less than 5 percent of that industry's work force. All workers including civil servants other than those serving in the military, working as prison guards, or police officers, may form or join trade unions. Unions are independent of the Government.

The law permits the formation of trade union federations but forbids affiliation with international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Government did not interfere with lawful union activity during the year. It is illegal to refuse employment or discriminate against an employee on the basis of membership or nonmembership in a trade union. The law is silent on collective bargaining, and it occurs in only a few industries. Wage and benefit packages were based on market conditions and tend to be generous. An individual contract is required between an employer and each employee, but legal trade union activities may not be deemed to violate employee contracts. Some local legal experts have interpreted this provision as conferring the right to strike. However, under the law, strikes are illegal.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ).

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

There were reports that foreign domestic workers worked extremely long hours and were not permitted rest days during the year. Their passports allegedly were held by employers to prevent their departure, there were anecdotal reports of such workers not being paid. During the year, foreign and domestic employment agents reportedly brought workers to the country from Indonesia, Malaysia, the Philippines, Pakistan, and other countries under false pretenses of well-paying jobs as teachers or shop assistants, only to force them later to accept jobs as laborers. Other workers, most notably in the garment industry, upon their arrival often were obliged to sign new employment contracts in the country that reduced their promised salaries through substantial monthly payments to their employment sponsors or agents. Living and working conditions for these persons generally were poor.

d. Status of Child Labor Practices and Minimum Age for Employment.—Various laws prohibit the employment of children under the age of 16. Parental consent and approval by the Labor Commission is required for those under the age of 18. Females under age 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is a part of the Ministry of Home Affairs, effectively enforced laws on the employment of children. There were no reports of violations of the child labor laws.

The Government adheres to the standards of ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—Due to the ongoing economic downturn, unemployment has grown in recent years. However, most citizens still commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two 24-hour rest periods each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and in response to complaints. The DOL generally enforces labor regulations effectively. However, in the unskilled labor sector enforcement was lax, especially for foreign laborers. The DOL may close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally this did not occur.

Approximately 80,000 foreign nationals worked in the country. There were reports of cases of domestic bondage of foreign domestic workers (see Section 6.c.). There also were isolated reports of employers physically beating domestic employees or not providing them with adequate food. The Government prosecuted some such cases. In May 2001 there were 10 reported cases of maid abuse. In one case, an Indonesian maid collapsed at the International Airport while her employer, a captain with the Royal Brunei Armed Forces, was attempting to repatriate her. After being hospitalized, the maid claimed she was subjected to persistent assaults and ill treatment by both her employer and his spouse who allegedly used a hammer to fracture her teeth, ironed her hand with a hot iron for working too slowly, and fractured her ribs by kicking her. The captain also had incarcerated her at a guard “lock-up” room for allegedly stealing. No new information was available at year’s end.

About 20,000 foreigners work in the garment industry. Workers and observers protested conditions in some factories in that industry, including inadequate accommodations, unsanitary facilities, and relatively large deductions from pay for the employers, broker agents and sponsors. The CAB highlighted in the press poor working and living conditions and alleged abuses (including torture) by factory management of Bangladeshi workers who had been involved in protest work stoppages (see Section 4). During the year, approximately 1,000 factory workers were repatriated, factory owners cited the world economic downturn and subsequent decreased demand as reasons.

f. Trafficking in Persons.—The Law for the Protection of Women and Girls prohibits trafficking in women and girls. Although there are no laws that specifically refer to trafficking in men and boys, there are laws that criminalize aspects of trafficking. Penalties for traffickers range from 3 years’ imprisonment and a fine to 30 years’ imprisonment and caning of not less than 12 strokes. No official trafficking statistics were available, nor were there any NGOs present in the country to track trafficking. The Government did not provide any specialized training to government officials for the provision of assistance to trafficking victims.

Employment agents in Brunei and in other countries reportedly brought workers to the country from Indonesia, Malaysia, the Philippines, Pakistan, and other countries under false promises of well-paying jobs and later forced them to accept jobs as laborers or agricultural workers. There also were reports of employers confiscating the passports of domestic workers in order to prevent them from leaving the country.

BURMA

Burma is ruled by a highly authoritarian military regime. In 1962 General Ne Win overthrew the elected civilian government and replaced it with a repressive military government dominated by the majority ethnic group. In 1988 the armed forces brutally suppressed prodemocracy demonstrations, and a junta composed of military officers, called the State Peace and Development Council (SPDC), led by Senior General Than Shwe, took control. Since then the SPDC has ruled by decree. The judiciary was not independent, and there was no effective rule of law.

The regime reinforced its firm military rule with a pervasive security apparatus, the Office of Chief Military Intelligence (OCMI). Control was implemented through surveillance of government employees and private citizens, harassment of political activists, intimidation, arrest, detention, physical abuse, and restrictions on citizens' contacts with foreigners. The SPDC justified its security measures as necessary to maintain order and national unity. Members of the security forces committed numerous, serious human rights abuses.

The country had a population of approximately 50 million. The country was extremely poor; the estimated annual per capita income was approximately \$300. Four decades of military rule and mismanagement resulted in widespread poverty, poor health care, and declining educational levels. Primarily an agricultural economy, the country also had substantial mineral, fishing, and timber resources. Extensive state influence over the economy, widespread corruption, and poor infrastructure has led to rapidly deteriorating economic conditions.

The regime's human rights record remained extremely poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government. In ethnic minority areas, security forces continued to commit extrajudicial killings and rape, forcibly relocated persons, used forced labor, and conscripted child soldiers. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused prisoners and detainees. Citizens were subjected to arbitrary arrest without appeal. Arrests and detention for expression of dissenting political views occurred on numerous occasions. The SPDC arrested approximately 45 persons, including some NLD members, for political activities during the year; most were released within days. The Government also released approximately 550 political prisoners since talks began with the NLD in 2000. By year's end, an estimated 1,300 political prisoners (including members and supporters of ethnic armed groups) remained in prison. Prison conditions remained harsh and life threatening, although conditions improved in some prisons since the International Committee of the Red Cross (ICRC) was allowed access. The judiciary was not independent.

The SPDC continued to restrict severely freedom of speech, press, assembly, association, and travel. During the year, persons suspected of or charged with prodemocratic political activity were subjected to regular surveillance and occasional harassment. The junta restricted freedom of religion, coercively promoted Buddhism over other religions, and imposed restrictions on religious minorities. The regime's control over the country's Muslim minority continued, although acts of violence against Muslims decreased from last year. The regime regularly infringed on citizens' privacy; security forces continued to monitor citizens' movements and communications systematically, search homes without warrants, and relocate persons forcibly without just compensation or legal recourse. The SPDC also continued to forcibly relocate large ethnic minority populations in order to deprive armed ethnic groups of civilian bases of support. The regime continued to restrict freedom of movement and, in particular, foreign travel by female citizens. On May 6, the regime released opposition leader and National League for Democracy (NLD) General Secretary Aung San Suu Kyi from almost 20 months of house detention and has allowed her to travel within the country since that time. The regime also loosened restrictions on NLD activities and generally allowed Aung San Suu Kyi to meet representatives of foreign governments and international organizations. The regime closely monitored NLD activities at NLD offices as well as the activities of other political parties throughout the country. The junta recognized the NLD as a legal entity; however, it restricted their activities severely through security measures, harass-

ment, and threats. The NLD was permitted to reopen approximately 90 out of 300 offices countrywide. The SPDC did not allow domestic human rights organizations to function independently and remained generally hostile to outside scrutiny of its human rights record. However, in 2001 and during the year, it allowed the U.N. Special Rapporteur on Human Rights in Burma to conduct missions to the country. It also allowed the International Labor Organization (ILO) to establish a liaison office in Rangoon. Violence and societal discrimination against women remained problems, as did discrimination against religious and ethnic minorities. There were no policies that discriminated against persons with disabilities. The regime continued to restrict worker rights, ban unions, and used forced labor for public works and for the support of military garrisons. Other forced labor, including forced child labor remained a serious problem, despite recent ordinances outlawing the practice. The forced use of citizens as porters by SPDC troops—with attendant mistreatment, illness, and sometimes death—remained a common practice as did recruitment of child soldiers by the SPDC. Trafficking in persons, particularly in women and girls mostly for the purposes of prostitution, remained widespread, despite increased regime efforts to publicize dangers to potential victims.

Ethnic armed groups including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State Army-South (SSA) reportedly also committed human rights abuses, although on a lesser scale; abuses included killings, rapes, forced labor, and conscripted child soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Amnesty International (AI), and groups like the Shan Human Rights Foundation (SHRF) and the Karen Human Rights Group (KHRG), which have been associated with armed ethnic resistance groups, reported numerous cases throughout the year of military troops killing civilians in border areas and areas of ethnic resistance, often after confiscating property or torturing the individuals (*see* Sections 1.g. and 5). Interviews by foreign observers documented similar abuses.

In a July report entitled “Myanmar: Lack of Security in Counter-Insurgency Areas,” AI cited a January 30 killing of six Shan State civilians near the Thai border. The six villagers, who had been relocated forcibly from their original homes by SPDC troops in 1996–97, were attempting to cross into Thailand illegally when reportedly they were robbed and killed by SPDC troops. According to the report, the killings did not appear to be related to counter-insurgency activities. On April 28, the KHRG reported that villagers who recently had been forced from their homes in Karen State were attacked by SPDC troops while sleeping. Ten persons were shot and killed, six of whom were children; and nine others were injured, including a pregnant woman. On May 10, one of the injured died. The regime contended that the casualties were caught in a crossfire during a fight with armed ethnic groups. The SHRF reported that on September 21, a SPDC unit raided a village in Kholam, Shan State, killing 10 villagers in retaliation for an earlier attack by the Shan State Army (SSA) against SPDC troops, which killed one soldier. These reports were not confirmed by independent sources.

Brutal treatment by soldiers also caused deaths among those conscripted as military porters and laborers. There were unconfirmed reports by various groups indicating that porters and laborers who no longer physically were able to work sometimes were abandoned without medical care or were killed (*see* Section 6.c.).

In 2001 according to one report from the KNU, at least 200 prisoners from the Tavoy prison in Tenasserim division were conscripted by SPDC troops as laborers to construct a front line camp. The prisoners were tied together in groups of 5 and were guarded by 40 soldiers. As prisoners weakened and no longer could work, 11 of them were shot and killed. During the year, there were similar credible reports of the military taking over 300 prisoners from jails in Shan State for use as porters. There were no reports that soldiers involved in past killings or other abuses were investigated or punished during the year.

Inmates died in prisons and labor camps, or shortly after being released from them, due to harsh treatment and lack of adequate medical care (*see* Section 1.c.). On July 31, Aik Paung, Secretary of the Palaung Liberation Front, died in Moulmein prison. Although his stomach reportedly was bloated and swollen for 3 days, he was not hospitalized or provided with any type of medical attention. In September political prisoner Aung May Thu died from a bleeding ulcer while in custody (*see* Section 1.c.). In October an NLD Shan State Vice Chairman, U Sai Hpa, died in custody, reportedly from cerebral malaria (*see* Section 1.d.).

Some armed ethnic groups also reportedly committed killings. On April 15, according to the SPDC, the KNU blew up a trishaw in Myawady, Karen State, killing 5 persons and injuring 31 persons. The KNU denied responsibility for the killings.

b. Disappearance.—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to government authorities detaining individuals for questioning without the knowledge of their family members, or the SPDC troops’ practice of seizing private citizens for portage or related duties, often without the knowledge of their family members (*see* Section 6.c.). In many cases, the individuals who were detained for questioning were released soon afterward and returned to their families. However, the whereabouts of persons seized by SPDC units to serve as porters, as well as of prisoners transferred for labor or portage duties, often remained unknown. There also were reports of private citizens who were killed while serving as porters (*see* Section 1.a.). Family members generally learned of their relatives’ fates only if fellow prisoners survived and later reported information to the families. According to the SHRF, in August a villager returning from gathering wild vegetables allegedly disappeared after being taken by three SPDC troops to the military camp at Naa Kawng Mu village in Mung-Ton township.

During an interview with the Democratic Voice of Burma, Ko Tait Naing, the Secretary of the Association for Assistance to Political Prisoners (AAPP), alleged that several political prisoners were executed secretly by the junta. Naing stated that in July 2001, seven prisoners were taken away from the prison in Beik and that there were unconfirmed reports they were executed. Naing also alleged that in April six prisoners who were taken away from the prison in Kawthaung, were executed at Ngapyawjoaw village tract to the east of Zatekyi naval base.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. There were reports in past years that prisoners were forced to squat or assume stressful, uncomfortable, or painful positions for lengthy periods. There continued to be many credible reports that security forces subjected citizens to harassment and physical abuse. The military forces routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portage or other labor faced extremely difficult conditions, beatings, and mistreatment that at times resulted in death. From June 7 to June 20, SPDC troops forced more than 130 civilians to serve as porters near Keng Tung, Shan State. According to the SHRF at least seven persons died due to mistreatment (*see* Section 6.c.). SPDC soldiers beat, raped, and killed persons who resisted relocation or forced conscription and forced labor. There were numerous reports that SPDC troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes; these materials often were used for military construction. There were reports of SPDC troops who confiscated privately owned vehicles for military transport without compensating the vehicle owners.

During the year, there were complaints of government mistreatment and exploitation of farmers. In the past, numerous farmers were held in custody for failing to meet local production requirements, although there were no such reports during the year.

In early March, in downtown Rangoon, residents of 25 homes in Weggi quarter were ordered by the regional military commander to vacate their houses by the end of the month. These persons, many of whom were long time residents, appealed the order to senior SPDC officials to no avail. Under military threats, many accepted relocation to apartments estimated to be worth approximately 10 percent the value of their vacated homes. On April 5, armed military authorities forced remaining tenants to leave their houses, arresting those who refused. The homes were destroyed, reportedly to make way for construction of new residences for families or companies connected to the regime.

In May according to the KHRG, SPDC troops attempted to extort money from villagers in Karen State prior to a forced relocation. The troops reportedly burned homes, tortured a village headman by shooting him in the thighs and cutting tendons in his legs, and beat other villagers (*see* Sections 1.f. and 2.d.).

The KHRG reported that on July 11, soldiers opened fire on Saw Poe Tot, a villager looking for his elephant, in Kameik village in Tenasserim division. He was taken to a hospital by relatives and survived.

On August 17, Captain Zaw Min Oo reportedly entered Yusomoso, a mainly Catholic village in Timoso township in Kaya State (east of Karen State) where, according to a reliable source, the Captain raped a 4-year-old child. Military authorities reportedly offered the villagers approximately \$20 (20,000 kyat) to drop the case. In October the SHRF reported that two SPDC soldiers used their rifle butts to beat and rape a woman who was doing her laundry by the river in Kaen-Tung township. They allegedly threw her into the river while she was still unconscious. The woman survived and she and her husband complained to their village headman and the community leader. No action was taken due to fear of the police and SPDC township authorities. Also in October, a group of six or seven SPDC troops reportedly raped two women in Murng-Khark township.

SPDC troops raped women who were members of ethnic minorities, especially in Shan, Karenni, and Karen States (*see* Section 1.g.).

Corruption among local government officials was widespread and included complicity in the trafficking of persons (*see* Section 6.f.).

During the year, both men and women were conscripted to serve as forced laborers and some of the women subsequently were raped at gunpoint by military personnel (*see* Section 1.g.).

Prison and labor camp conditions generally remained harsh and life threatening. The regime's Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (*see* Section 6.c.). In the prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every 2 weeks for 15 minutes per visit, for basic necessities. HIV/AIDS infection rates in prison reportedly were high due to communal use of single syringes for injections. During the year, the health of several political prisoners deteriorated, and at least three political prisoners died in custody (*see* Section 1.a.).

During the year, some prisoners were denied adequate medical care while in prison. In one case, authorities did not provide a prisoner with proper medical attention, and the prisoner subsequently died (*see* Section 1.a.). There were reports during the year that the health of U Win Tin, a 72-year-old journalist who has been in prison since 1989 for his political activities, continued to decline. Similarly, there were serious concerns about the health of Min Ko Naing, a student leader also arrested in 1989 and subjected to years of isolation and torture. The AAPP reported that on May 17 and 18, prison authorities severely beat two political prisoners in Bassein prison because they submitted a complaint to the prison superintendent. AAPP also reported that 22 political prisoners were moved from Kalay prison to Kathar prison, because they smuggled out letters documenting conditions in the prison.

According to the regime, political detainees were separated from common criminals, juveniles from adults, and men from women. According to the ICRC, the regime stated that political prisoners should not be subjected to hard labor.

During the year, the ICRC conducted periodic visits to all prisons in the country, attempting to visit each one a minimum of once a year. ICRC visits to labor camps began in March 2000 and continued during the year. There reportedly were approximately 70 of these camps, but many were temporary, existing only long enough to complete a specific work project. The regime allowed the ICRC to perform its traditional services, such as providing medications, delivering letters to and from prisoners, and providing support for family visits to prisoners.

d. Arbitrary Arrest, Detention, or Exile.—There is no provision in the law for judicial determination of the legality of detention, and the SPDC routinely used arbitrary arrest and incommunicado detention. The Penal Code allows authorities to extend sentences arbitrarily after prisoners have completed their original sentence.

From September 2000 until May, Aung San Suu Kyi was held under house detention without charge. Although the regime allowed visitors to meet with her, the visits were controlled.

The regime has released an estimated 550 political prisoners, as well as another 380 political prisoners on humanitarian grounds, since talks began with the NLD in October 2000. However, it also arrested some political activists. In August approximately 20 activists were arrested for distributing pamphlets. There were reports that at least some of the 20 students were beaten during interrogation before being released approximately 10 days after their arrests. Two students arrested for a protest at Rangoon's city hall were held incommunicado for several weeks and then sentenced to 14 years in prison for subversive acts against the state. Family members and the NLD continued to make inquiries to the SPDC regarding their status but to no avail. On August 22, two NLD student members were arrested in Rangoon for possessing an illegal publication. They reportedly were not allowed adequate legal representation at their trial and were sentenced to 3 years in prison.

On September 13, two NLD executive members, U Sai Hpa and U Saw Nan Ti, were arrested in Kengtung, Shan State, apparently for discussing the regime's rice quota increase with local citizens. On October 10, they were scheduled to stand trial but one, Shan State NLD Vice Chairman U Sai Hpa, died in custody on October 9, reportedly of cerebral malaria. Tu Saw Nan Ti was sentenced to 7 years in prison. In September the regime arrested at least 30 political activists in Rangoon. Among those arrested was, U Hla Tun, an NLD Member of Parliament (M.P.) elect from the 1990 elections who had not been active in the NLD since he was released from prison in 1999. As with other arrests, there was incomplete information on these cases. There was no official announcement of the arrests and information was only available from those who witnessed the arrests or from family members who were notified by authorities of relatives who were arrested.

Prior to being charged, detainees rarely had access to legal counsel or their families. Even after being charged, detainees rarely had the benefit of counsel. Political detainees were not released on bail. Some political detainees were held incommunicado for long periods.

In September Aung My Thu died in custody while serving the sixth consecutive extension of his sentence, as permitted under the Penal Code (*see* Section 1.a.). At year's end, there were approximately 50 political prisoners serving extended sentences, including Min Ko Naing, a former political activist and student leader who reportedly was in deteriorating health (*see* Section 1.e.). In Mandalay 11 prisoners sentenced for political reasons, including Zaw Min, Ne Win, U Tin Aye Yu, U Tin Myint, U Tin Aye, U Khin Maung Thant, U Zarni Aung, U Thein Than Oo, U Kyaw Sein Maung, U Naing Myint, U Htay Nyunt, and Soe Myint completed their terms, but were not released.

Since October 2000 when confidence-building talks between Aung San Suu Kyi and the SPDC began, the SPDC has reduced its campaign of detention and intimidation against the NLD. In June 2001, the regime began releasing NLD political prisoners from "guest houses" and prisons. By year's end, the releases totaled approximately 550, including most NLD detainees and all members of the NLD's Central Executive Committee (CEC). However, at year's end, according to ICRC, there were more than 1,300 "security detainees," including approximately 170 NLD members, still incarcerated, 17 of whom were elected (NLD) M.P.s. Included among the 1,300 political prisoners were ethnic leaders, supporters of ethnic opposition groups (some of which were armed), non-NLD politicians, lawyers, journalists, and students (*see* Section 1.e.).

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily, at the hands of security forces (*see* Section 1.b.).

During the year, the authorities did not detain or deport any foreign journalists.

The Constitution does not provide for forced exile, and the regime did not use forced exile.

e. Denial of Fair Public Trial.—The judiciary is not independent of the military junta. The junta appoints justices to the Supreme Court who, in turn, appoints lower court judges with the approval of the junta. These courts then adjudicate cases under decrees promulgated by the junta that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

During the year, the regime continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system formally were in place, the court system and its operation remained seriously flawed, particularly in regard to the handling of political cases. The misuse of overly broad laws—including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Destructionists—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial. Pervasive corruption further served to undermine the impartiality of the justice system.

Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases, but not in political cases that the regime deemed especially sensitive. In criminal cases, defense attorneys generally were permitted to call and cross-examine witnesses; however, their primary purpose was to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicated that senior military authorities dictated verdicts, regardless of the evidence or the law. In addition, in political cases, trials were not open to the public. However, during the year, two high profile cases, one involving Ne Win's grandchildren and the other involving Aung San Oo and Aung San Su Kyi, were opened to the public. The press attended and reported on both trials.

In March Professor Salai Tun Than, a 74-year-old academic was sentenced to 7 years' imprisonment for staging a peaceful protest in November 2001; the details of his trial, or if he even had a trial, were not public.

During 2000 the regime initiated an extensive campaign to remove independent lawyers who were capable of providing advice and counsel to the NLD. The regime arrested and sentenced under fabricated charges nearly every lawyer with a perceived connection to the NLD. Cases included those of U Soe Han, a 77-year-old highly respected and nonpolitical lawyer, who was arrested with several others and sentenced to 21 years in prison for sending a letter to Senior General Than Shwe and Secretary One Khin Nyunt, urging the regime to release political prisoners and begin a dialog with the NLD. In 2001 the regime discontinued its campaign against independent lawyers. During the year, there were no new arrests of lawyers perceived to have NLD connections, and NLD members appeared to be able to retain the counsel of lawyers without fear of the lawyers being imprisoned. However, approximately 20 of the more than 40 lawyers jailed in 2000 remained imprisoned at year's end.

During the year, the regime slowly continued to release NLD members from prison and also began releasing a small number of student activists, many of whom had been in prison since 1989–90. The majority of the releases were of prisoners who had completed or almost completed their sentences or who were in poor health. Several political prisoners, who were convicted of crimes against the regime, were required to sign an agreement accepting to serve the remainder of their current sentences if they were rearrested for any reason. Prisoners who were being held in detention, but who had not been convicted of a crime, were not required to sign an agreement. In addition, political prisoners who were released shortly after the October 2000 talks between the regime and Aung San Suu Kyi began, were not required to sign any pre-condition agreement.

The ICRC reported that as of October there were 1,300 "security detainees" in the country. The AAPP estimated that there were approximately 1,400 political prisoners. It also found that some political prisoners remained in custody despite having completed their sentences (*see* Section 1.d.). Of the estimated 1,300 political prisoners, 17 were NLD M.P.s elect from the 1990 elections. Among prisoners released this year was U Aye Tha Aung, who represented four large ethnic groups in the Committee Representing the People's Parliament (CRPP). In August the regime released U Aye Tha Aung, who was arrested in 2000 and whose health was deteriorating rapidly while serving three 7-year sentences. He immediately underwent an operation for a lung tumor. Another prominent political prisoner, U Win Tin, a noted journalist and writer, arrested in 1989, still was in prison at year's end. He was 72-years-old and also reportedly was in poor health. Another high-profile political prisoner was Min Ko Naing, a student leader whose sentence was extended under the penal law and who reportedly was in Sittwe Prison and in deteriorating health. Three political prisoners, Aung May Thu, U Sai Hpa, and Mai Aik Pan, a leader of the Palaung ethnic group, died while in prison during the year (*see* Sections 1.a., 1.c., and 1.d.).

Opposition political parties have attempted to use the courts to enforce their political rights, thus far without success. In April 2000, the Supreme Court dismissed an appeal by the NLD against the regime for illegally detaining and libeling M.P.s elect. The Supreme Court ruled that a case could not proceed against a government official—in this case the head of military intelligence—if the Head of State did not grant permission. In September 2000, lawyers for the NLD began a suit against General Than Shwe and the Chairman of the Election Commission for failing to fulfill commitments made in regard to the transition to democracy. In 2001 the suit was dismissed without a hearing.

In November 2000, the regime allowed Aung San Suu Kyi's brother, a foreign citizen, to file a suit against her seeking half ownership of the family compound in which she resided. The case widely was believed to be motivated politically, because the regime generally did not allow foreigners to file claims for property against citizens. In fact the regime had to grant a special authority to the brother for the case to be filed at all. The trial was public and lasted for several months. The case eventually was dismissed for having been filed improperly, however, the regime granted the brother authority to file a second suit, and in October the judge presiding over the case ruled that Aung San Suu Kyi's brother had the right to inheritance of the property under Buddhist customary law. The case continued at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution does not provide for these rights, and authorities infringed on citizens' privacy rights. The military regime interfered extensively and arbitrarily in the lives of citizens. Through its pervasive intelligence network and administrative procedures, the regime systematically monitored the travel of all citizens and closely

monitored the activities of many citizens, particularly those known to be active politically.

The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance, and that any household that hosts a person not domiciled there to maintain and submit to the police a guest list. There were reports that this restriction, which appeared to be relaxed somewhat last year, was enforced strictly this year. At least 30 arrests reportedly occurred following house-to-house searches.

Telephone service also was controlled tightly. Security personnel regularly screened private correspondence and telephone calls. The authorities generally continued to discourage citizens from subscribing directly to foreign publications (*see* Section 2.a.). However, in 2001 the regime loosened controls over the use of satellite television that allowed the general population to register satellite receivers for a small fee. Previously only a few businesses and individuals with special connections to the regime were allowed licenses for satellite receivers.

The regime continued to control closely the licensing and rationing of all electronic communication devices, which were monitored closely. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by imprisonment (*see* Section 2.a.). In April 2000, an Indonesian citizen, Irawan Sidaria, and two local technicians were arrested under the statute for having installed an Inmarsat satellite telephone unit at the Asia Plaza Hotel in Rangoon. In August 2000, Irawan Sidaria was deported to Indonesia. In June 2000, according to the SHRF, SPDC troops confiscated approximately 30 mobile phones in Murng-Ton. Although no arrests were reported, troops threatened to punish citizens severely if they refused to turn over their mobile phones. In June 2000, Myanmar Posts and Telecommunications also announced that users of nonregistered cordless telephones in the country would face up to 3 years' imprisonment, and/or a fine of approximately \$75 (30,000 kyat).

Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the regime. The law does not permit private ownership of land; it recognizes only different categories of land-use rights, many of which are not freely transferable. Postcolonial land laws also have revived the precolonial tradition that private rights to land were contingent upon the land being put to productive use.

For decades successive military regimes have applied a strategy of forced relocation against ethnic minority groups seeking autonomy in an effort to deny support to the armed ethnic groups; such forced relocations continued during the year, particularly along the Thai border. The forced relocations often were accompanied by alleged rapes, executions, and demands for forced labor to build infrastructure for villagers and SPDC units. To make way for commercial or public construction and, in some cases, for reasons of internal security and political control, the SPDC forcibly relocated citizens to "new towns." This practice has become somewhat less common in recent years. Persons relocated to new towns generally suffered from greatly reduced infrastructure support. Residents targeted for displacement generally were given no option but to move, usually on short notice (*see* Sections 1.c. and 2.d.).

A September report by a highly respected private citizen in Thailand estimated more than 2,500 villages have been destroyed or forcibly relocated by SPDC troops since 1996, displacing more than 600,000 citizens. The report estimated that more than 350,000 of these citizens were moved to SPDC-controlled "relocation centers," while the remainder lived in hiding. This practice was particularly widespread in the Shan, Kayah, and Karen States and in areas of Mon State, and Pegu Division. In these areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who fled or were driven from their homes, found shelter in the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

The forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the regime. In some areas, the junta replaced the original ethnic settlements with settlements of ethnic Burmans. In 2000 in Rakhine State, the regime forcibly relocated several largely Muslim villages and resettled the area with Buddhist Burmans, who were forced to move from Dagon township in Rangoon division. In other areas, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the proregime Democratic Karen Buddhist Army (DKBA).

Military units also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses have become widespread since 1997, when the junta ordered its regional commanders to meet their logistical needs locally, rather than rely on the central authorities. As a result, regional commanders

increased their use of forced contributions of money, food, labor, and building materials throughout the country (*see* Sections 1.c. and 6.c.).

In violation of humanitarian law, both army and insurgent units used forced conscription, including conscription of children (*see* Sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. In the case of the regime's mass mobilization organization, the Union Solidarity and Development Association (USDA), the regime used coercion and intimidation to induce many persons, including nearly all public sector employees, both to join the union and to attend meetings in support of the regime (*see* Section 2.a.).

In the past, government officials, including senior officials, repeatedly made statements warning parents that authorities could hold them responsible for any political offenses committed by their children; however, there were no reports of this practice during the year.

The regime's intelligence services also monitored the movements of foreigners and questioned citizens about conversations with foreigners. Government employees generally were required to obtain advance permission before meeting with foreigners. During the year, international NGOs officially were required to ensure that a representative from a government ministry accompanied them on all field visits (at the NGOs' expense). However, the requirement appeared impractical and was not enforced fully (*see* Section 4).

Marriages between female citizens and foreigners officially were banned; however, the ban was not enforced.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Since independence in 1948, SPDC troops have battled a variety of ethnic insurgencies. Ethnic insurgent groups have sought to gain greater autonomy or, in some cases, independence from the ethnic Burman-dominated State. Since 1989, 17 groups have concluded cease-fire agreements with the regime. Under the agreements, the groups have retained their own armed forces and performed some administrative functions within specified territories inhabited chiefly by members of their ethnic groups. However, a few groups remained in active revolt. The KNU continued to conduct insurgent operations in areas with significant Karen populations in the eastern and southern regions of the country. In Kayah State, the KNPP resumed fighting against the regime since the breakdown of a cease-fire negotiated in 1995.

In May the SHRF and Shan Women's Action Network (SWAN) alleged the military used rape as a systematic weapon of war against the ethnic populations in Shan State. The report described 173 incidents of rape or sexual violence against 625 women and girls committed by soldiers from 52 military battalions between 1992 and 2001. Given the brutality of the rapes, (the report stated that 25 percent of the rapes resulted in death), the incidence of rapes by officers (83 percent), and the impunity with which they were carried out, the report concluded that the rapes were condoned by the military regime in order to terrorize and subjugate the Shan. There were corroborating reports on rapes and sexual violence, by the military in Shan State and elsewhere, including first hand accounts from rape victims documented by credible foreign observers. According to a report by Refugees International, rape of ethnic women by the SPDC troops similarly was prevalent in Karen, Mon, and Karenni regions.

The SPDC denied the report and ordered three internal reviews. In August the junta claimed that no soldiers were involved in the rapes. In October the regime stated it continued to investigate the allegations and had found evidence of five cases of rape similar to those described in the SHRF/SWAN report. The regime stated it provided copies of its report on the investigations to the international community and to the U.N. Special Rapporteur, Paulo Sergio Pinheiro. However, according to Pinheiro, the investigations were undertaken by military and other SPDC personnel with no special skills or experience in investigating human rights allegations. The investigations reportedly consisted of prearranged, large, collective, and public meetings with local officials, organized by military personnel. There has been continued international pressure on the regime to allow an independent assessment of the allegations and to take appropriate actions to prevent rape and sexual abuses by the military.

In central and southern Shan State, government forces continued to engage the SSA. The military maintained a program of forced relocation of villagers in that region to SPDC-controlled sites, that reportedly was accompanied by killings, rapes, and other abuses of civilian villagers. According to AI, 90 percent of the civilians from Shan State whom it interviewed in Thailand in February said they had been subjected to unpaid forced labor by the military within the last 18 months.

Border disputes with Thailand during the year exacerbated the plight of civilian populations along the Thailand border (*see* Sections 2.d and 6.c.).

In January 2001, according to a credible but not independently confirmed report, in Murg-Nai, military troops beat to death a Palaung villager, raped his wife, and stole his property. In March 2001, according to the SHRF, SPDC troops gang-raped a woman in Murg-Ton township after troops had tortured and killed her uncle. Also according to the SHRF, in April 2001, SPDC soldiers encountered four villagers near Naa Ing, Shan State. The soldiers found packets of rice, which they claimed the villagers were going to give to the SSA. The soldiers tied up the men and took the woman to a different location, where they reportedly raped her. They then reportedly required the villagers in the area to pay a substantial fine for the release of the four persons.

According to Human Rights Watch (HRW), SPDC troops conscripted children as young as the age of 11, especially orphans and street children (*see* Section 5).

Active insurgent groups included the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization (ARNO), the SSA-South, and the KNU (including its affiliate the Karen National Liberation Army). Some members of the insurgent groups committed serious abuses. For example, according to the regime, in December 2001, the KNPP killed seven villagers who refused to join their ranks in Loikaw township. The regime also accused the KNU and the SSA of killings and bombings throughout Shan and Karen States and of recruiting and using child soldiers. UNICEF, AI, and HRW reported that both SPDC troops and insurgent groups recruited child soldiers (*see* Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law allows the regime to restrict freedom of speech and freedom of the press and, in practice the junta continued to restrict these freedoms severely and systematically during the year. The regime continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the junta, and for distributing or possessing publications in which opposition opinions were expressed (*see* Sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold such political opinions.

Legal restrictions on freedom of speech have intensified since 1996, when the junta issued a decree prohibiting speeches or statements that “undermine national stability.” In all regions of the country, the regime continued to use force to prohibit virtually all public speech critical of it by all persons, including persons elected to Parliament in 1990, and by leaders of political parties. The regime has pursued this policy consistently since 1990, with few exceptions.

There was an unconfirmed report from the Democratic Voice of Burma that in August 2001, military security personnel arrested a monk for delivering a sermon criticizing the economic and political conditions in the country during a ceremony at the Mahamyatmuni Payagyi Pagoda in Mandalay. The monk, Ashin Pandita, reportedly was derobed and detained at the police station. No additional information was available at year’s end.

The regime permitted the NLD to resume some public meetings during the year. In keeping with the confidence-building that has surrounded the talks between the regime and Aung San Suu Kyi, the NLD moderated its criticism of the regime in these meetings. The NLD continued to press for substantive dialog with the regime as quickly as possible, and has refrained from any direct attacks on the policies or actions of the regime.

Many prominent writers and journalists remained in prison for expressing their political views. The Paris-based organization Reporters Sans Frontieres reported that at least 18 journalists remained in prison at year’s end, including Ohn Kyaing, better known by his pen name Aung Wint, who wrote articles in favor of democracy and also was a NLD M.P., elect from Mandalay. He has been in prison since 1990. Government censorship boards prohibited publication or distribution of works authored by those in prison, although in 2000 the regime allowed former political prisoners Ma Thida and U Sein Myint (also known as U Moe Thu), to write several magazine articles following their release from prison. In 2001 at least one well-known publisher, Tin Maung Than, departed the country for fear that his activities would lead to imprisonment.

Between April and June 2000, the junta arrested 11 persons for distributing antijunta leaflets and allegedly planning attacks on government buildings. In September 2000, the junta sentenced Chein Poh, a highly respected, 77-year-old lawyer in Rangoon, for allegedly distributing foreign publications with antiregime annotations written on the back. Although the regime presented no credible evidence to prove the charge, Chein Poh was sentenced to 14 years in prison. Chein Poh was released from prison early in the year and died approximately 6 months later.

The regime owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of

the junta and normally did not report opposing views except to criticize them. The only partial exception was the Myanmar Times, an expensive English-language weekly newspaper, targeted at the foreign community in Rangoon, which occasionally reported on criticisms of regime policies by the U.N. and other organizations.

All privately owned publications, including the Myanmar Times, remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published monthly. However, since 1996 the regime has given transferable waivers of prepublication censorship for weekly periodicals. As a result, weekly tabloids proliferated. Regime controls encouraged self-censorship, and publications generally did not report domestic political news.

Imported publications remained subject in principle to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. Cases involving prodemocracy literature, including two such cases during the year, were punished by imprisonment. The regime also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals. However, foreign newspapers may be purchased in Rangoon. Prior to August 2000, such foreign newspapers and magazines were censored regularly at the airport on arrival, but starting in 2001 they were distributed uncensored.

Since 1997 the regime issued few visas to foreign journalists and has held only a handful of press conferences on political subjects. Journalists occasionally were blacklisted. In previous years, several journalists who entered the country as tourists were detained and deported by the regime. During the year, the regime began holding more frequent press conferences and invited foreign journalists to the country, including some who previously were blacklisted. Cable News Network, the British Broadcasting Corporation (BBC), and other foreign news organizations filed reports from the country during the year. However, the regime refused visas to Australian reporters seeking to cover Australian Foreign Minister Downer's visit to the country in October.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The junta continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of the BBC, Voice of America, Radio Free Asia, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

The regime continued to monopolize and to control tightly all domestic television broadcasting, offering only a government channel and an armed forces channel. However, in 2001 the regime loosened restrictions on the reception of foreign satellite television broadcasts by allowing new licenses to be purchased. Previously, new licenses were not available and the operation of an unlicensed satellite television receiver was a crime punishable by up to 3 years in prison and or a fine. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board.

The junta systematically restricted access to electronic media. All computers, software, and associated telecommunications devices were subject to government registration, and possession of unregistered equipment was punishable by imprisonment (*see* Section 1.f.).

The Ministry of Defense operated the country's only known Internet server and offered expensive, limited Internet services to a small number of customers. During the year, a café that was billed as a cybercafé opened, but it did not have access to the Internet, only CD-ROM and other such games.

The regime continued to restrict academic freedom severely. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other government employees. The Ministry of Higher Education routinely warned teachers against criticizing the regime. It also instructed them not to discuss politics while at work; prohibited them from joining or supporting political parties or from engaging in political activity; and required them to obtain advance ministerial approval for meetings with foreigners. Like all government employees, professors and teachers have been coerced into joining the USDA, the regime's mass mobilization organization. Teachers at all levels also continued to be held responsible for the political activities of their students.

In June and July 2000, the regime reopened the remainder of the institutions of higher education that were closed in 1996 following widespread student demonstrations. However, the regime took a number of special measures to limit the possibility of student unrest. Campuses were moved to relatively remote areas, teachers and students were warned that disturbances would be dealt with severely, and on-campus dormitories were closed, which disrupted university life. There was evidence

that many students chose to continue with self-study because the quality of education deteriorated to such an extent that many students opted to stay with self-study or tutoring. The regime tightly controlled the limited number of private academic institutions in the country as well as what they were allowed to teach.

b. Freedom of Peaceful Assembly and Association.—The law limits the freedom of assembly, and the regime restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently. The 10 existing political parties also are required to request permission from the regime to hold meetings of their members; nevertheless, meetings occurred without regime permission.

The military junta continued its decade-long policy of preventing the Parliament elected in 1990 from convening. During the year, the regime loosened its restrictions on the activities of the main opposition party, the NLD, and allowed 90 of NLD's 300 offices to reopen (*see* Section 3).

In May and September 2001, the regime forced the closure of three Shan National League for Democracy (SNLD) offices in townships near the capital of Shan State. In September 2001, the regime reportedly told the SNLD Chairman to disregard the regional authority's directive and to continue with normal operations.

In previous years, authorities used force to prevent prodemocracy demonstrations, punish participants and organizers in prodemocracy demonstrations and meetings, and detained or imprisoned persons suspected of planning and organizing such demonstrations. During the year, there were no reports of such practices (*see* Section 1.c.). However, authorities did attempt to prevent the public from coming out to see Aung San Suu Kyi when she traveled to Rakhine State, ostensibly on the grounds that outdoor political gatherings of any type were illegal. Organizations affiliated with the SPDC handed out leaflets that questioned Aung San Suu Kyi's patriotism and discouraged citizens from showing any support for her. The authorities blocked off streets and told citizens to stay home. Her party experienced similar, though less pronounced, harassment on visits to Mon and Shan States during the year (*see* Section 2.d.).

The regime at times interfered with the assembly of religious group members (*see* Section 2.c.).

The Government restricted freedom of association, particularly in regard to members of the main opposition political party, the NLD. The law prohibits more than 5 persons from meeting outdoors without prior government approval. In the past, while the regime allowed the NLD to celebrate certain key party events with public gatherings, it restricted the size of the gatherings and the individuals who were allowed to attend. For example, in September 2001, the NLD held a ceremony to commemorate the third anniversary of the CRPP and the regime responded with Military Intelligence (MI) personnel surrounding NLD headquarters. In 2000 the regime prevented Aung San Suu Kyi from traveling to Rangoon to attend party meetings. During the year, the regime lifted most of these restrictions on NLD activities but, through mutual agreement, the NLD attempted to avoid large gatherings in order not to alarm the regime.

Since the initiation of talks between Aung San Suu Kyi and the junta in October 2000, there have been no reports of coerced resignations or recall motions. The regime-controlled media ceased its campaign against the NLD, and the regime loosened some restrictions on NLD party activity.

In general the right of association existed only for government-approved organizations, including trade associations and professional bodies, such as the Forest Reserve Environment Development and Conservation Association. Few secular, non-profit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legal political parties but most were moribund.

c. Freedom of Religion.—The 1974 Constitution permits restrictions on religious freedom, stating that "the national races shall enjoy the freedom to profess their religion . . . provided that the enjoyment of any such freedom does not offend the laws or the public interest." Most religious adherents duly registered with the authorities generally were free to worship as they chose; however, the regime imposed restrictions on certain religious activities. In practice the regime restricted efforts by Buddhist clergy to promote human rights and political freedom, and coercively promoted Buddhism over other religions in some ethnic minority areas.

The regime's pervasive internal security apparatus sought to infiltrate or monitor meetings and activities of virtually all organizations, including religious organizations. Religious activities and organizations also were subject to restrictions on freedom of expression and association. In addition, the regime controlled and censored all publications, including religious publications (*see* Section 2.a.).

Although a government directive exempts “genuine” religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. In addition, the regime provided some utilities at preferential rates to recognized religions. There was no official state religion; however, the regime continued to show preference for Theravada Buddhism, the majority religion. For example, the regime funded the construction of the International Theravada Buddhist Missionary University in Rangoon. State-controlled news media frequently depicted junta members paying homage to Buddhist monks; making donations at pagodas throughout the country; officiating at ceremonies to open, improve, restore, or maintain pagodas; and organizing ostensibly voluntary “people’s donations” of money, food, and uncompensated labor to build or refurbish Buddhist religious shrines. Buddhist doctrine remained part of the state-mandated curriculum in all elementary schools; however, individual children generally were permitted to choose not to receive instruction in Buddhism. There continued to be widespread reports that regime officials compelled both Buddhists and non-Buddhists to contribute money, food, or uncompensated labor to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments. However, there were no known reports of forcing persons to build pagodas during the year.

The regime has attempted to control the Buddhist clergy (“sangha”). The regime authorized military commanders to try members of the sangha before military tribunals for “activities inconsistent with and detrimental to Buddhism,” and imposed on the sangha a code of conduct that was enforced by criminal penalties. The junta also subjected the sangha to special restrictions on freedom of expression and freedom of association (*see* Section 2.a.). The military junta prohibited any organization of the sangha other than nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee (“Sangha Maha Nayaka Committee,” SMNC). The regime prohibited all religious clergy from being members of any political party.

The regime continued to restrict the building activities, education, and proselytizing of minority religious groups.

Christian groups continued to have difficulties in obtaining permission to build new churches. The regime reportedly denied permission for churches to be built along main roads in cities such as Myitkina, the capital of Kachin State. In 2001 in Rangoon, authorities closed more than 80 home-churches because their operators did not have proper authorizations to hold religious meetings. There were no reports of authorities closing home-churches this year.

Muslims reported that they essentially were banned from constructing any new mosques during the year. Early in 2001, local authorities in Rakhine State scheduled approximately 40 mosques for destruction because reportedly they were built without permission. Thirteen mosques were destroyed before the authorities intervened at the request of the UNHCR. To ensure mosques were not rebuilt, they were replaced with government owned buildings, monasteries, and Buddhist temples.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations at times usually were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays and generally were denied.

The Government discriminated against non-Buddhists at upper levels of the public sector. Only one non-Buddhist served in the Government at the ministerial level, and the same person, a Brigadier General, was the only non-Buddhist known to have held flag rank in the armed forces since the 1990s. The regime actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the middle ranks were encouraged by their superiors to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that SPDC troops offered financial and career incentives for Burman soldiers to marry Chin women, teach them Burmese, and convert them to Buddhism.

The regime discourages proselytizing by all clergy. Evangelizing religions, like Christianity and Islam, are most affected by these restrictions. In general the regime has not allowed permanent foreign religious missions to operate in the country since the mid-1960s, when it expelled nearly all foreign missionaries and nationalized all private schools and hospitals.

Religious publications, like secular ones, remained subject to control and censorship (*see* Section 2.a.). Translations of the Bible and Koran into indigenous languages could not be imported legally; with the regime’s permission, Bibles in indigenous languages were allowed to be printed locally.

In the past, there were credible reports that in Karen State’s Pa’an township, SPDC units repeatedly conscripted young men as porters who were leaving Sunday

worship services at some Christian churches, which caused them to avoid church attendance. Soldiers led by officers repeatedly disrupted Christian worship services and celebrations. In 2000 local government officials reportedly ordered Christian Chins to attend sermons by newly arrived Buddhist monks who disparaged Christianity. In addition, there were reports that Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. Local government officials reportedly separated the children of Chin Christians from their parents under the pretense of providing them free secular education, and lodged the children in Buddhist monasteries in which they were instructed in and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the regime sought to induce members of the Naga ethnic group to convert to Buddhism by means similar to those it used to convert members of the Chin to Buddhism.

Religious affiliation at times was indicated on government-issued identification cards that citizens and permanent residents of the country are required to carry. There appeared to be no consistent criteria governing whether a person's religion is indicated on his or her identification card. Citizens also are required to indicate their religions on some official application forms, such as passports.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The regime restricted freedom of movement. Most citizens were able to travel within the country, although their movements were monitored and they were required to notify local officials of their whereabouts (see Section 1.f.). Movement was limited in areas of armed conflict. Urban and rural residents were subjected to relocation.

In past years, the freedom of movement of opposition political leaders also was curtailed rigorously. Between 1995 and 2000, the junta allowed NLD general secretary Aung San Suu Kyi to travel outside the capital only once, on a visit to a monastery, and until May 6, she remained under house detention. While the Government has relaxed restrictions on Aung San Suu Kyi, generally allowing her freedom of movement and association, some restrictions remained. Since her release from house detention in May, Aung San Suu Kyi has traveled to Mon, Shan, and Rakhine States, as well as to Mandalay, Magwe, and Irrawaddy divisions. Although she generally was allowed to meet with international visitors, including the foreign ministers of Japan and Australia, the Government did not allow either Malaysia's Prime Minister Mahathir or the Malaysian Foreign Minister to call on her when they visited in August. Aung San Suu Kyi and her party also were harassed by government-affiliated groups on some of her visits to various regions of the country (see Section 2.b.). During the year, the regime loosened travel restrictions on all NLD members including the most senior members. NLD M.P.'s elect who were released from prison were able to travel between their electoral districts and Rangoon to coordinate with NLD leaders.

During the year, the regime reportedly implemented policies to consolidate the border with Bangladesh and to further control the movement of Muslim Rohingyas in Rakhine State (see Section 6.c).

The regime refused to accept Burmese deportees from other countries, but accepted the return of approximately 4,000 illegal migrants from Thailand. The regime allegedly refused to document Burmese seafarers who were stranded abroad due to the sinking of their ship or bankruptcy of the ship owners.

The regime also carefully scrutinized prospective travel abroad. Such control facilitated rampant corruption, as many applicants were forced to pay large bribes. Bribes for passports were sometimes as high as \$3,000 (approximately 3.6 million kyat), the equivalent of more than 10 years' salary for the average citizen. The official board that reviews passport applications has denied passports on political grounds. All college graduates who obtained a passport (except for certain government employees) were required to pay a special fee to reimburse the regime for the cost of their education. Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

Residents unable to meet the provisions of the citizenship law, such as ethnic Chinese, Arakanese, Muslims, and others, must obtain prior permission to travel internally. Since the mid-1990s, the Government also has restricted the issuance of passports to female citizens (see Sections 5 and 6.f.).

The regime prohibited foreign diplomats and foreign employees of U.N. agencies based in Rangoon from traveling outside the capital without advance permission. All residents, foreign and local, were required to apply for authorization to leave the country.

Restrictions on foreign travelers to the country were eased as part of an effort to promote tourism. Burmese embassies now generally issue tourist visas, valid for 1 month, within 24 hours of application. However, certain categories of applicants, such as foreign human rights advocates, journalists, and political figures were denied entry visas regularly unless traveling under the aegis of a sponsor acceptable to the regime and for purposes approved by the Government.

There was a large number of internally displaced persons (IDPs) in the country. NGOs based in Thailand estimated that the regime moved forcibly more than 250,000 citizens from their villages and districts to live near or along the Thai border (see Section 5). These NGO estimated that more than 350,000 IDPs resided in SPDC relocation sites.

During the year, the military continued to abuse thousands of villagers and drove them from their homes, including during the course of military campaigns in Karen, Kayah, and Shan States (see Section 1.f.). In January AI reported that a 75-year-old Shan man said that he and his family fled to Thailand after SPDC troops and United Wa State Army (UWSA) troops confiscated all their land, arrested villagers, looted homes, raped numerous women, and drove them out of their village. He reported that between 500 to 600 UWSA troops occupied the area, and that he received no compensation for the loss of his woodlands, orchards, or fields.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Irrawaddy division, experienced tighter controls on personal movement, including more frequent military checkpoints, closer monitoring by military intelligence, and larger military garrisons. "Informal taxes", or bribes, were extracted from all nationalities at checkpoints in border areas. In Rakhine State, many controls and checkpoints applied only to the Muslim population (see Section 5).

Harassment, fear of repression, and deteriorating socio-economic conditions continued to force many citizens into neighboring countries and beyond. In the border regions populated by minority ethnic groups, the regime continued its policies of forced labor, confiscation of lands, compulsory contributions of food, and forced relocations. These policies produced thousands of refugees in neighboring countries such as Thailand, China, and India. One report from Kachin State alleged that in May 2001, 3,000 Naga villagers fled the country into northeastern India when SPDC troops launched an offensive against Naga separatists. The security forces reportedly burned villages and laid landmines to discourage villagers from returning. Harsh conditions in Shan State compelled an exodus to Thailand, with unconfirmed estimates that approximately 10,000 Shan citizens may have relocated there during the year (see Section 1.f.). There were approximately 150,000 persons in refugee camps on the country's borders. Of these at least 135,000 Karen, Mon, and Karenni resided in refugee camps in Thailand. In addition, there were tens of thousands of Shan refugees in Thailand not living in camps. On the country's western border, 22,000 Rohingya Muslims remained in refugee camps in Bangladesh (see Section 5). More than 100,000 Rohingyas lived outside the refugee camps in Rakhine State with no formal documentation as refugees. In addition, Rohingyas who have returned to Rakhine State claimed that they faced government restrictions on their ability to travel and to engage in economic activity.

The regime did not allow refugees or displaced persons from abroad to resettle or seek safe haven in the country and has not formulated a policy regarding refugees, asylum, or first asylum. There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

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

Citizens did not have the right to change their government. The junta continued to prevent the Parliament elected in 1990 from convening.

Since 1962 active duty military officers have occupied most important positions in both the central government and in local governments. Since 1988 a military junta has held all state power. All members of the regime have been military officers on active duty, and the junta has placed military or retired military officers in most key senior-level positions in all ministries. At year's end, active duty or retired military officers occupied 37 of the 39 ministerial-level positions.

Following the NLD's victory in the 1990 elections, the military junta refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (see Sections 1.d. and 1.e.). Many other M.P.s elect fled the country. Following an aborted effort from 1993-96 to draft a new constitution assigning the military the dominant role in the country political structure, the military junta continued its systematic use of coercion and intimidation to deny citizens the right to change their government.

In September 1998, the NLD leadership organized a CRPP on the basis of written delegations of authority from a majority of the surviving members elect of the 1990 Parliament, in view of the junta's refusal to allow the entire Parliament to convene. The committee was empowered to act on behalf of the Parliament until the Parliament was convened. In retaliation the junta launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. Military intelligence officials also detained more than 200 members elect of Parliament in 1998. At year's end, a total of 19 M.P.s elect remained in prison. According to AAPP, two of these M.P.s elect have been in prison since 1990 (*see* Section 1.d.).

In October 1999, the Multiparty Democracy General Election Commission announced, that of 392 NLD members elected to Parliament in 1990, only 92 remained both NLD members and M.P.s elect. It claimed that 105 had resigned their parliamentary status, 139 had been disqualified by the commission, 27 had resigned from the NLD, and 31 had died. In contrast, in September 2000, the CRPP claimed to enjoy the support of 433 of the 485 members elect of Parliament.

Late in 2000, with encouragement from the U.N. Special Envoy Razali Ismail, the regime initiated talks with Aung San Suu Kyi that produced some relaxation in the restrictions on the NLD. In subsequent years, the NLD was able to resume some normal party activities. Press attacks on the NLD and Aung San Suu Kyi also ceased. However, since 2000, the regime has not opened a substantive dialog with the NLD and still held more than a 1,000 political prisoners at year's end.

Women were excluded from military leadership. There were no female members of the regime, ministers, or Supreme Court judges.

Members of certain minority groups also were denied full citizenship and a role in government and politics (*see* Section 5).

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

The Government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

The regime's restriction on travel by foreign journalists, NGO staff, U.N. agency staff, and diplomats; its monitoring of the movements of such foreigners; its frequent interrogation of citizens concerning contacts with foreigners; its restrictions on the freedom of expression and association of citizens; and its practice of arresting citizens who passed information about government human rights abuses to foreigners all impeded efforts to collect or investigate information regarding human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified with certainty.

There were approximately 25 nonpolitical, international humanitarian NGOs working in the country. A few others have established a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country. Beginning in 2001, international NGOs sometimes were required to have a government ministry representative accompany them on all field visits, at the NGOs expense (*see* Section 1.f.).

The regime permitted the U.N. Special Rapporteur, Paulo Sergio Pinheiro, to visit the country three times during the year. In his reports, Pinheiro cited instances of positive change and pledged to work with the regime, the opposition, members of civil society, and the international community to promote human rights in the country. He also cited problems, including the denial of fundamental freedoms of assembly, association, expression, and movement, and encouraged the regime to correct these deficiencies. He also called for the release of all political detainees. In addition, he cited "the gross violations of human rights of civilians" living in areas of conflict in eastern Karen and Kayah States, southern Shan State, northern Sagaing division, Rakhine, and Chin States.

In 2001 the regime announced the creation of a Human Rights Committee, chaired by the Minister of Home Affairs and including the Chief of Police as one of the members. Several human rights workshops that targeted abuses and were sponsored by the Australian government were held in Rangoon.

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

The military junta continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

Women.—Domestic violence against women, including spousal abuse, appeared to be relatively infrequent, although there was little data available. The regime did not

release statistics regarding spousal abuse or domestic violence. Married couples often lived in households with extended families, where social pressure tended to protect the wife from abuse.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. The regime stated that rape was not common in populous urban areas but occurred more often in remote areas. The Government did not release statistics regarding rape.

Prostitution is prohibited by law and punishable by 3 years in prison; however, it was becoming an increasing problem, particularly in some of Rangoon's "border towns" and "new towns," which were populated chiefly by poor families that were relocated forcibly from older areas of the capital. There were credible reports that a large number of female prostitutes were imprisoned and often subjected to abuse while incarcerated. One estimate put the number of women detained for prostitution at 400 at any given time in Mandalay prison alone.

There were no laws against sexual harassment.

In general women traditionally enjoyed a high social and economic status and exercised most of the same basic rights as men. Consistent with traditional culture, women kept their names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations, and women continued to be barred effectively from a few professions, including the military officer corps. Poverty, which was widespread in rural areas, affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

There were no independent women's rights organizations. The National Committee for Women's Affairs in the Ministry of Social Welfare was responsible for safeguarding women's interests. The Government and at least one international NGO operated schools and other rehabilitation programs for former prostitutes. The Myanmar Maternal and Child Welfare Association, a government-controlled agency, provided assistance to mothers. A professional society for businesswomen, the Myanmar Women Entrepreneurs' Association, provided loans to women starting new businesses.

Children.—The regime continued to allocate minimal resources to public education. According to the latest available statistics, government expenditures for all civilian education were equivalent to less than 1 percent of gross domestic product (GDP) during the year and have declined by more than 70 percent in real terms since 1990. According to government studies conducted with U.N. assistance, only 37 percent of children finished fourth grade in urban areas and only 22 percent did so in rural areas. Rates of school attendance and educational attainment decreased during the year, largely due to rising formal and informal school fees as the junta diverted expenditures from health and education to the armed forces. On average teacher's pay was equal only to approximately \$7.00 (10,000 kyats) a month, far below subsistence wages and has forced many teachers to quit teaching out of economic necessity. Only relatively prosperous families were able to afford to send their children to school, even at the primary level. In ethnic minority areas, the regime often banned teaching in local languages. In some areas where few families were able to afford unofficial payments to teachers, teachers generally no longer came to work and schools no longer functioned. In response to government neglect, private institutions began to provide assistance in education, despite an official monopoly on education.

Children also suffered greatly from the junta's severe and worsening neglect of health care. The junta cut government expenditures on public health care even more sharply than it cut spending for education. Government expenditures for civilian health care in 1998–99 were equivalent to only 0.3 percent of GDP. Government studies sponsored by U.N. agencies in 1997 found that, on average, 131 of 1,000 children died before reaching the age of 5 years, and that only 1 out of 20 births in rural areas was attended by a doctor. Those same studies indicated that, among children under 3 years of age, 37 percent were malnourished, and 13 percent were malnourished severely. The World Health Organization considered the country's health care system to be extremely poor.

Child abuse is prohibited by law. The Government stated that child abuse was not a significant problem; however, the regime did not release supporting statistics.

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—continued to be a major problem (see Section 6.f.).

The official age of enlistment in the ostensibly all-volunteer army is 18 years. However, the authorities reportedly rounded up orphans and street children in Rangoon and other cities and forced them into military service. An October HRW report

entitled *My Gun Was As Tall As Me*, alleged widespread forced conscription of children into the SPDC army, and, to a lesser extent, into armed groups fighting against the regime (see Section 6.c.).

Several international NGOs and agencies promoted the rights of children in the country, including World Vision, Save the Children UK, CARE, UNICEF, UNDP, and foreign governments.

Persons with Disabilities.—In principle official assistance to persons with disabilities includes two-thirds of pay for up to 1 year of a temporary disability and a tax-free stipend for permanent disability; however, in practice assistance was limited severely. There was no law mandating accessibility to buildings, public transportation, or government facilities. While there were several small-scale organizations to assist persons with disabilities, most must rely on their families to provide for their welfare. Military veterans with disabilities received available benefits on a priority basis. Because of landmine detonations, there were a large number of amputees in the country.

National/Racial/Ethnic Minorities.—Wide-ranging governmental and societal discrimination against minorities persisted. Animosity between the country's many ethnic minorities and the Burman majority, which has dominated the Government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. These abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, and Shan by SPDC soldiers and the armed ethnic groups (see Sections 1.a., 1.c., 1.f., and 1.g.).

The Government continued to discriminate systematically against non-Burmans. Because the regime reserved secondary state schools for citizens, Rohingya Muslims did not have access to state run schools beyond primary education and were ineligible for most civil service positions.

There were reports that forced labor of Muslims occurred in Rakhine State (see Section 6.c.).

Since only persons who were able to prove long familial links to the country were accorded full citizenship, nonindigenous ethnic populations (such as Chinese, Indians, and Rohingya Muslims) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State, on the country's western coast, continued to experience severe legal, economic, and social discrimination. The Government denied citizenship status to most Rohingyas on the grounds that their ancestors did not reside in the country at the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law. Persons without full citizenship faced restrictions in domestic travel (see Section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

Ethnic minority groups generally used their own languages. However, throughout all parts of the country controlled by the regime, including ethnic minority areas, Burmese remained the language of instruction in state schools. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

There were reports that the junta resettled groups of Burmans in various ethnic minority areas (see Section 1.f.). There were ethnic tensions between Burmans and nonindigenous ethnic populations, including Indians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom immigrated from Yunnan Province and increasingly dominated the economy of the northern part of the country. Both groups tended to be more commercially oriented and hence more prosperous and economically powerful than Burmans.

Section 6. Worker Rights

a. The Right of Association.—The 1926 Trade Unions Act, which remained in effect, permits workers to form trade unions only with the prior consent of the Government; however, no free trade unions existed in the country, and the junta dissolved even the Government-controlled union that existed before 1988.

In June 2001, the Committee on the Application of Convention and Recommendations of the International Labor Conference once again expressed profound regret regarding the persistence of serious discrepancies between the law and practice with respect to freedom of association. The committee criticized the regime for not implementing the provisions of the ILO Convention 87 on Freedom of Association and Protection of the Right to Organize, which the Government ratified in 1955. In 2001 a government representative testified to the committee that the Trade Unions Law was being revised, but that he could not provide the draft text at that time.

The International Confederation of Free Trade Unions (ICFTU) reported that in August, army troops killed an official of the Free Trade Union of Burma (the Kawthoolei Education Workers Union). U Saw Mya Than, a village headman who was widely known for his trade union activities, forcibly was recruited as a porter by the army and then killed in retaliation for an attack by opposition forces.

No unions in the country were affiliated internationally. The Government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers' Federation and the regime often refused to document seafarers who were stranded abroad (see Section 2.d.).

b. The Right to Organize and Bargain Collectively.—Workers did not have the right to organize and bargain collectively. The Government's Central Arbitration Board, which once provided a means for settling major labor disputes, has been dormant since 1988. Township-level labor supervisory committees existed to address minor labor concerns.

The regime unilaterally set wages in the public sector. In the private sector, market forces generally set wages. However, the regime has pressured joint ventures not to pay salaries greater than those of ministers or other senior government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector but followed the example of joint ventures in awarding supplemental wages and benefits.

According to the law, workers generally are prohibited from striking, although a small number of workers purportedly are accorded the right to strike. The last reported strike was in 2000, when an employer retracted a promise to pay piece rates. Subsequently 30 employees were detained, many for up to 3 months. All employees lost their jobs.

There were no export processing zones (EPZs). However, there were special military-owned industrial parks, such as Pyin-Ma-Bin, near Rangoon, which attracted foreign investors. Another example was the 2,000-acre Hlaingthaya Industrial Zone in Rangoon; at least four companies were known to operate on its premises (see Section 6.c.).

c. Prohibition of Forced or Bonded Labor.—Forced or bonded labor remained a widespread and serious problem. Although the Penal Code provides for the punishment of persons who imposed forced labor on others, there were no known cases of the application of this provision. Throughout the country, international observers verified that the regime routinely forced citizens to work on construction and maintenance projects. The law does not specifically prohibit forced and bonded labor by children, and forced labor by children was also a serious problem.

In 2000 the ILO determined that the regime had not taken effective action to deal with the "widespread and systematic" use of forced labor in the country and, for the first time in its history, called on all ILO members to review their relations with the regime and to take appropriate measures to ensure that the regime would not be able to take advantage of such relations to perpetuate or extend the system of forced labor. Initially the regime rejected the ILO's actions and statements; however, during the year, it began to work with the ILO by allowing visits and a liaison office to be opened in the country. In February an ILO team visited the country and an agreement was reached to establish a permanent ILO office in Rangoon to assist in dealing with continued problems of forced labor. In August the ILO began field visits to sites along the Thai border which were identified by AI and other organizations as "hot spots" for forced labor and SPDC abuse of ethnic populations. In 2001 when the regime allowed an ILO high-level team to visit the country to assess the situation, the team concluded that the regime had made "an obvious, but uneven" effort to curtail the use of forced labor, and that forced labor persisted, particularly in areas where the regime was waging active military campaigns.

Human rights groups and the ILO continued to receive allegations of forced labor from around the country, including Rangoon division, Rakhine State, and areas along the Thai border. In an October report, the ICFTU reported that the military continued to use forced labor on a massive scale. The ICFTU report echoed allegations contained in a July report by AI, Myanmar: Lack of security in counter-insurgency areas, which contained a number of specific allegations of human rights abuses by the armed forces, including forced labor. The AI allegations related primarily to areas of Shan, Karen, and Mon States, and Tenassarim division.

The ICFTU reported that women, children (including orphans and street children), and elderly persons were required to perform forced labor; that porters often were sent into dangerous military situations, rarely received medical treatment, and almost never were compensated; that forced laborers frequently were beaten; and

that some women performing forced labor were raped or otherwise abused sexually by soldiers. The ICFTU reported several cases of the military pressuring civilians to conceal the incidence and extent of forced labor from the ILO investigation team during the year. Government authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (*see* Section 6.d.). According to SHRF, in June 2001, SPDC troops forcibly conscripted 250 civilian porters, including 108 women and children, many of whom were between the ages of 8 and 16 years. Some children were forced to carry 6 cans of milk and some were forced to carry 10 mortar rounds each. Many of the children were kicked and beaten when they could not move fast enough.

According to an HRW report, Crackdown on Burmese Muslims, there was increased repression of Muslims and increased use of forced labor in Rakhine State. According to Forum Asia, the establishment of new "Model Villages" resulted in a higher demand for forced labor and land confiscation. However, other credible reports suggested that forced labor in Rakhine State had declined overall; however, army demands for forced labor reportedly continued to occur in selected townships, as did demands for portage and other army services. There also were reports of further control on the activities and movements of Rohingyas in Rakhine State (*see* Section 2.d.).

There were no accurate estimates of the number of citizens forced to provide labor each year but the practice was common. The regime has taken some limited measures toward eliminating the practice; however, the measures did not appear to have reduced significantly the use of forced labor, especially by the military. The regime has established a committee to implement measures against forced labor and has allowed the ILO to open an office in Rangoon and to travel throughout the country. The implementation committee, however, has not identified or prosecuted any instances of forced labor and did not appear to have the authority to intervene in allegations of military use of forced labor. The committee has not implemented adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor.

d. Status of Child Labor Practices and Minimum Age for Employment.—Although the law sets a minimum age of 13 for the employment of children, in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in food processing, street vending, refuse collecting, light manufacturing, and as tea shop attendants. According to government statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit bonded labor by children; while bonded labor was not practiced, forced labor by children occurred (*see* Section 6.c.). The authorities reportedly rounded up orphans and street children in Rangoon and other cities and forced them into military service. Children also were forced to serve as porters in combat areas, during which beatings and other mistreatment reportedly occurred (*see* Section 6.f.).

The Department of Social Welfare provides support and schooling for a small number of children (approximately 3,000) who were orphaned or in some other way estranged from their families.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

The military regime reportedly used children as porters, in infrastructure development, and in providing other services to military forces. Children often built or repaired roads and irrigation facilities. Households reportedly satisfied forced labor quotas by sending their least productive workers (usually children). In recent years, there have been reports that military units in various ethnic minority areas either forced children to perform support services, such as fetching water, cleaning, cutting bamboo, or cultivating food crops, or allowed households or villages to use children to satisfy SPDC orders to perform such services (*see* Sections 5 and 6.c.).

e. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was \$0.10 (100 kyats) for what was in effect a 6 hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned even by senior gov-

ernment officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector have fostered widespread corruption. In the private sector, urban laborers earned approximately \$0.20 (200 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more; a skilled factory worker earned approximately \$4.00 (4,800 kyat) per day.

Surplus labor conditions, a poor economy, and lack of protection by the regime continued to dictate substandard conditions for workers. The 1964 Law on Fundamental Workers Rights and the 1951 Factories Act regulate working conditions. There are legally prescribed 5 day, 35-hour workweek for employees in the public sector and a 6 day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. The law also allows for a 24-hour rest period per week, and workers were permitted 21 paid holidays per year. However, in practice such provisions benefited only a small portion of the country's labor force, since most of the labor force was engaged in rural agriculture.

Numerous health and safety regulations existed, but in practice the regime did not make the necessary resources available to enforce the regulations. Although workers may in principle remove themselves from hazardous conditions, in practice many workers could not expect to retain their jobs if they did so.

f. Trafficking in Persons.—Trafficking in women and children was a serious problem during the year. There reportedly was widespread complicity among local regime officials in trafficking in persons.

The law does not prohibit trafficking in persons and there were reports that persons were trafficked from and within the country. There are laws which are used against traffickers such as the Penal Code which prohibits kidnaping; the Suppression of Prostitution Act; and the Child Law, which includes provisions against the sale, abuse, or exploitation of children. According to the regime, traffickers have received sentences of between 3 and 14 years for trafficking in persons. According to the regime's figures, investigations have resulted in jail sentences being handed out in approximately 90 cases. Between 1999 and June, the Myanmar National Committee on Women's Affairs and other NGOs held more than 10,000 village-level seminars to educate families regarding the dangers of trafficking. In Mon State, eastern Shan State, and Kayin State, these seminars were carried out in cooperation with the U.N. Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region (UN-IAP). In two reports during the year, the regime highlighted the prevention, repatriation, and prosecution actions taken under a newly formed Working Committee for the Prevention of Trafficking in Persons, chaired by the Minister of Home Affairs. While there were still many weaknesses in the program, the regime has made progress, particularly in the area of prevention and prosecution, and to a lesser extent, repatriation. Regime officials recognized the need for continuing engagement on preventing trafficking and the prosecution of traffickers. Although the regime was active on these fronts, its effectiveness still was unclear by year's end. In addition, the regime reported that it was in the process of gathering data on the incidence of trafficking and expanding cooperation with international and local NGOs. However, during the year, the regime did not cooperate with neighboring countries, most significantly Thailand, on trafficking in persons.

Trafficking of women and girls to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Singapore, Japan, and countries in the Middle East, for sexual exploitation, factory labor, and as household servants was a problem. Shan women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban groups to areas where commercial sex work flourished (trucking routes, mining areas, and military bases) as well as along the borders with Thailand, China, and India. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor, but this appeared to be a small percentage of overall trafficking. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates of the total number.

While laws exist against child prostitution and child pornography, they were not enforced well. Reports from Thailand indicated that the rising incidence of HIV infection there increased the demand for supposedly "safer," younger prostitutes, many of whom came from Burma. Trafficking in persons within the country appeared to be a growing problem; however there were no reliable statistics regarding its extent. The regime has begun to help locate families of freed child trafficking victims and to assist in their repatriation from Thailand.

In recent years, the regime has made it difficult for women to obtain passports or marry foreigners in order to reduce the outflow of women both as victims of trafficking (*see* Sections 1.f. and 2.d.). In addition, there are regulations forbidding girls

under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports.

Corruption among local government officials was widespread and included complicity in the trafficking of persons. The regime's efforts to stop international and internal sex and exploitative trafficking were limited given the magnitude of the problem.

A number of NGOs offered poverty alleviation and education programs designed to counter trafficking. Reportedly these programs have been moderately successful.

While the Government has made limited progress on trafficking in persons during the year, baseline information on the extent to which trafficking occurs and the success of the Government's activities is not available. The Government's pervasive security controls, restrictions on the free flow of information, and lack of transparency prevent a meaningful assessment of trafficking in persons activities in the country. For example, while experts agree that human trafficking from the country was substantial, no organization, including the Government, was able or willing to estimate the number of trafficking victims.

CAMBODIA

Cambodia is a constitutional monarchy. Hun Sen of the Cambodian People's Party (CPP) is Prime Minister, Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) is President of the National Assembly, and Chea Sim of the CPP is President of the Senate. King Norodom Sihanouk is the constitutional monarch and Head of State. Most power lies within the executive branch and, although its influence continues to grow within the coalition structure, the National Assembly does not provide a significant check to executive power. The Khmer Rouge no longer is a political or military threat. The judiciary was not independent; it frequently was subject to legislative and executive influence, and suffered from corruption.

The National Police, an agency of the Ministry of Interior, has primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Security forces nominally are under the control of civilian authorities, but in practice answer to persons within the CPP. The responsiveness of local police and military commanders to civilian authorities varies by location. Members of the security forces committed many documented human rights abuses.

The country has a market economy in which approximately 80 percent of the population of 12.5 million persons engage in subsistence farming, with rice as the principal crop. Economic deprivation and poor health characterized life for most citizens. Annual per capita gross domestic product (GDP) was \$257. Average life expectancy is approximately 50 years. Foreign aid was an important component of national income. The economy grew at an estimated real rate of 6.3 percent during the year. The country has a thriving garment export industry, but has difficulty attracting foreign investment and mobilizing domestic savings to support economic development.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The military forces and police were responsible for both political and nonpolitical killings. There were politically motivated killings by nonsecurity force persons as well. Police participated in or failed to stop lethal mob violence by citizens against criminal suspects. The Government rarely investigated or prosecuted suspects in such killings, and impunity remained a problem. There were credible reports that members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention. National and local government officials often lacked the political will and financial resources to act effectively against members of the security forces suspected of human rights abuses. Through September 20, landmines killed 102 persons and injured 521 persons. Democratic institutions, especially the judiciary, remained weak. The judiciary was subject to influence and interference by the executive branch and was marred by inefficiency and corruption. Politically related crimes rarely were prosecuted. Citizens often appeared without defense counsel and thereby effectively were denied the right to a fair trial. During the year, the Supreme Council of Magistracy disciplined judicial officials for misconduct but did not impose harsh penalties. In August 2001, a law was passed that established a special tribunal to bring Khmer Rouge leaders to justice for genocide and war crimes committed from 1975 through 1979. The Govern-

ment largely controlled and influenced the content of the electronic broadcast media, especially television. The authorities sometimes attempted to interfere with freedom of assembly. Levels of campaign related violence and intimidation during the February local elections were similar to those in the 1998 national election. The Government inconsistently took action against some perpetrators of campaign violence. Societal discrimination against women remained a problem. Domestic violence against women and abuse of children were common. Discrimination against persons with disabilities was a problem. The ethnic Vietnamese minority continued to face widespread discrimination. There were frequent land disputes, and the Government and courts did not consistently resolve them in a just manner. Although the number of trade unions grew and became more active, antiunion activity also continued. The Government continued to express support for freedom of association, but in practice it did not enforce freedom of association provisions of the Labor Law. Other provisions of the Labor Law also were not enforced effectively. Bonded and forced child labor continued to be a problem in the informal sector of the economy, especially in the commercial sex industry. Domestic and cross-border trafficking in women and children, including for the purpose of prostitution, was a serious problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Allegations of politically motivated killings continued before and after the February 8 commune level elections. The U.N. High Commission for Human Rights (UNHCHR) reported that prior to the election, 22 political activists (5 in 2000, 12 in 2001, and 5 this year), including candidates and family members, were killed in 20 separate incidents under suspicious circumstances. Human rights monitoring groups agreed that at least seven of these cases were motivated politically. All of those killed, with the exception of one CPP candidate, were members of the FUNCINPEC Party or the opposition Sam Rainsy Party (SRP). Of these 20 cases prior to the election, the Government made arrests in 14 cases and convictions in 11 cases. UNHCHR reported that following the election, nine additional FUNCINPEC and SRP political activists were killed under suspicious circumstances in eight separate cases. Arrests were made in four of these cases and the accused remained in pretrial detention at year's end. UNHCHR reported that there were serious shortcomings in the police investigations.

In some cases, the authorities failed to execute summonses or search warrants against suspects believed to be protected by the military. Government officials also declared the crimes were not motivated politically before investigations were completed. The investigation of some cases proceeded very slowly. On February 1, a Battambang provincial court sentenced seven persons, including one in absentia, to 15-year prison terms for the November 2001 killing of a SRP candidate. On May 2, a Kampong Cham provincial court sentenced a former militia chief to an 8 year prison term and 2 members of the military, in absentia, to 18 year terms for the November 14 killings of an SRP activist and a FUNCINPEC activist. On July 15, a Svay Rieng provincial court sentenced one policeman and two civilians to 18 years' and 5 years' imprisonment respectively for the January 5 killing of an SRP candidate. On September 7, the press reported three uniformed men shot and killed a SRP activist in Kompong Cham Province. There was no consensus on whether the killing was motivated politically. At year's end, no one had been held accountable. There were numerous allegations of beatings of prisoners in police custody, including one case in Prey Veng Province in July 2001 in which a prisoner died. The Government has not arrested or prosecuted anyone in connection with the killing of three persons by soldiers in Kratie Province in May 2000. Human rights organizations continued to investigate these killings.

On June 6, the UNHCHR issued a report that documented 65 cases of mob assaults and killings from mid-1999 through May of this year. Mob attacks rose to an average of two per month through May, compared to one per month for the second half of 2001. The UNHCHR reported that for the first time police showed a willingness to intervene in such cases. In March a crowd dragged two men away from police custody and beat them to death. At year's end, no one had been held accountable. Also in March, police intervened to save the life of a Phnom Penh student who was beaten severely by a crowd that had been told he was a thief. On May 6, police intervention saved two men from a mob attack who had been accused of stealing a motorbike. On September 16, a Phnom Penh Municipal Court convicted seven persons, including five in absentia, for the December 2001 beating to death of two teenagers wrongly accused of theft. The five who were sentenced in absentia have appealed the verdict but still had not been arrested by year's end. Government prosecutions of those responsible for mob violence were rare.

According to the Cambodian Red Cross, through September 20, 102 persons were killed and 521 persons were injured by landmines deployed by the Khmer Rouge or various government forces during previous conflicts. The number of casualties was similar to those in 2001, but substantially lower than in previous years.

Former Khmer Rouge officials Ta Mok and Kang Kek Iev (“Duch”), who were accused of mass killings and other crimes between 1975 and 1979, remained in jail. Government efforts to bring senior Khmer Rouge officials to justice continued. In August 2001, a law was passed to establish a special tribunal to prosecute Khmer Rouge leaders who committed human rights abuses between 1975 and 1979 (*see* Section 1.e.).

On September 4, the Supreme Court upheld a 1999 Appeals Court conviction of former Khmer Rouge Commander Nuon Paet who was sentenced to life in prison for his role in a 1994 train ambush that resulted in the deaths of 3 foreigners and at least 13 citizens. On September 6, an Appeals Court reversed the July 2000 acquittal of Chhouk Rin, a former Khmer Rouge Commander who allegedly was involved in the same ambush, and sentenced him to life in prison. On December 23, a Municipal Court sentenced Sam Bith, a third Khmer Rouge Commander implicated in the attack, to life in prison.

On February 18, a municipal court tried and convicted 19 persons to 5 to 20 years on charges of terrorism or conspiracy and membership in the armed group the Cambodian Freedom Fighters (CFF). In March a Battambang court tried and convicted 18 members to sentences of 7 to 17 years for their roles in the November 2000 CFF attack in Phnom Penh in which 8 persons were killed and 14 other persons were injured. In April a Siem Reap provincial court tried 12 alleged CFF members for their roles in the attack; 8 were convicted to sentences of between 1 and 10 years and 2 were acquitted and released. In June 2001, a municipal court tried 30 alleged CFF members, including 2 in absentia, and convicted them to sentences of 3 years to life. In November 2001, a municipal court tried and convicted 26 alleged CFF members to 3 to 15 years in prison and acquitted 2 others in connection with the November 2000 incident. Human rights groups and other observers criticized the Government and the courts for the way they conducted their investigations and trials (*see* Section 1.d.). Some of those convicted have appealed but there were no developments in their cases by year’s end.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances, but local NGOs investigated cases in several provinces in which individuals allegedly disappeared after having been held in police detention. The UNHCHR and a local NGO also continued to investigate the May 2000 disappearance of five persons from various parts of Kratie Province after they were detained by security officials. These disappearances were unrelated to the May 2000 disappearance of 23 persons. All five remained missing, and government and NGO efforts to establish their whereabouts continued at year’s end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem throughout the country. There were credible reports that both military police and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Police and security force perpetrators of torture and abuse frequently were protected from prosecution or disciplinary action by local government authorities, despite some central government efforts to curtail or eliminate violations of prisoners’ rights and to address problems of accountability.

During the year, the Ministry of Interior was slow to investigate allegations by the UNHCHR of torture and severe abuse of individuals in detention in various parts of the country. During the year, three police officers were charged with voluntary manslaughter for the July 2001 beating to death of a prisoner in Prey Veng Province. In August a Kamong Cham provincial court acquitted five prison guards who were charged for alleged mistreatment of prisoners following a 1999 attempted escape. However, the judge, in an apparent acknowledgement of the guards’ wrongdoing, recommended that the Ministry of Interior impose an administrative sanction against the guards. Also in August, a local NGO reported that of 2,324 inmates surveyed, 11.7 percent claimed they were tortured in police custody while another 1.2 percent claimed they were tortured in prison.

Government officials and security officials were complicit in trafficking in both women and children (*see* Sections 5 and 6.f).

The Ministry of Interior’s Prisons Department is responsible for both pretrial detainees and convicted prisoners held inside prisons. During the year, prison conditions remained harsh, and government efforts to improve them and to implement

new regulations were hampered by lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. A local NGO, which monitors 20 of the country's 25 prisons, noted that the population of those prisons decreased by 10 percent during the year. However, an August report by the same NGO noted that at one prison in Kampong Cham prisoners were allotted 0.93 square meters of space. In most prisons, there was no separation of adult prisoners and juveniles, or of persons convicted of serious crimes and persons detained for minor offenses. There was inadequate separation of male and female prisoners. In some prisons, after escape attempts, use of shackles and the practice of holding prisoners in small, dark cells continued. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, which exacerbated malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials in order to be allowed to provide assistance.

The Government continued to allow international and domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGOs reported that on occasion cooperation from local authorities was limited (*see* Section 4). The Ministry of Interior continued to require lawyers, human rights monitors, and other visitors to obtain letters of permission from the Ministry prior to visiting prisoners. The Ministry withheld such permission in some cases, particularly for individuals in detention in connection with the crackdown on the CFF (*see* Section 1.d.).

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. A Penal Code drafted by the U.N. Transitional Authority in Cambodia (UNTAC) in 1992 remained in effect, as does the 1993 Criminal Procedure Law. The Criminal Procedure Law provides protection for criminal suspects; however, in practice the Government sometimes ignored its provisions.

A number of the defendants were arrested without warrants and were held longer than the 6 month maximum period of detention permitted by the law. Starting in September 2001, the Government initiated a crackdown on the CFF and arrested over 100 suspects, including dozens without arrest warrants. The Government held some suspects incommunicado and denied them appropriate access to lawyers. Subsequently, many were tried and convicted on the basis of flimsy evidence such as the appearance of their name on a CFF membership list.

Although lengthy detention without charge is illegal, suspects often were held by authorities for long periods before being charged or brought to trial or released. According to the UNHCHR, such prolonged detention largely was a result of a growing prison population and the limited capacity of the court system. Accused persons legally are entitled to a lawyer; however, in practice they often had limited access to legal representation. Prisoners routinely were held for several days before gaining access to a lawyer or family members, although the legal limit is 48 hours. Although there is a bail system, many prisoners, particularly those without legal representation, often had no opportunity to seek release on bail. During the year, one NGO reported that there were 140 complaints of pre-trial detention that lasted longer than the prescribed 6 months.

The Constitution prohibits forced exile, and in practice the Government did not use it. In August one FUNCINPEC member resigned his seat in Parliament and claimed to be in self-imposed exile after certain government officials threatened to arrest him for his involvement in an association that advocated the creation, by force if necessary, of an autonomous ethnic Khmer State in Vietnam.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the Government did not respect this provision in practice. The courts were subject to influence and interference by the executive, and there was widespread corruption among judges, virtually none of whom received a living wage.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and in practice the Government did not ensure due process. UNHCHR has on a number of occasions printed and provided copies of all of the country's laws to all judges. Judges and prosecutors, however, often have no legal training. Citizens often effectively were denied a fair trial in jurisdictions without regular access to defense lawyers or international judicial assistance programs. The Judicial Reform Council established in 2000 has made no significant progress in fulfilling its mandate to develop and implement judicial reform measures. On June 19, the Government established a second legal and judicial reform council amid criticisms that its co-chairs, a Cabinet Minister and the Su-

preme Court President, lacked sufficient independence. The Supreme Council of the Magistracy continued to discipline judicial officials for misconduct but did not impose harsh penalties. In June 2001, the Supreme Council of the Magistracy nominated to the Appeals Court a former court president and a former prosecutor who had been suspended from their positions and investigated for accepting bribes in 1999. No information about the investigation was released. Legal observers charged that the Supreme Council of the Magistracy was subject to political influence, and did not protect effectively the independence of the judiciary.

Court delays or corrupt practices often allowed those accused of crimes to escape prosecution, leading to impunity for some government officials or members of their families who committed crimes. Although the courts prosecuted some members of the security forces for human rights abuses, impunity for those who committed human rights abuses remained a problem. With some exceptions, national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released by the courts or through extrajudicial processes. In June the Prime Minister allegedly ordered a government official with key responsibilities in ongoing judicial reform efforts to drop inappropriate criminal charges against his former foreign business partner in a civil dispute involving allegations of breach of contract (*see* Section 1.f.).

In March a Ratanakiri provincial court ruled in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of the ethnic hill tribes apparently had been tricked into giving away (*see* Sections 1.f. and 5).

In January the National Election Commission (NEC) reaffirmed its requirement that commune election committees resolve local election-related disputes (*see* Section 3). As a consequence, many violations of the Election Law, some very serious, were not punished sufficiently. The courts and police often pressured crime victims to accept small cash settlements from the accused instead of seeking prosecution. When a case was tried, a judge sometimes determined the verdict before the case was heard, often on the basis of a bribe. On February 18, a Ratanakiri provincial court sentenced four men to 4 months in prison in spite of finding them guilty of three counts of premeditated killing. Sworn, written statements from witnesses and the accused usually were the extent of evidence presented in trials. Statements by the accused sometimes were coerced through beatings or threats from investigation officials, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign (*see* Section 1.c.). In cases involving military personnel, military officers often exerted pressure on judges to have the defendant released without trial.

The court system consists of lower courts, an appeals court, and a Supreme Court. The Constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both of these bodies was viewed widely as biased in favor of the CPP.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials typically were perfunctory, and extensive cross-examination usually did not take place. In 1998 the introduction of newly trained lawyers, many of whom received supplemental training by NGOs, resulted in significant improvements for those defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers in all parts of the country. Persons without the means to secure defense counsel often effectively were denied the right to a fair trial.

Defendants are entitled by law to the presumption of innocence and to the right of appeal. However, because of pervasive corruption, defendants often were expected to bribe the judge for a favorable verdict, thereby effectively eliminating the presumption of innocence. Citizens' rights to appeal sometimes were limited by the lack of transportation and other logistical difficulties in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant. Lawyers also noted that in 2001 and throughout the year, police and prison officials, with apparent support from government officials, began to deny them the right to meet prisoners in private or for adequate lengths of time, in violation of the law (*see* Section 1.c.). In December 2001, an executive decree appointed a single individual as the country's sole notary public, and, by extension, legal arbitrator of everything from documents to land disputes.

There is a separate military court system. The military court system suffered from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts often was ignored in practice; several civilian persons arrested for crimes that appeared to have no connection with military offenses were detained for trial by the military court.

In August 2001, a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through to 1979. The Government had sought assistance and cooperation from the United Nations (U.N.) since 1997, as well as financial assistance from foreign donors, to make the tribunal operational. In February the U.N. announced that it would no longer participate in negotiations with the country to establish a "mixed" tribunal, because the U.N. was not confident it could reach an agreement to establish a court that was independent, impartial, and objective. In early July, the Government announced that it had sought to revive negotiations. On August 20, the U.N. spokesman announced that the U.N. Secretariat would resume negotiations on a Khmer Rouge Tribunal if it were to receive a "clear mandate" from either the U.N. Security Council or the U.N. General Assembly. On December 19, the U.N. General Assembly approved a resolution calling upon the Secretary General to resume negotiations to conclude an agreement with the Government to establish Extraordinary Chambers to try Khmer Rouge leaders. On December 24, the Government announced that it had accepted an invitation from the U.N. Secretary General to conduct exploratory talks to prepare for resumption of negotiations on the court.

In March and April, human rights groups criticized the convictions of 29 alleged members of the CFF (*see* Section 1.a.). Although some of the defendants freely admitted involvement in an armed attempt to overthrow the Government, observers raised valid criticisms about the lack of thorough investigation or meaningful cross-examination, and the judge's broad use of discretion in accepting or rejecting evidence.

There was cooperation among the Government, foreign government donors, and NGOs to improve the legal system, but progress remained slow.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the privacy of residences and correspondence and prohibits illegal searches; however, the police routinely conducted searches and seizures without warrants. There were no reports that the Government monitored private electronic communications. The Government continued to work on improving the land titling system and to prepare implementing regulations for a July 2001 law clarifying ownership and recognizing various forms of communal property arrangements, including for indigenous minorities.

Citizens were free to live where they wished; however, there were continued frequent reports of land disputes between residents, local authorities, businesspersons, and military officials. Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Several provinces created land dispute settlement committees; representatives of local NGOs and of the military forces frequently attended committee meetings. Members of the committees often had apparent conflicts of interest, and observers criticized dispute resolution as inconsistent and not transparent.

One domestic NGO investigated 63 land disputes involving government officials that affected 2,746 families during the year. On March 27, after a Ratanakiri provincial court ruled in March 2001 in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of ethnic hill tribes said belonged to them, King Sihanouk and Prime Minister Hun Sen effectively overruled the court and settled the land dispute. The settlement awarded the land title to the hill tribes members and \$35,000 (136,500,000 riel) to the General for the amount he claimed he paid local Ratanakiri officials to arrange transactions giving him ownership of the land (*see* Sections 1.e. and 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression, press, and publication, and the Government generally respected these rights in practice; however, there continued to be some problems. The Constitution implicitly limits free speech by requiring that it does not affect adversely public security. The Constitution also declares that the King is "inviolable." The Press Law provides journalists with a number of rights, including a prohibition on prepublication cen-

sorship and protection from imprisonment for expressing opinions. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. There were no reports that print journalists practiced self-censorship. There were a large number of news items critical of the Government, which included frequent, highly personal criticism of the Prime Minister, the President of the National Assembly, and other senior officials.

In November 2000, the Ministry of Information produced a draft regulation that specified professional requirements for new newspaper and magazine publishers, and introduced a mandatory licensing system requiring that newspapers renew their licenses annually and that magazines renew their licenses every 2 years. Some journalists' organizations viewed the draft regulation as an attempt to increase government control over the media. The Ministry was engaged in consultations with these organizations, and had not implemented the regulation by year's end.

Although limited in circulation, newspapers were a primary source of news and expression of political opinion. All major political parties had reasonable and regular access to the print media. In general newspapers were aligned politically. The law permits newspapers to receive financial support from political parties, and some newspapers did receive such support from FUNCINPEC and the SRP. There were an estimated 16 Khmer language newspapers published regularly, approximately the same number as in 2001. Of these, 11 were considered to be progovernment, 4 were considered to support the opposition Sam Rainsy Party (SRP), 1 was considered to support the FUNCINPEC Party, and 1 was considered to be antimonarchy. In addition, there was one French-language daily, one English-language daily, and two other English newspapers published regularly. Many of the Khmer-language newspapers frequently published articles translated from the English language newspapers.

Although the two largest circulation newspapers were considered progovernment, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers. There was some government intimidation or retribution against local Khmer-language newspapers for reports that were critical of the Government. In April a municipal court ordered a newspaper to pay fines for an article allegedly defaming the National Assembly President. Journalist associations and NGOs publicly criticized these actions. In July the publisher of a newspaper was detained by the Ministry of Interior for 10 hours and questioned about his news sources. In August a newspaper was closed for 30 days after publishing a story critical of the President of the National Assembly. In September a newspaper editor and reporter were detained 2 days for publishing articles critical of the national police.

In August 2001, a municipal judge filed a libel case against an opposition-affiliated newspaper for publishing an article alleging that the judge accepted kickbacks in a property dispute case. The case was settled out of court. In September 2001, the Minister of Foreign Affairs and International Cooperation won a defamation suit against three journalists from an English-language newspaper for an article containing a quote suggesting that during the 1975–1979 Khmer Rouge regime the Minister played a role in sending prisoners to be interrogated and executed from the prison and reeducation camp where he was the head inmate. The court proceedings were marred by irregularities. The judge did not consider relevant evidence offered by the defendants, and collected evidence of her own in violation of her mandate. The judge denied the defendants' request to be tried under the 1995 Press Law rather than the 1991 transitional UNTAC Code, but then ordered them to pay damages to the Foreign Minister and the state under both laws. In November 2001, the journalists appealed the decision. By year's end, there had been no further developments in the case.

The Government, the military forces, and the political parties continued to dominate the broadcast media and to influence their content. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The opposition party in past years was unable to obtain a broadcast license and, during 2001, briefly broadcast radio programs from a site in a neighboring country, but subsequently suspended broadcasts for technical reasons. Voice of America and Radio Free Asia made daily broadcasts through lease arrangements with the country's only independent radio station. Broadcast journalists reportedly practiced self-censorship to enhance prospects for keeping their broadcast license. Television stations largely ignored a May government order to broadcast only national language programs during peak viewing hours.

There were six television stations, all controlled or strongly influenced by the Government. Government control severely limited the content of television broadcasting.

At the initiative of the President of the National Assembly, the Ministry of Information's television station did broadcast live telecasts of the National Assembly's sessions; in several instances, these broadcasts were censored. An April UNHCHR report asserted that the Government failed to ensure that all political parties and candidates enjoyed freedom of expression and equal access to the media in the campaign leading up to the commune elections (*see* Section 3). National radio and television stations regularly broadcasted some human rights, social action, public health, and civil society programming produced by domestic NGOs.

In August 2001, the Government issued an order banning the sale of and threatening to confiscate a book published by the SRP entitled *Light of Justice*. A government spokesman described it as "promoting instability" but never specified what law the publication violated. The Government never implemented its confiscation threat. The SRP removed the book from circulation and filed a lawsuit against the Government, which was not settled by year's end.

Internet service, which was available widely in larger towns, was unregulated.

Academic freedom was respected.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly, but the Government did not fully respect this right in practice. The Government requires that a permit be obtained in advance of a march or demonstration. The Government often did not issue a requested permit or took no action on a permit application; however, these actions had no practical effect because demonstrations proceeded anyway.

During the year, numerous groups assembled peacefully, including workers and teachers who protested working conditions or wages, political opposition activists who supported various causes, students who protested border encroachments and the visit of Vietnamese, Chinese, and Thai leaders to the country, and various groups which protested land seizures. On occasion counter-demonstrations by other citizens who supported the Government disrupted the protests, which sometimes resulted in clashes that caused minor injuries to participants. Supporters of both the ruling and opposition parties took part in rallies and street parades throughout the country during the commune election campaigning period. However, the opposition party alleged that local authorities obstructed its campaigning in several locations (*see* Section 3).

On December 5, a crowd of approximately 150 villagers visiting Phnom Penh gathered in front of the offices of the Department of Forestry and Wildlife (DFW) and demanded information about proposed forestry concession management plans. At dusk a group of police aggressively drove the crowd away from the DFW. There were credible reports that the police used electrified batons to disperse the crowd and that several villagers sustained injuries. One protester died later in the evening of a heart attack, but no link between the incident and his death was established. The independent monitor of the country's forestry sector, Global Witness, filmed the incident, but was not involved directly. The Government subsequently decided to terminate Global Witness' role as the official forestry monitor. In the past Global Witness drew criticism from the Government for allegedly overstepping its mandate of monitoring forest crimes to advocating general reform of the forestry sector.

Throughout the year, there were complaints from various organizations that local authorities demanded that they apply for permission to hold meetings and other events, despite the fact that there was no legal basis for such requirements. For example, in June 2001, the Government forbade a private conference on border issues planned by a student group in conjunction with an organization of expatriate Cambodians at a Phnom Penh hotel. The Government never explained the legal basis for its action, but conference organizers canceled the event after the hotel refused to allow the conference on its premises.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. However, the Government did not enforce effectively the freedom of association provisions of the Labor Law (*see* Section 6.a.). In October 2001, the Government adopted a standard Memorandum of Understanding for NGOs, which eliminated provisions from an earlier draft NGO law that the NGO community opposed.

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. However, there were several documented cases of harassment of FUNCINPEC and SRP activists and candidates in connection with preparations for the scheduled commune level elections (*see* Section 3).

Membership in the Khmer Rouge, which previously conducted an armed insurgency against the Government, is illegal, as is membership in any armed group.

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

The Constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion and over 95 percent of the population is Buddhist. Most of the remaining population is made up of ethnic Cham Muslims, who were well integrated into society.

The law requires all religious groups to submit applications to the Ministry of Cults and Religious Affairs in order to construct places of worship and to conduct religious activities. Religious groups did not encounter significant difficulties in obtaining approvals for construction of places of worship, but some Muslim and Christian groups reported delays by some local officials in acknowledging that official permission had been granted to conduct religious meetings in homes. Such religious meetings took place unimpeded despite delay or inaction at the local level, and no significant constraints on religious assembly were reported. In August the Government deported two Falun Gong members listed as United Nations High Commissioner for Refugees (UNHCR) persons of concern to China (*see* Section 2.d.). Also in August, the Government announced that it would not permit the Dalai Lama to attend an upcoming Third World Buddhism Conference in the country.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and law provide for these rights and the Government generally respected them in practice. The Government does not restrict domestic or international travel, although the presence of land mines and bandits made travel in some areas of the country dangerous (*see* Section 1.a.).

There were no reports of persecution or discrimination against refugees who returned from abroad. On December 31, 2001, the UNHCR program which assisted in the resettlement of refugees who returned from Thailand, formally was terminated. There was no new resettlement of internally displaced persons (IDPs) during the year. IDPs who resettled in previous years were able to return to their original places of origin, except where land mines were a problem.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice there were cases where persons were deported. During the year, the country granted asylum to persons of various nationalities. The Government also allowed noncitizens to apply to the UNHCR for refugee status and for third country resettlement. On November 23, police tried several times to detain a group of 20 Montagnards in Phnom Penh who were under UNHCR protection. An all night negotiation took place to keep the group from being arrested. In late December, they moved to the site where other Montagnards were awaiting resettlement. There were no further instances of police harassment though the end of the year, and 20 were accepted for resettlement to a third country. The Government authorized resettlement processing for approximately 900 Montagnards who were living in 2 UNHCR camps in Ratanakiri and Mondolkiri Provinces. To ensure their safety, these refugees were moved by UNHCR from the border provinces down to Phnom Penh. During the year, all 583 cases (905 persons) were interviewed and provided refugee status. By the end of the year, approximately 800 Montagnards departed Phnom Penh for third country repatriation.

In March 2001, the Government provided asylum in Ratanakiri and Mondolkiri Provinces for arriving Montagnards. However, in May authorities pushed back approximately 300 asylum seeking Montagnards, in apparent violation of the 1951 U.N. Convention, claiming that they were illegal aliens. In December 2001, authorities intercepted and returned 167 newly arrived Montagnard asylum seekers to Vietnam. NGOs and other organizations continued to claim that groups of Montagnards remained in hiding along the border of Vietnam waiting for an opportunity to seek asylum in the country.

The UNHCR was given permission to establish and monitor camps in both provinces. Although the UNHCR reached an agreement with the Government and with the Government of Vietnam to facilitate voluntary repatriation, the program quickly collapsed. In March the Government deported 98 new Montagnard arrivals back to Vietnam. In July a Vietnamese monk, who was registered with the UNHCR as a person of concern, disappeared from Phnom Penh. Credible reports suggested that either he was kidnaped by Vietnamese agents or that he was deported by government authorities. In August the Government deported to China two practitioners of Falun Gong (*see* Section 2.c.). The couple had been living and working in the country since 1998 and were accorded "person of concern" (refugee) status by the UNHCR in May. The UNHCR was not notified of the deportation until after the fact, in violation of the country's agreement with the U.N.

After opposing repatriation of deportable Cambodian nationals for many years, the Government signed an MOU with the United States in March to facilitate their return. The 36 persons who subsequently were repatriated in four separate groups were detained up to several weeks upon their arrival and there were reports that some were forced to pay bribes during this detention. By year's end, these 36 deportees all were released, and the Government subsequently has respected the rights of these individuals and their efforts to integrate themselves into society.

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. The coalition government formed in late 1998 between the CPP and the FUNCINPEC, the two parties that won the largest number of votes and National Assembly seats in the 1998 election, established relative political stability. The coalition agreement provided for approximately equal power sharing between the parties, with Hun Sen of the CPP as Prime Minister and Prince Norodom Ranariddh of FUNCINPEC as President of the National Assembly. However, in practice the CPP has been the dominant partner. The coalition agreement also provided for the creation of a Senate, which was formed in March 1999 with Chea Sim of the CPP as President. The Senate's function is to review and to provide advice on the laws passed by the National Assembly; the National Assembly retains final authority over whether to modify legislation based on the Senate's recommendations. In practice the Senate's role largely was perfunctory, while the National Assembly was a more credible forum for national debate.

Although growing in influence, the legislature remained weak in comparison to the executive branch. The coalition government appointed the 24 provincial and municipal governors and their deputies, as well as district officials, all of whom were divided between the CPP and FUNCINPEC parties. Suffrage is universal and voluntary for all citizens over the age of 18. Most citizens participated in national elections in 1993 and 1998.

In February the first ever national commune level elections were held. Over 83 percent of eligible voters registered to vote. More than 76,000 candidates from 8 parties competed and more than 1 candidate was registered in 1,608 of the country's 1,621 communes. The election results broke the CPP's 23 year monopoly control of local governance. The CPP won 7,703 council members seats nationwide, FUNCINPEC won 2,211 member seats and the SRP won 1,346 member seats. The CPP commune chiefs remained in place in 99 percent of the 1,621 communes; however, power was shared with other parties in all but 148 communes. At year's end, an interministerial body supervised by the Ministry of Interior had not developed regulations to implement the Commune Administration Law to describe the power, duties, and functions of the councils.

The levels of election-related violence and intimidation associated with the February local elections were similar to those in the 1998 national election (see Section 2.b.). During the campaign period and throughout the year, a total of 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were motivated politically (see Section 1.a.). The Government took action against many alleged perpetrators of killings, but addressed other misconduct inconsistently.

There were more than 200 reported cases of intimidation (vandalism, forced oath taking to the CPP, collection of voter registration cards by local authorities, and death threats), against activists and candidates running against the CPP. The NEC did not use its powers to sanction those involved in voter intimidation and vote buying. According to electoral monitoring organizations, each of the three main parties allegedly was involved in vote buying, although the CPP was cited in the majority of cases. On preelection night, there were reports of illegal gift giving in every province by all major parties, and voter coercion by local CPP officials.

The UNHCHR uncovered no evidence of a centrally organized campaign of violence or intimidation; most cases appeared to be the work of local officials. However, UNHCHR also reported that police investigations of such incidents and subsequent judicial processes were slow and showed serious shortcomings. The NEC did not carry out effectively its legal mandate to investigate election violations and to punish the perpetrators, nor did it permit equal access to the media (see Sections 1.e. and 2.a.). These were the first elections the country organized without substantial foreign assistance, and preparations were marked by poor dissemination of information and other logistical and administrative problems. Some political parties and election observers claimed that the authorities did not do enough to ensure that all voters who wished to vote could register.

Media access for opposition parties was more restricted than in the 1998 national elections (see Section 2.a). The NEC did not allow six local level candidate debates to be broadcasted on national television, although one debate was broadcasted on a national radio station. In addition, the NEC reversed its decision to allow broadcasts of 15 prescreened, national-level, election roundtable debates organized by nongovernmental organizations during the campaign period. Voters' choices on election day were limited by their lack of access to broadcast political discussion. The Committee for Free and Fair Elections (COMFREL) reported that the activities of the Government and the CPP dominated news coverage both before and during the campaign period, while negligible exposure was given to opposition parties.

Traditional cultural practices inhibited the role of women in government. However, women took an active part in the 1998 national election and registered for the February elections at approximately the same rate as men. There were 13 women among the 122 members of the National Assembly, 8 women among the 61 members of the Senate, and 2 female Ministers and 3 female State Secretaries in the Cabinet. After February's local elections, women held 933 (8.3 percent) of the 11,261 commune council seats. The country's central bank was headed by a woman.

There were several members of ethnic and religious minorities in the Cabinet and the National Assembly (see Section 5).

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

The large domestic and international human rights community remained active and engaged in diverse activities. The UNHCHR and numerous other human rights organizations conducted monitoring activities and human rights training for provincial officials, military officers, villagers, the legal community, and other groups. These organizations operated relatively freely throughout the country, investigating and publicizing their findings on human rights cases. There were approximately 40 NGOs involved in human rights activities, although only a small portion of them actively were involved in organizing training programs or investigating abuses. The Government generally cooperated with human rights workers in performing their investigations; however, during the year, there were several reports of poor cooperation or intimidation by local authorities throughout the country.

In March the Government and the UNHCHR agreed to a Memorandum of Understanding which extended the UNHCHR's activities in the country for 2 more years. The UNHCHR maintained its headquarters in Phnom Penh and had 2 regional offices in Battambang and Kampong Cham. The UNHCHR visited the country in August, and the U.N. Special Representative for Human Rights visited two times during the year. Both Representatives met with government officials at all levels, as well as with representatives of political parties and NGOs.

During the year, the Government continued to deny lawyers and human rights groups permission to see prisoners, thus inhibiting the ability of lawyers to defend clients and the ability of human rights groups to monitor prison conditions (see Section 1.c.).

The Cambodian Human Rights Committee, which the Government established in 1998, largely was inactive throughout the year, and its activities were not credible.

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

The Constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views. Although the Government did not engage actively in discrimination, it sometimes failed to protect these rights in practice.

Women.—Domestic and international NGOs reported that violence against women, including domestic violence and rape, was common. Although comprehensive statistics were not available, one local NGO reported 244 cases of domestic violence, 174 cases of rape, and 74 cases of trafficking in persons during the year. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints.

The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury" or "indecent assault," but women's groups reported that such charges were rare.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.). Although the Government devoted greater attention to the problem of trafficking during the year and initiated several prosecutions, it has not enforced effectively a 1996 law against the exploitation and sale of human beings. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it continued to flourish. A survey by a local

human rights NGO reported there were approximately 50,000 prostitutes in the country and that an estimated 60 percent of women and girls either were forced to work as prostitutes or were deceived into prostitution. Sex tourism was also a problem.

The Labor Law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reports that in the industrial sector it was rare. Sexual harassment was not known to be a problem in other sectors of the economy.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights with men, the same status to bring divorce proceedings, and equal access to education and some jobs. However, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas.

According to NGO reports, women make up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often were concentrated in low-paying jobs in these sectors and largely were excluded from management positions. There were a large number of women's NGOs that provided training for poor women and widows and addressed social problems such as spousal abuse, prostitution, and trafficking. A media center produced and broadcasted programming on women's issues. NGOs provided shelters for women in crisis.

Children.—The Constitution provides for children's rights, and ensures that the welfare of children is a specific goal of the Government. The Government relied on international aid to fund most social welfare programs targeted at children, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free but not compulsory through grade nine; many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. Despite an extensive government school construction program, schools were overcrowded, lacked sufficient equipment, and often provided only a few years of education, especially in rural areas. Less than 5 percent of primary school teachers completed high school, and teachers' salaries were irregular and inadequate to support a decent standard of living, leading to demands for unofficial payments directly from parents, which the poorest families could not afford. The Government did not deny girls equal access to education; however, in practice, families with limited resources often gave priority to educating boys. In many areas, schools were remote, and transportation was a major problem. This particularly affected girls because of fears for their safety in traveling between their homes and schools.

Children frequently suffered from malnutrition and the inadequacy of the health care system. Infant mortality was reported most recently at 95 per thousand, and 12.5 percent of children did not live to the age of 5 years. Child mortality from preventable diseases was high.

Child abuse was believed to be common, although there were no statistics available. Poverty and domestic violence often drove children to live on the streets; domestic NGOs estimated there were more than 10,000 street children in Phnom Penh alone, who were easy targets for sexual abuse and exploitation. Although sexual intercourse with a person under the age of 15 is illegal, child prostitution and trafficking in children were common (*see* Section 6.f.). In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (*see* Section 6.f.). During the year, the Government prosecuted at least six cases in which foreigners were charged with pornography violations or pedophilia.

The illegal purchase and sale of infants and children for prostitution and adoption was a serious problem. During the year, raids on brothels rescued several underage girls who were trafficked to the country for prostitution (*see* Section 6.f.). In 2001 and during the year, there were several documented cases in which individuals or organizations purchased infants or children from their natural parents, created fraudulent paper trails to document the children as orphans, and then earned substantial profits from fees or donations from unwitting adoptive families, including foreign families. Some of these children ended up being exploited. In some of these cases, the perpetrators encouraged women to give up their children under false pretenses, for example, by promising to care for the children temporarily but then refusing to return them. During 2001 a court charged at least seven persons in two separate cases involving orphans for adoption. The court subsequently dropped the charges against all seven individuals, following what human rights workers believed were inadequate court investigations. In one of the cases, the court's decision to drop charges was appealed.

Child labor was a problem in the informal sector of the economy (see Sections 6.c. and 6.d.).

Persons with Disabilities.—The Government does not require that buildings or government services be accessible to persons with disabilities. According to the Government, approximately 1 in 219 citizens was missing at least one limb. This statistic reflects the continuing effects of landmines. Programs administered by various NGOs have brought about substantial improvements in the treatment and rehabilitation of persons who have lost limbs. However, persons who have lost limbs face considerable societal discrimination, particularly in obtaining skilled employment.

National/Racial/Ethnic Minorities.—Citizens of Chinese and Vietnamese ethnicity constitute the largest ethnic minorities. Ethnic Chinese citizens were accepted in society. However, animosity toward ethnic Vietnamese, who were seen as a threat to the nation and culture, continued. The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to “Khmer people.” During the year, student groups continued to make strong anti-Vietnamese statements; they complained of political control, border encroachments, and other problems for which they held ethnic Vietnamese persons within the country at least partially responsible. In several parts of the country, the opposition party exploited anti-Vietnamese sentiment and effectively disenfranchised thousands of ethnic Vietnamese citizens by successfully challenging their voter registration rights during local elections.

In March 2001, a provincial judge ruled against ethnic hill tribe villagers in a land dispute. Ethnic bias did not appear to be a factor in the judgment, but political influence was seen as important in this affair (see Sections 1.e and 1.f.).

Section 6. Worker Rights

a. The Right of Association.—The Labor Law provides workers with the right to form professional organizations of their own choosing without prior authorization, and all workers are free to join the trade union of their choice; however, the Government’s enforcement of these rights was inconsistent. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY) has accepted the charter of at least one union that requires workers to obtain permission before they may withdraw. The Labor Law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries are not subject fully to the law, but are free to form unions.

Most workers were subsistence rice farmers. Only a small fraction (estimated at less than 1 percent) of the labor force were unionized, and the trade union movement was still in its infancy and was very weak. Unions were concentrated in the garment and footwear industries, where approximately 25 to 30 percent of the 160,000 to 170,000 workers were union members. Although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. The Labor Law requires unions and employer organizations to file a charter and list of officers with the MOLSAVY. The MOSALVY registered 322 factory unions and 10 national labor federations since the Labor Law went into effect, including 77 unions and 1 federation during the year. Labor unions continued to expand outside the garment sector as well. In July the Ministry of Interior recognized the country’s first public-sector union, the Cambodia Independent Teachers Association, which registered as an “association.” Regulations issued in 2000 to simplify union registration procedures were effective. Unlike in previous years, there were no complaints that the Government failed to register unions or labor federations, although some unions and federations complained of unnecessary delays and costs. Although all unions collect dues from members, none has been able to operate without outside sources of support. None of the unions has the capacity to negotiate with management as equals.

Five registered labor federations have historical ties to the Government or CPP-affiliated individuals within the Government. Two major labor federations and several unaffiliated factory unions were independent. There was credible evidence of employer involvement in some labor unions. In some factories management appeared to have established their own unions, supported pro-management unions, or had bought off other union leaders. The Cambodian Labor Solidarity Organization (CLSO), a local NGO headed by an advisor to the Minister of Labor, claimed to protect workers and the economy from disruptive union activists and strikes. However, the presence of CLSO at labor disputes often coincided with the presence of hired thugs who intimidated and even became violent with union leaders, union members, and other workers.

The Government's enforcement of provisions that protect the right of association was poor. The Government's enforcement efforts were hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. Unions also suffered from a lack of resources, training, and experience. There were credible complaints about anti-union harassment by employers, including the dismissal of union leaders, in more than 20 garment factories and other enterprises during the year. In September an appeals court overturned a March lower court order that reinstated two garment factory union leaders who were dismissed in 2000. In July a provincial court arrested two union leaders after taking their depositions on a worker riot and destruction of property incident which occurred at their factory in 2001. An interministerial committee investigating the incident previously had exonerated the two from any wrongdoing. After intervention from the Minister of Labor, the two leaders were released on bail in early December. However, their case was still pending and they had not been reinstated to their positions at the factory by year's end.

The Government never has prosecuted or punished an employer for antiunion activity. The MOSALVY often decided in favor of employees, but rarely used its legal authority to penalize employers who defied its orders. The MOSALVY often advised employees in such situations to sue in court, which labor unions claimed was unnecessary, costly, and ineffective. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce labor law provisions requiring their reinstatement.

In January 2001, the ILO began a program to monitor working conditions in the garment industry. However, senior officials, including the Deputy Prime Minister and the Minister of Commerce, made public statements throughout the year dismissing the labor movement as being made up of political agitators intent on sabotaging the economy.

Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

b. The Right to Organize and Bargain Collectively.—The Labor Law provides for the right to organize and bargain collectively; however, the Government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, for whom wages were set by the Government.

Since passage of the Labor Law in 1997, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The Labor Law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union to the company management and to sign collective bargaining agreements. However, in practice most factories elected shop stewards before a union was present in the enterprise; thus, many unions had no legally enforceable right to negotiate with management in situations in which there were nonunion shop stewards. In addition, the law specifically protects elected shop stewards from dismissal without permission from the MOSALVY, but grants no such protection to elected union leaders. In November 2000, MOSALVY issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise. However, these protections for union leaders did not prove effective (see Section 6.a.).

There were only 10 collective bargaining agreements registered with the Government, and these did not meet international standards. In addition to difficulties in defining the bargaining unit, collective bargaining was inhibited by the weak capacity and inexperience of unions. In November 2001, the Government issued a regulation establishing procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The new regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. Nine unions applied with the MOSALVY to establish their right to represent workers for purposes of collective bargaining; however, none were granted this status, and many complained of unnecessary bureaucratic delays.

The Labor Law provides for the right to strike and protects strikers from reprisal. There were 35 strikes through September 15, the vast majority of which took place without the 7 day notice as required by law. The Government allowed all strikes and demonstrations, including some in which demonstrators caused property damage. In June 2001, the authorities arrested several union members for alleged involvement in violent labor demonstrations at a garment factory, fined them, and then released them several days later (see Section 2.b.). However, in general, police

intervention was minimal and restrained, even in cases in which striking workers caused property damage. In spite of the provisions in the law protecting strikers from reprisals, there were credible reports of workers being dismissed on spurious grounds after organizing or participating in strikes. In some cases, strikers were pressured by employers to accept compensation and to leave their employment.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Labor Law prohibits forced or bonded labor, including forced labor by children; however, the Government did not enforce its provisions adequately. Involuntary overtime remained widespread. Workers faced fines, dismissal, or loss of premium pay if they refused to work overtime.

During the year, government officials took action to rescue women and children from prostitution, but did not do so consistently (*see* Section 6.f.). There also were reports of isolated cases of forced labor by domestic servants.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government has adopted laws to protect children from exploitation in the workplace. In March the Government ratified the Optional Protocol to the U.N. Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography. In November 2001, the Government signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against Transnational Crime.

The Labor Law establishes 15 years as the minimum age for employment, and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 years of age to engage in “light work” that is not hazardous to their health and that does not affect school attendance. A tripartite Labor Advisory Committee is responsible for defining what constitutes work that is hazardous to the health, safety, and morality of adolescents, as well as consulting with the MOSALVY to determine which types of employment and working conditions constitute “light work.” The MOSALVY identified six industries as priorities for clarification of what constitutes hazardous work and light work, but has not placed the subject on the agenda of the Labor Advisory Committee.

Children under the age of 15 years account for more than half of the population. Approximately 16.5 percent of children between the ages of 5 years and 17 years were employed. More than half of these children were over the age of 14 years, and 89 percent of them were engaged in small-scale agriculture. Only 4 percent of working children were engaged in larger scale enterprises, including brick factories and rubber plantations.

Child labor was not prevalent in the garment industry, although there was at least one instance early in the year of a young worker misrepresenting her age to gain employment in a garment factory. Lack of credible civil documents made it difficult to guard against this practice. Most garment factories have policies that set the age of employment above the legal minimum of 15 years. The most serious child labor problems were in the informal sector.

The MOSALVY was hampered by inadequate resources, staff, and training. Law enforcement agencies had authority to combat child prostitution, but did not do so in a sustained, consistent manner. Some observers noted that existing regulations do not address the problem of child labor in the informal sector adequately. With assistance from the ILO, MOSALVY established a child labor unit to investigate and combat child labor. In 1997 the Government, in conjunction with the ILO and NGOs, also approved a national action plan on child labor (*see* Section 6.f.). The Government has not ratified ILO Convention 182 on the elimination of the worst forms of child labor, and has not established a definition for worst forms of child labor.

The Ministry of Labor participated in one project to remove children from hazardous work in the salt, fishing, and rubber industries and to provide them with education.

The Constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry. In 1999 the ILO’s International Program for the Elimination of Child Labor (ILO-IPEC) reported that more than 15 percent of prostitutes were between 9 and 15 years of age (*see* Section 6.f.).

e. Acceptable Conditions of Work.—The Labor Law requires the MOSALVY to establish minimum wages based on recommendations from the Labor Advisory Committee. By law the minimum wage can vary regionally. In July 2000, the Labor Advisory Committee approved a minimum wage of \$45 (175,500 riel) per month, but this covered only the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.

According to a survey taken in 2001 by a local economics research center, garment workers, earned an average of \$61 (232,761 riels) per month, including overtime. However, prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday. The Government does not enforce these standards effectively. Despite reminders from the Government concerning hours of work, workers in many garment factories complained that overtime was excessive or involuntary, or that they were required to work 7 days per week. Some factories did not pay the legally mandated premiums for overtime, night, or holiday work properly. Another common complaint was that management violated the law by paying the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked. Outside the garment industry, regulations on working hours rarely were enforced.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers' well being. The Government enforced existing standards inconsistently, in part because it lacked trained staff and equipment. Work related injury and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in most small scale factories and cottage industries were poor and often did not meet international standards. The Government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

The Labor Law applies to all local and foreign workers. A Ministry of Labor regulation, however, limits to 10 percent the number of foreign workers an employer can hire.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The Law on the Suppression of Kidnaping, Trafficking, and Exploitation of Humans (The Trafficking Law) establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under 15 years of age. The current trafficking law contains no provisions that would protect victims from charges under the country's immigration laws and enforcing the Trafficking Law in general was a problem.

The majority of trafficking occurred within the country, providing both adults and children for exploitation in the country's sex industry. The sex industry was estimated to employ 50,000 prostitutes, a sizable proportion of whom were victims of trafficking. The International Organization for Migration (IOM) estimated that at least 3,000 women and girls from southern Vietnam were trafficked to the country to work as prostitutes, with more than 15 percent being younger than 15 years of age. The ILO-IPEC reported in 1999 that more than 15 percent of female prostitutes in the country were between 9 and 15 years of age, and that 78 percent of these girls were Vietnamese and 22 percent were Cambodians. Women were trafficked from European countries such as Moldova and Romania, as well, for purposes of prostitution. A UNICEF study reported that one-third of the country's prostitutes were under 18 years of age. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries. One NGO estimated that 30,000 women and girls were trafficked to neighboring countries, especially Thailand. Women and children, especially those in rural areas, were the most likely to become victims of trafficking. One study estimated that 88,000 Cambodians worked in Thailand as bonded laborers at any given time; many were exploited in the sex industry or, particularly young boys and girls, were employed as beggars. There was also trafficking of boys and girls to Vietnam for begging.

The Trafficking Law establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under the age of 15; however, the Government did not enforce the law effectively due in part to budget limitations and a lack of implementing regulations.

Although prosecutions of traffickers increased, and the Government devoted greater attention to trafficking in persons during the year, enforcement of antitrafficking laws and prosecution of perpetrators continued to be inconsistent. The Government

conducted several raids throughout the year, and rescued numerous prostitutes, including underage workers, and provided them with protection while working with NGOs to either reunite the victims with their families or to place them in a shelter operated by an NGO or other private charity.

In May, 14 Vietnamese trafficking victims were rescued by the Ministry of Interior's special anti-trafficking police unit from three brothels in Phnom Penh's Svay Pak community, an area notorious for underage prostitution, and were taken to a shelter operated by a local NGO. Police briefly detained one brothel manager and an alleged foreign pedophile during the May raids, but both escaped. On June 20, the same police unit that conducted the raids was ordered to arrest all 14 girls on charges of illegal immigration. On June 24, a judge released the three youngest girls who were between the ages of 12 and 13, as well as one other girl who demonstrated her Cambodian citizenship. At the time of the arrests, government officials said that the individuals being held were voluntary prostitutes and the arrests were a legal immigration issue. In August six of the girls were sentenced to 2 months in prison and four others were sentenced to 3 months in prison. After serving their sentences, the 10 girls were held at the country's immigration detention center. Credible sources report that the 10 girls never were deported, but that they were released back into society in exchange for payments to immigration authorities. However, there was no confirmation that traffickers paid off immigration officials. Credible reports suggested that in some cases the girls paid \$20 (78,000 riel) themselves, and in other cases supposed family members paid the fee.

On August 7, the Ministry of Interior's special police unit rescued another 17 Vietnamese girls from brothels in Svay Pak. The police arrested two of the brothel owners on charges of illegal confinement. Approximately half of the girls were under the age of 15 and the other half were between the ages of 16 and 20. The girls were placed in a local NGO shelter. However, a police officer from the anti-trafficking unit later signed out one of the girls from the shelter and allegedly turned her over to her parents in return for a payment of \$100 (390,000 riel).

These cases sparked widespread condemnation from international organizations, NGOs, and other governments. Subsequently senior officials declared that government policy was not to consider trafficking victims as criminals; however, some courts did not abide by this approach. In addition, Vietnamese authorities apparently were reluctant to cooperate with Cambodian authorities in accepting back Vietnamese trafficking victims. The Government actively negotiated with the Governments of Thailand and Vietnam to establish Memoranda of Understanding on the repatriation of women and children who were victims of trafficking.

The Ministry of Interior's anti-trafficking unit reported that during the year it rescued 193 victims, placed 127 of the victims in shelters and vocational training centers, and returned 66 victims to their families. The unit also submitted 53 cases for prosecution and 41 perpetrators (traffickers, pedophiles and rapists) were sentenced to prison, including 8 Cambodians, 28 Vietnamese, 3 Chinese, 1 Italian, and 1 Australian.

Working with IOM, the Government rescued 73 Cambodian forced laborers from Thai fishing vessels who were arrested by the Indonesian navy in July 2001.

Surveys conducted by domestic NGOs in 1995 indicated that from 40 to 50 percent of young women who were trafficked were victimized by a relative or friend of the family, and were offered money or promises of a better life. Poverty and ignorance in villages was a major factor in contributing to the trafficking problem. Young children, the majority of them girls, often were "pledged" as collateral for loans by desperately poor parents to brokers or middlemen; the child then was held responsible for repaying the loan and accumulated interest. In other cases, parents were tricked into believing the child would be given legitimate work in the city. There was also a problem with the illegal purchase and sale of infants and children. Sometimes this was for the purpose of adoption, including by foreign couples, but some of these children ended up abused and exploited (see Section 5).

Given the lucrative nature of trafficking in persons and the widespread nature of the problem in the country, it was believed that organized crime groups, employment agencies, and marriage brokers all had some degree of involvement. In one area on the Thai border, a recent report estimated that as many as 100 traffickers were carrying out operations. A local NGO revealed clear patterns and networks in the process of buying babies or children for the purposes of adoption and trafficking. Recruiters preyed on poor women, especially divorcees or widows, who were pregnant and about to give birth, or who had young children. Official paperwork was signed by orphanage directors and local officials who falsely stated that the children were found abandoned in provinces outside of Phnom Penh. Many times these officials were bribed. A variety of methods were used by traffickers. In many cases, victims were led astray by promises of legitimate employment. In other cases, ac-

quaintances, friends and even family members sold the victims outright or received payment for having helped deceive them.

Corruption was endemic in the country, and it was believed widely that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. There were credible reports that high ranking government officials or their family members operated, had a stake in, or received protection money from brothels which housed trafficking victims, including underage sex workers.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases, victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

The Government had several programs underway in conjunction with the IOM, the UNHCHR, and UNICEF to combat trafficking, including one program to provide training and capacity-building for government officials with antitrafficking responsibilities. In September 2000, the Ministry of Women's and Veterans' Affairs launched a public education campaign against trafficking, focusing on border provinces. A number of local NGOs and international organizations investigated trafficking cases, provided assistance to victims, conducted research and advocacy on trafficking and human rights issues in general, and provided human rights education to members of the authorities and general public.

In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (*see* Section 5). In October 2001, a national workshop assessed the national plan's progress and priorities for action. In October 2002, the Government established mechanisms for monitoring and reporting on the national plan with all relevant ministries and provincial authorities.

Assistance was available for trafficking victims through projects run by local NGOs and international organizations. The Government participated as a partner in a number of these efforts, however, its contributions were hampered severely by the limited resources at its disposal. Some victims were encouraged by NGOs and the Ministry of Interior to file complaints against perpetrators. However, in the general climate of impunity, victim protection was problematic and victims often were intimidated into abandoning their cases. Trafficking victims, especially those who were exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

CHINA

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members held almost all top government, police, and military positions. Ultimate authority rested with members of the Politburo. Leaders stressed the need to maintain stability and social order and were committed to perpetuating the rule of the CCP and its hierarchy. Citizens lacked both the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning had given way to pragmatism, and economic decentralization increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many high-profile cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned to a market-based economy continued. Although state-owned industry remained dominant in key sectors, the Government privatized many small and medium state-owned enterprises (SOEs) and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards, greater independence for entrepreneurs, and the expansion of the nonstate sector increased workers' employment options and significantly reduced state control over citizens' daily lives. The country had large industrial and agricul-

tural sectors and was a leading producer of coal, steel, textiles, and grains. Major exports included electronic goods, toys, apparel, and plastics. The official gross domestic product growth rate for the year was approximately 8 percent.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and growing regional economic disparities. In recent years, between 80 and 130 million persons voluntarily left rural areas to search for better jobs and living conditions in the cities, where they were often denied access to government-provided economic and social benefits, including education and health care. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be higher than the officially estimated 7 percent, with many sources estimating the actual figure to be 15 to 25 percent. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. Urban per capita income in 2001 was \$830 and grew by 8.5 percent over the previous year, while rural per capita income was \$286 and grew by 4.2 percent. Official estimates of the number of citizens living in absolute poverty showed little change from the previous year, with the Government estimating that 30 million persons lived in poverty and the World Bank, using different criteria, estimating the number to be 100 to 150 million persons.

The Government's human rights record throughout the year remained poor, and the Government continued to commit numerous and serious abuses. However, the Government took some steps to address international concerns about its human rights record during the year: A number of prominent dissidents were released; senior representatives of the Dalai Lama were allowed to visit the country; the Government agreed to extend, without conditions, invitations to visit to the U.N. Special Rapporteurs on Torture and Religious Intolerance and the U.N. Working Group on Arbitrary Detention; reform of the legal system continued; and the scope of religious activity allowed in Tibetan areas expanded slightly. Late in the year, these positive developments were undermined by arrests of democracy activists, the imposition of death sentences without due process on two Tibetans, and the trials of labor leaders on "subversion" charges. Authorities were quick to suppress religious, political, and social groups, as well as individuals, that they perceived to be a threat to government power or to national stability. Citizens who sought to express openly dissenting political and religious views continued to face repression.

Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Conditions at most prisons remained harsh. In many cases, particularly in sensitive political cases, the judicial system denied criminal defendants basic legal safeguards and due process because authorities attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights. The Government infringed on citizens' privacy rights. The Government continued to implement its coercive policy of restricting the number of children a family could have. The Government maintained tight restrictions on freedom of speech and of the press; self-censorship by journalists and writers also continued. The Government continued and at times intensified its efforts to control and monitor the Internet. The Government severely restricted freedom of assembly and continued to restrict freedom of association and freedom of movement. While the number of religious believers continued to grow, government respect for religious freedom remained poor and crackdowns against Muslim Uighurs, Tibetan Buddhists, and unregistered groups, including underground Protestant and Catholic groups, continued. The Government denied the United Nations High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported thousands of North Koreans, many of whom faced persecution upon their return. Citizens did not have the right peacefully to change their government. The Government did not permit independent domestic nongovernmental organizations (NGOs) to monitor human rights conditions. Violence against women (including imposition of a birth limitation policy coercive in nature that resulted in instances of forced abortion and forced sterilization), prostitution, discrimination against women, abuse of children, and discrimination against persons with disabilities and minorities all were problems. In Xinjiang, where security remained tight, human rights abuses intensified. The Government continued to deny internationally recognized worker rights, and forced labor in prison facilities remained a serious problem. Trafficking in persons was a serious problem. The Government's violation of internationally accepted human rights norms stemmed from the authorities' extremely limited tolerance of public dissent, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms.

The authorities released several prominent political prisoners before their terms were over. Tibetans Ngawang Choephel, Jigme Sangpo, Ngawang Sangdrol, Tenzin Thubten, Ngawang Choekyi, Ngawang Choezom and Gyaltzen Drolkar were released early (see Tibet Addendum). Also released was China Democracy Party co-founder Xu Wenli. Nonetheless, at year's end several thousand others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin, Internet activists Yang Zili and Huang Qi, Uighur businesswoman Rebiya Kadeer, journalist Jiang Weiping, labor activist Liu Jingsheng, political activist Han Chunsheng, Catholic Bishop Su Zhimin, house church leader Xu Guoxing, Tibetan nun Phuntsog Nyidrol, Uighur historian Tohti Tunyaz, and political dissident Yang Jianli, remained imprisoned or under other forms of detention.

The judiciary was not independent, and the lack of due process in the judicial system remained a serious problem. Few Chinese lawyers were willing to represent criminal defendants. During the year, defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. A number of attorneys were detained for defending their clients. The authorities routinely violated legal protections in the cases of political dissidents and religious leaders and adherents. Over 200,000 persons were serving sentences, not subject to judicial review, in reeducation-through-labor camps. The country's criminal procedures were not in compliance with international standards, and new regulations and policies introduced in recent years were not widely implemented. Some lawyers, law professors, and jurists continued to press publicly for improvements of the criminal defense system, including a more transparent system of discovery, abolition of coerced confessions, a presumption of innocence, an independent judiciary, the right to remain silent, mechanisms for judicial review, appropriate protections for criminal defense lawyers, and improved administrative laws giving citizens recourse against unlawful acts by the Government.

Approximately 1,300 individuals were serving sentences under the Law Against Counterrevolutionary Activity, a law that no longer existed; many of these persons were imprisoned for the nonviolent expression of their political views. Credible sources estimated that as many as 2,000 persons remained in prison for their activities during the June 1989 Tiananmen demonstrations. Since December 1998, at least 38 leaders of the China Democracy Party have been given long prison sentences on subversion charges.

Throughout the year, the Government continued a national "strike hard" campaign against crime, characterized by round-ups of suspects who were sometimes sentenced in sports arenas in front of thousands of spectators. At year's end, this campaign, which was originally scheduled to last for 3 months at its inception in April 2001, showed no signs of abating in some areas. Some dissidents, "separatists," and underground church members were targeted. The campaign has been especially harsh in Xinjiang, where those deemed to be "splittists" by the Government were targeted. As part of the campaign, officials reportedly carried out over 4,000 executions during the year, frequently without due process. Amnesty International reported that the country executed more persons than all other countries combined. Moreover, the actual number of persons executed likely was far higher than the number of reported cases. The Government regarded the number of death sentences it carried out as a state secret.

Many observers raised concerns about the Government's use of the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. According to reports from Xinjiang's Uighur community, authorities continued to search out and arrest Uighurs possessing written or recorded information containing unapproved religious material. The human rights situation in Tibet and in some ethnically Tibetan regions outside Tibet also remained poor, and the Government continued to impose restrictions on some forms of religious practice (see Tibet Addendum).

Labor protests occurred with increasing size and frequency. For example, thousands of workers in the northeast protested such problems as nonpayment of back wages, loss of benefits, reduced severance pay, and managerial corruption. Leaders of the largest of these demonstrations—Yao Fuxin, Xiao Yunliang, Wang Zhaoming, and Pang Qingxiang—were detained by officials. Yao Fuxin and Xiao Yunliang were charged with subversion after the Government alleged that the two had made contact with international organizations and with the China Democracy Party several years before the labor protests occurred.

While the number of religious believers in the country continued to grow, some religious groups, including unregistered Protestant and Catholic congregations and members of nontraditional religious groups, continued to experience varying degrees of official interference, harassment, and repression. However, other religious groups

noted a greater freedom to worship than in the past. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or to come under the supervision of official, "patriotic" religious organizations. In some areas, authorities made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were harassed, and, at times, fined, detained, beaten, and tortured. At year's end, some religious adherents remained in prison because of their religious activities. No progress was made in improving relations between the Government and the Vatican, although both sides claimed to be ready to resume negotiations aimed at establishing diplomatic relations.

The Government continued its crackdown against the Falun Gong (FLG) spiritual movement. Thousands of practitioners were incarcerated in prisons, extrajudicial re-education-through-labor camps, psychiatric facilities or special deprogramming centers. FLG adherents conducted far fewer public demonstrations than in past years, which some observers attributed to the effectiveness of the Government's crackdown. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse and neglect since the crackdown on Falun Gong began in 1999.

The Government strictly regulated the establishment and management of publications, controlled the broadcast media, censored foreign television broadcasts, and at times jammed radio signals from abroad. During the year, publications were disciplined for publishing material deemed objectionable by the Government, and journalists, authors, and researchers were harassed, detained, and arrested by the authorities. Internet use continued to grow in the country, even as the Government continued, and in some periods intensified, efforts to control and monitor such use. During the year, the Government blocked many Web sites, using increasingly sophisticated technology; led a drive to close unlicensed Internet cafes, in part to address safety concerns after a deadly fire; and urged Internet companies to pledge to censor objectionable content. At year's end, the Committee to Protect Journalists reported that 36 journalists were imprisoned in the country, including 14 Internet journalists.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The official press reported a number of extrajudicial killings, but no nationwide statistics were available. During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to be a problem. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse and neglect since the crackdown on Falun Gong began in 1999. For example, Zheng Fangying of Weifang, Shandong Province, was arrested in December 2001 after she tried to unfurl a pro-FLG banner in Beijing's Tiananmen Square. Zheng was taken to a detention center where she was punched and shocked with electric batons. Police released her after she staged an 18-day hunger strike. Three days later, she reportedly died from her injuries at her home.

During the year, officials reportedly carried out over 4,000 executions after summary trials as part of a nationwide strike hard campaign against crime. The actual number of persons executed likely was far higher than the number of reported cases. Some foreign academics estimated that as many as 10,000 to 20,000 persons are executed each year. The Government regarded the number of death sentences it carried out as a state secret.

Trials involving capital offenses often took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. For example, according to domestic press reports, 23 suspects in Harbin, Heilongjiang Province, were sentenced to death in front of 5,000 spectators in April 2001. Seven of the condemned were immediately taken to an execution ground where they were shot.

b. Disappearance.—There were reports of temporary disappearances during the year. For example, dissidents Wang Bingzhang, Zhang Qi and Yue Wu were reported missing on June 26 in Vietnam. They were held incommunicado and their whereabouts were unknown until December, when Chinese authorities confirmed that the three were in China, where they had been in custody for several months. Zhang Qi and Yue Wu were released, but Wang Bingzhang was still in custody at year's end, detained on charges of espionage and terrorism.

In addition, the Government has not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. While senior Chinese officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. Persons detained pending trial were particularly at risk due to systemic weaknesses in the legal system and lack of implementation of the Criminal Procedure Law. Reports of torture increased during the ongoing strike hard campaign against crime in which police were encouraged to achieve quick results.

During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to be a problem. For example, Zeng Lingyun, a villager in Longxing Town, Chongqing Municipality, was detained by public security personnel on July 26 on suspicion of petty theft. On July 28, Zeng's family was informed that Zeng had died. When they examined the body, they noticed extensive bruises and a bullet wound. Local officials initially told Zeng's family that he had been shot by police. They later claimed to be investigating the case, but refused to answer questions posed by foreign NGOs. As of year's end, the case had not been resolved. Since the crackdown on Falun Gong began in 1999, there reportedly have been several hundred deaths in custody of FLG adherents, due to torture, abuse, and neglect. A 2001 pilot program in Liaoning Province, intended to institute the right to remain silent in criminal trials as a way to combat torture, was discontinued. In September 2000, the National People's Congress (NPC) carried out an independent study of the use of torture in Tianjin, Inner Mongolia, Heilongjiang, Zhejiang, Hebei, and Shaanxi. The group discovered 221 cases of confessions coerced by torture and 21 criminal suspects who died as a result of the torture.

During the year, there were many reports of persons, especially FLG adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see Section 1.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation, and their food often was inadequate and of poor quality. Many detainees relied on supplemental food and medicines provided by relatives, but some prominent dissidents reportedly were not allowed to receive supplemental food or medicine from relatives. According to released political prisoners, in many provinces it was standard practice for political prisoners to be segregated from each other and placed with common criminals. Released prisoners reported that common criminals have beaten political prisoners at the instigation of guards. However, some prominent political prisoners received better than standard treatment.

The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights. Some prisoners were able to use administrative procedures provided for in this law to complain about prison conditions. The Government has created some "model" facilities, where inmates generally received better treatment than those held in other facilities.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Nutritional and health conditions were often grim. Political prisoners who continued to have difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community, included China Democracy Party co-founders Qin Yongmin and Wang Youcai, labor activist Hu Shigen, Liberal Democratic Party activist Kang Yuchun, labor activist Liu Jingsheng, and Uighur businesswoman Rebiya Kadeer. Zhang Shanguang, who was serving a 10-year sentence for disclosing news of labor demonstrations to Radio Free Asia, suffered from tuberculosis. Prison officials in Xinjiang have not allowed family members of businesswoman and prominent Uighur activist Rebiya Kadeer to bring her medicine for heart disease since her arrest in August 1999. Chinese authorities claimed Kadeer was in good health and received special medical treatment, but others claimed that she continued to be in poor health. There also were allegations that she had been abused physically. Officials reportedly denied repeated requests for her to be hospitalized. In July Hunan officials rearrested political activist Li Wangyang, who had demanded that the Government pay his medical bills to treat ailments he contracted while serving an earlier 13-year prison sentence. How-

ever, in December the Government released China Democracy Party co-founder Xu Wenli, who suffered from Hepatitis B.

Conditions in administrative detention facilities, such as reeducation-through-labor camps and “custody and repatriation” centers, were similar to those in prisons.

Forced labor in prisons and reeducation-through-labor camps was common. At the Xinhua Reeducation-Through-Labor Camp in Sichuan Province, inmates were forced to work up to 16 hours per day breaking rocks or making bricks, according to credible reports. Former inmates reported that there were several deaths from overwork, poor medical care, and beatings by guards in 2000.

The Government did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to international human rights organizations. By year’s end, Chinese officials had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons. However, limited cooperation was renewed on the U.S.-China Prison Labor Memorandum of Understanding, and U.S. officials inspected one prison where prison labor had allegedly occurred (see Section 6.c).

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics indicated that there were 230,000 persons in reeducation-through-labor camps. According to a 2001 article by the official news agency, 300 reeducation-through-labor facilities have held more than 3.5 million prisoners since 1957. In addition, it was estimated that before 1996 as many as 1.7 million persons per year were detained in a form of administrative detention known as custody and repatriation; the number of persons subject to this form of detention reportedly has grown since 1996 to approximately 2 million per year. The Government also confined some Falun Gong adherents and labor activists to psychiatric hospitals. Although the crime of being a “counterrevolutionary” was removed from the criminal code in 1997, western NGOs estimated that as many as 1,300 persons remained in prison for the crime. Another 600 were serving sentences under the State Security Law, which covers the same crimes as the repealed law on “counterrevolution.”

In some cases, police could unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the Criminal Procedure Law allows police and prosecutors to detain him for months before trial while a case is being “further investigated.” The Criminal Procedure Law stipulates that authorities must notify a detainee’s family or work unit of his detention within 24 hours. However, in practice failure to provide timely notification remained a serious problem, especially in sensitive political cases. Under a sweeping exception, officials were not required to provide notification if doing so would “hinder the investigation” of a case. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows nonjudicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees could also extend an inmate’s sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful.

The Criminal Procedure Law also does not address the custody and repatriation system, which allows authorities to detain persons administratively without trial to “protect urban social order.” Until they were returned to their home provinces, those detained were held in custody and repatriation centers, and could be required to pay for the cost of their detention and repatriation by working while in detention. Persons who could be detained under this provision included the homeless, the unemployed, petty criminals, Falun Gong practitioners, persons without permission to live or work in urban areas, and, in some provinces, additional categories of persons such as the mentally ill and persons with mental disabilities. According to one report, as many as 20 percent of those detained were children. If the location to which they were to be repatriated could not be determined, or if they could not be repatriated for financial reasons, persons could be sent to “resettlement farms.” Those unable to work could be sent to “welfare centers.” Many other persons were detained in similar forms of administrative detention, known as “custody and education” (for prostitutes and their clients) and “custody and training” (for minors who committed

crimes). Persons could be detained for long periods under these provisions, particularly if they could not afford to pay fines or fees.

According to researchers, the country had 20 “ankang” institutions, high-security psychiatric hospitals for the criminally insane, directly administered by the Ministry of Public Security (MPS). Dissidents and other targeted individuals were housed with mentally ill patients in these institutions. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union dissidents, “underground” religious believers, persons who petitioned the Government for redress of grievances, and hundreds of Falun Gong adherents were incarcerated in such facilities during the year. For example, political activist Wang Wanxing, originally held for trying to unfurl a banner on Tiananmen Square to commemorate the third anniversary of the June 4, 1989 massacre, was confined in a Beijing ankang facility. Huang Jinchun, a judge in Beihai, fired from his job and admitted to a psychiatric hospital in November 1999 for refusing to renounce his belief in Falun Gong, also remained in an ankang facility at year’s end. He reportedly displayed no signs of mental illness but was given daily injections of narcotics. According to NGO reports, more than 30 persons were committed during the year to the Harbin Psychiatric Hospital against their will after petitioning authorities for redress of various personal grievances. In August The Royal College of Psychiatrists sponsored a motion to expel China from the World Psychiatric Association (WPA) for using psychiatric facilities to incarcerate political prisoners; a decision was pending at year’s end.

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Scores of CDP leaders, activists, and members were arrested, detained, or confined as a result of this campaign. Since December 1998, at least 38 core leaders of the CDP have been given severe punishments on subversion charges. For example, Hu Mingjun and Wang Sen, CDP leaders in Sichuan, were sentenced in May to 10- and 11-year sentences, respectively (see Section 3). In what some experts described as an attempt by authorities to tarnish the public image of the democracy movement, officials accused a number of democracy activists of soliciting prostitutes, distributing pornographic videos, or committing petty theft or other crimes unrelated to their political activities. For instance, in September Shanghai CDP activist Yao Zhenxiang was sentenced to 3 years of reeducation-through-labor for soliciting prostitutes.

Immediately before and after the 16th Party Congress in November, authorities rounded up a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. At year’s end, a number of these persons, including He Depu, Sang Jianchen, Zhao Changqing, Ouyang Yi, Dai Xuezhong and Jiang Lijun, remained in detention.

The authorities also used laws on subversion, endangering state security, and common crimes to arrest and imprison political dissidents, activists, and others. Li Wangyang, released from prison in June 2000 and rearrested on subversion charges in May 2001, was sentenced to 10 years in prison in September 2001 for “incitement to subvert state power.” Li had served 11 years in prison for his role in presiding over the Shaoyang Workers Autonomous Federation, a Tiananmen-era free trade union.

Police sometimes detained relatives of dissidents (see Section 2.a.).

Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned. On January 25, Jiang Weiping, who had written a series of articles exposing official corruption, was sentenced to 8 years in prison for “subverting state power” (see Section 2.a.).

The police continued to target minority activists. As part of the nationwide strike hard campaign, many seeking to express legitimate political grievances or views were labeled splittists or separatists. For example, Xinjiang official Abulahat Abkurixit told the newspaper Xinjiang Legal in April 2001 that authorities would use the campaign to strike at Muslim separatists and illegal religious activities. After a January incident in which a jobless worker read a poem at the end of a concert in the Xinjiang People’s Hall in Urumqi that allegedly obliquely advocated a separate Uighur state, Abkurixit further announced that artists, writers, performers, historians, and others who advocated separatism through art would be strike hard targets. As part of the campaign, local courts in Xinjiang meted out death sentences or long prison terms to those persons accused of separatist activity. In November 2001, Abdehelil Zunun, who had translated the Universal Declaration of Human Rights into Uighur, was sentenced to 20 years in prison. In early 2000, a court sentenced Uighur businesswoman Rebiya Kadeer to 8 years in prison for passing “state intelligence” information to foreigners. The state intelligence she was accused of attempting to pass consisted of newspaper articles published in the official press and a list of individuals whose cases had been handled by judicial organs.

The strike hard campaign was characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. More than 4,000 persons reportedly were executed as part of the strike hard campaign during the year. According to local newspapers, on June 29, in Toksu County, Xinjiang, 5,000 persons attended a public sentencing rally in which 13 suspects were arrested on the spot, 6 common criminals were sentenced to 2 to 7 year terms, and 5 political offenders were sentenced to 3 to 5 year terms. The rally concluded when three brothers, Turdi, Muhammad, and Imin Hashim, were sentenced to death for killing two persons and executed the next day. In November harsh sentences were given to 28 Uighurs accused of separatist and terrorist activities at a combined Aksu and Uchturpan county mass rally. In April 2001, local newspapers in Sichuan Province reported that more than 3,000 criminals were sentenced publicly in 123 rallies held across the province. Of those more than 900 were "severely punished," a category that includes the death sentence and lengthy prison terms.

Journalists also were detained or threatened during the year, often for reporting on subjects that met with the Government's or the local authorities' disapproval (see Section 2.a.).

Local authorities used the Government's campaign against cults to detain and arrest large numbers of religious practitioners and members of spiritual groups (see Section 2.c.).

Throughout the year, the official press published numerous articles to raise public awareness of recent laws meant to enhance the protection of citizens' rights, including the Criminal Procedure Law, the State Compensation Law, the Administrative Procedure Law, and others. A number of citizens used the State Compensation Law, which provides a legal basis for citizens to recover damages for illegal detentions, to sue the Government for damages. According to a March 12 China Youth Daily article, in 2001 courts nationwide handled 6,753 such cases, and compensation was granted in 777 cases. Legal experts acknowledged that the introduction of the new law was a positive step but called on the Government to increase the amount of compensation provided to victims.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who were dissidents and activists. For example, Chinese consular officers repeatedly refused U.S.-based dissident Yang Jianli's requests for a renewal of his passport.

The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

e. Denial of Fair Public Trial.—The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government and the CCP frequently interfered in the judicial system and dictated court decisions. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the people's congresses at the corresponding level of the judicial structure, which sometimes resulted in local politicians exerting undue influence over the judges they appointed.

The Supreme People's Court (SPC) is the highest body of the criminal and civil court system, followed in descending order by the higher, intermediate, and basic people's courts. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency in the judicial system were serious problems. Safeguards against corruption were vague and poorly enforced. According to Zhu Mingshan, Vice President of the SPC, in 2001 114 presidents of local courts had to make self-criticisms for "errors" ranging from nepotism to a lack of due diligence in supervising corrupt subordinates. In 2001 the SPC punished 1,292 judges for violating party or administrative regulations, while 46 were prosecuted for violating the law.

In recent years, the Government has taken steps to correct systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. In 1999 the Supreme People's Court issued regulations requiring all trials to be open to the public, except for those involving state secrets, personal privacy, or minors; divorce cases in which both parties request a closed trial; and cases involving commercial secrets. In practice, many trials were not open. Several courts reportedly did open their proceedings to the public as required by law. The legal exception for cases involving state secrets, privacy, and minors was used to keep politically sensitive proceedings closed to the public and closed even to family

members in some cases. Under the new regulations, “foreigners with valid identification” are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as “state secrets” cases, thus rendering them closed to the public. Since 1998 trials have been broadcast, and court proceedings have become a regular television feature. In 2000 courts in Shanghai became the first to publish verdicts on the Internet.

Lawsuits against the Government continued to increase as a growing number of persons used the court system to seek legal recourse against government malfeasance. In 1998, the last year for which statistics were available, Chinese citizens brought almost 98,000 cases against the Government, a 10-fold increase from 1989. The Beijing Higher People’s Court reported that when Beijing citizens sued the Government, citizen plaintiffs won in 23 percent of cases (832 of 3,632) between 1990 and 1999. In addition, a large percentage of such cases were settled out of court. The term “administrative omission” refers to cases in which government organizations do not respond or delay response to applications lodged by citizens. According to SPC statistics, the number of administrative omission lawsuits filed by individuals against government organizations rose 7.6 times between 1990 and 1998. In July the SPC established guidelines, which went into effect on October 1, setting out the rights of litigants to access government files to facilitate lawsuits against government bodies.

Although some plaintiffs have successfully filed suit against the Government, decisions of any kind in favor of dissidents remained rare. In particular, appeals of prison sentences by dissidents rarely were granted.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. In 2001 the courts reduced, exempted or postponed more than \$100 million (RMB 839 million) in litigation costs for more than 300,000 litigants.

According to the SPC’s annual report to the NPC, in 2001 the country’s courts handled 5,927,660 cases, 730,000 of which were criminal cases, a 33 percent increase over the previous year, as well as more than 100,000 appeals of administrative decisions. According to the report, more than 340,000 criminal cases were adjudicated in 2001, and more than 150,000 criminal defendants were sentenced to jail terms of 5 years or more, life imprisonment, or death, a 15 percent increase over 2000 that may be due to the ongoing strike hard campaign.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors subjected many prisoners to severe psychological pressure to confess, and coerced confessions frequently were introduced as evidence. The Criminal Procedure Law forbids the use of torture to obtain confessions but does not expressly bar the introduction of coerced confessions as evidence. Defendants who failed to show the correct attitude by confessing their crimes received harsher sentences. During the year, the conviction rate in criminal cases remained at approximately 90 percent, and trials generally were little more than sentencing hearings. In practice criminal defendants only were assigned an attorney once a case was brought to court; some observers noted that at this point, it was too late for an attorney to assist a client in a meaningful way, since the verdict often had already been decided. The best that a defense attorney generally could do for a client was to get a sentence mitigated. In many politically sensitive trials that rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. There was an appeals process, but in practice appeals rarely resulted in reversed verdicts.

The lack of due process was particularly egregious in death penalty cases. There were 65 capital offenses, including financial crimes such as counterfeiting currency, embezzlement, and corruption, as well as some other property crimes. A higher court nominally reviewed all death sentences, but the time between arrest and execution was often days and sometimes less, and reviews consistently resulted in the confirmation of sentences. Minors and pregnant women were expressly exempt from the death sentence. The strike hard campaign begun in April 2001 was characterized by mass arrests, lack of due process, and summary public executions of several thousand persons (*see* Section 1.d.). In December an appeals court upheld death sentences against Tibetans Tenzin Delek Rinpoche and Lobsang Dhondup, who were arrested and sentenced earlier in the year for alleged involvement in a series of bombings in Sichuan. The two men’s trials were closed to the public on “state secrets” grounds. Many observers expressed serious concerns about the lack of due process.

The revised Criminal Procedure Law, which took effect in 1997, gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation. However, police often used loopholes in the law to circumvent a defendant’s

right to seek counsel, and political activists in particular rarely succeeded in obtaining competent legal representation of their own choosing. In some cases, defendants and lawyers in politically sensitive cases were not allowed to speak during trials. Even in nonsensitive trials, criminal defense lawyers frequently had little access to their clients or to evidence to be presented during the trial.

The Criminal Procedure Law also falls short of international standards in many other respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture. Its appeals process failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. In some cases, police could detain unilaterally a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect was arrested, the law allowed police and prosecutors to detain him for months before trial while a case was "further investigated." Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for a guarantor to enable the suspect or defendant to await trial out of custody; however, in practice few suspects were released on bail pending trial. Also, in state secrets cases, the Criminal Procedure Law authorizes officials to deny suspects access to a lawyer while their cases are being investigated. The definition of state secrets is broad, vague, and subject to independent interpretation by police, prosecutors, and judges, throughout the various stages in a criminal case.

Furthermore, under the law, there is no right to remain silent, no right against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal "trials" consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify.

Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, especially in politically sensitive cases. Differing interpretations of the law taken by different judicial and police departments and various implementing regulations contributed to contradictory as well as incomplete implementation. The SPC, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the NPC issued supplementary implementing regulations to address some of these weaknesses.

Defendants in sensitive political cases frequently found it difficult to find an attorney. Defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. government-employed lawyers still depended on official work units for employment, housing, and other benefits, and therefore many were reluctant to represent politically sensitive defendants. The percentage of lawyers in the criminal bar reportedly declined from 3 percent in 1997 to 1 percent in 2001. However, there were no new reports of the Government revoking the licenses of lawyers representing political defendants, as it sometimes had done in the past.

Lawyers who tried to defend their clients aggressively continued to face serious intimidation and abuse by police and prosecutors. For example, according to Article 306 of the Criminal Law, defense attorneys could be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury. On May 3, Zhang Jianzhong, head of the lawyers' rights committee of the Beijing Lawyers' Association, was detained on such charges and denied the right to counsel. Chinese legal scholars almost uniformly criticized Zhang's detention and claimed he was singled out for being too effective at representing criminal defendants. According to sources at the All-China Lawyers Association, since 1997 more than 400 defense attorneys have been detained on similar perjury charges. Ma Wenlin, a legal advisor in Zizhou County, Shaanxi, continued to serve a 5-year sentence for "disturbing the social order" for having represented peasants in a legal action to reduce taxes. During the year, state secrets arrests and prosecutions were used by officials to suppress political dissent and social advocacy and to intimidate criminal defense lawyers. Lawyers' professional associations called for better protection of lawyers and their legitimate role in the legal process.

In recent years, the Ministry of Justice (MOJ) has drafted regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. The regulations set educational requirements for legal practitioners, encourage free legal services for the general public, grant lawyers formal permission to establish law firms, and provide for the disciplining of lawyers. A growing number of lawyers organized private law firms that were self-regulating and did not have their personnel or budgets determined directly by the State. More

than 60 legal aid organizations, many of which handled both criminal and civil cases, have been established around the country, and the MOJ established a nationwide legal services hot line. Government officials also stated that there were insufficient numbers of lawyers to meet the country's growing needs.

The Supreme People's Court, Procuratorate, and the MOJ jointly released a notice in December 2001 stipulating that only those persons who passed an exam and obtained a "Certificate of Legal Profession" could apply for a lawyer's license or serve as a judge or a prosecutor. The regulation entered into force on January 1 but was not widely enforced in practice. In March the first exam was administered. New regulations passed during the year require new judges to pass both a national and a provincial examination and receive specialized training before they could be appointed. Recent regulations also require judicial or prosecutorial appointees to be law school graduates who have practiced law for at least 2 years or postgraduates who have practiced law for at least 1 year. In July SPC President Xiao Yang announced that the Government would trim the number of judges over the next few years to raise professional standards. Coupled with other reforms, the SPC set up a new rank-in-person system with 1 Chief Grand Justice, 41 Grand Justices, 30,000 senior judges, and 180,000 normal judges across the country. However, there were still a great number of sitting judges and procurators, often in positions of authority, who were appointed to their positions before these reforms were enacted and who had little or no legal training.

During the year, some lawyers, law professors, and jurists continued publicly to press for faster and more systemic legal reform. Major newspapers and legal journals called for the introduction of a more transparent system of discovery, the abolition of coerced confessions, a legal presumption of innocence, an independent judiciary, improved administrative laws, and adoption of a plea bargaining system. During the year, Western scholars and journalists also criticized shortcomings of the justice system, such as the use of psychiatric facilities to house political or religious dissidents, absence of legal provisions specifically guaranteeing a suspect's right to remain silent, coerced confessions, torture, and the presumption of guilt.

Government officials denied holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Thousands of political prisoners remained incarcerated, some in prisons and others in labor camps.

The 1997 Criminal Law replaced "counterrevolutionary" offenses, which, in the past, often had been used against political activists, with loosely defined provisions barring "crimes endangering state security." Persons detained for counterrevolutionary offenses included labor activist Hu Shigen, Liberal Democratic Party member Kang Yuchun, and June 4, 1989, dissidents Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. Several foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution, since the crime was no longer on the books, and to release those who had been jailed for non-violent offenses under the old statute. Officials indicated that a case-by-case review of appeals filed by individual prisoners was possible under the law, and there was one known case of a successful appeal. However, the Government also indicated that it would neither initiate a comprehensive review of cases nor grant a general amnesty, arguing that there was no law on retroactive decriminalization and that the law against endangering state security covered the same crime. Approximately 1,300 persons remained in prison for the crime.

Amnesty International has identified 211 persons who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 2,000 persons remained in prison for their actions at that time.

The Government released several political prisoners early, including Tibetans Ngawang Choephel, Jigme Sangpo, Ngawang Sangdrol, Tenzin Thubten, Ngawang Choekyi, Ngawang Choezom and Gyaltsen Drolkar, and China Democracy Party co-founder Xu Wenli. However, many others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin, Internet activists Yang Zili and Huang Qi, Uighur businesswoman Rebiya Kadeer, journalist Jiang Weiping, labor activist Liu Jingsheng, political activist Han Chunsheng, Catholic Bishop Su Zhimin, house church leader Xu Guoxing, Tibetan nun Phuntsog Nyidrol, Uighur historian Tohti Tunyaz, and political dissident Yang Jianli remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the rights of free speech and association granted to other citizens. Former prisoners also some-

times found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Economic reforms and social changes have ameliorated these problems for nonpolitical prisoners in recent years. However, former political prisoners and their families frequently still were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing.

Officials confirmed that executed prisoners were among the sources of organs for transplant but maintained that consent was required from prisoners or their relatives in advance of the procedure. There was no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. There were no reliable statistics on how many organ transplants occurred each year using organs from executed prisoners, but according to press reports, hundreds of persons from other countries who were unable to obtain transplants at home travel to the country each year for organ transplants. Recipients reported paying for the transplants, and some reported that treatment could be terminated or delayed for a lack of funds or a delay in payment.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution states that the “freedom and privacy of correspondence of citizens are protected by law”; however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority. During the year, authorities monitored telephone conversations, facsimile transmissions, e-mail, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. Government security organs monitored and sometimes restricted contact between foreigners and citizens. All major hotels had a sizable internal security presence, and hotel rooms were sometimes searched for sensitive materials.

In urban areas, many persons depended on government-linked work units for housing, healthcare, approval to apply for a passport, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social and political control, and government interference in daily personal and family life continued to decline for most citizens. In many areas, citizens still were required to apply for government permission before having a child, and the Government continued to restrict the number of births.

Some dissidents were under heavy surveillance and routinely had their telephone calls monitored. The authorities blocked some dissidents from meeting with foreigners during politically sensitive periods. Police in Beijing ordered several dissidents not to meet with Western journalists or foreign diplomats during the visits of high-level foreign officials. The authorities also confiscated money sent from abroad that was intended to help dissidents and their families.

Major political events and visits by high-ranking foreign officials routinely sparked round-ups of dissidents. For example, immediately before and after the 16th Party Congress in November, authorities detained a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (see Section 1.d.).

Authorities also harassed relatives of dissidents and monitored their activities. Security personnel kept close watch on relatives of prominent dissidents, especially during sensitive periods. For example, security personnel followed the wife of Xu Wenli to meetings with Western reporters and diplomats on numerous occasions. Dissidents and their family members routinely were warned not to speak with the foreign press. Police sometimes detained the relatives of dissidents (see Section 2.a.).

Official poverty alleviation programs and major state projects, such as environmental and reforestation programs, have included forced relocation of persons to new residences. The Government estimated that by the completion of the Three Gorges Dam, at least 1.2 million people will have been relocated for this project alone.

The Government codified its comprehensive birth planning policies, which include coercive elements intended to limit births. The State Family Planning Commission (SFPC), with a staff of 400,000, enforces the law and formulates and implements policies with assistance from the Birth Planning Association, which had 83 million members working part-time at 1 million branches nationwide.

The new Population and Family Planning Law, the country’s first formal law on this subject, entered into force on September 1. The law is intended to standardize the implementation of the Government’s birth limitation policies. The law grants

married couples the right to have a single child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many existing provincial regulations require women to wait 4 years or more after their first birth before making such an application. The law requires counties to use quotas or other measures to limit the total number of births in each county. The law further requires couples to employ birth control measures and, according to a 2001 SFPC survey, over half of the couples subject to this requirement did not choose their birth control method themselves. The law requires couples who have an unapproved child to pay a "social compensation fee" and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, neither those rights nor the penalties for violating them are defined. In contrast, the law provides significant and detailed sanctions for officials who help people evade the birth limitations.

The law delegates to the provinces the responsibility of drafting implementing regulations, including establishing a scale for assessment of social compensation fees, but State Council Decree 357 provides general principles to guide local authorities. This decree also requires birth planning officials to obtain court approval for taking "forcible" action, such as confiscation of property, against families that refuse to pay social compensation fees.

A strict one-child limit applied in the cities, except for couples meeting certain conditions (e.g., both parents are only children). In most rural areas (including towns of under 200,000 people), where almost two-thirds of citizens lived, the policy was often relaxed to a "1+1" limit, generally allowing only one child, but permitting a second if the first was a girl. Families whose first child is disabled also were allowed to have another child. In some other, generally poorer, rural areas, couples were permitted to have two children. Ethnic minorities, such as Muslim Uighurs and Tibetans, were subject to less stringent population controls; however, authorities increasingly pressured minorities to limit births to the same number as Han Chinese. In remote areas, limits generally were not enforced, except on government employees and party members.

Local officials, caught between pressures from superiors to show declining birth rates, and from local citizens to allow them to have more than one child, frequently made false reports. The SFPC estimated fertility at 1.8 births per woman, a figure roughly confirmed by the 2000 census, and claimed that the yearly growth rate of the population has dropped to less than 1 percent per year. However, many Chinese and international demographers estimated the fertility rate to be up to 2.0–2.3 births per woman.

Authorities continued to reduce the use of targets and quotas, although approximately 2,000 of the country's 2,800 counties continued to use such measures. Authorities using the target and quota system required each eligible married couple to obtain government permission before the woman becomes pregnant. Only a limited number of such permits were made available each year, so couples who did not receive a permit were required to wait at least a year before obtaining permission. Counties that did not employ targets and quotas allowed married women of legal child-bearing age to have a first child without prior permission.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressure were very common; during unauthorized pregnancies, women sometimes were visited by birth planning workers who reminded the parents of their potential liability to pay the social compensation fees. The fees were assessed at widely varying levels and were generally extremely high, sometimes equaling several years' wages for an average worker. Additional disciplinary measures against those who violated the limited child policy by having an unapproved child or helping another to do so included the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion opportunity for 1 or more years, expulsion from the Party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. Government employees were particularly vulnerable to loss of employment when they had a child without permission. In many provinces, penalties for excess births in an area also can be levied against local officials and the mother's work unit, creating multiple sources of pressure. These Draconian penalties sometimes left expecting mothers with little choice but to undergo abortion or sterilization.

According to previously published local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine device (IUD) or implant. The regulations further require that women who use an IUD undergo quarterly exams to ensure that

it remains properly in place. Rewards for couples who adhere to birth limitation laws and policies include monthly stipends and preferential medical and educational benefits. In some counties, women of childbearing age were required periodically to undergo pregnancy tests. In the cases of families that already have two children, one of the parents is "encouraged" to undergo sterilization. According to a credible report, the number of couples undergoing sterilization procedures after giving birth to two children increased significantly in at least one province. In another province, rules state that "unplanned pregnancies must be aborted immediately."

At the same time, the Government maintained that due to economic development and other factors such as small houses, both parents working full-time, and high education expenses, couples in major urban centers often voluntarily limited their families to one child. There were indications in recent years that, due to the effectiveness of the one-child policy in urban areas, the Government was beginning to relax its policies in the cities.

The new Population and Family Planning Law delegates to the provinces the responsibility of implementing appropriate regulations to enforce the law. By year's end, several had amended their regulations. Anhui Province, for example, passed a law permitting 13 narrow categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. The law does not require such amendments, however, unless existing regulations conflict with it. Existing regulations requiring sterilization in certain cases, or mandatory abortion, are not contradicted by the new law, which says simply that compliance with the birth limits should "mainly" be achieved through the use of contraception.

Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances in which local birth planning officials reportedly have used physical coercion to meet government goals. Because it is illegal, the use of physical coercion was difficult to document, even for government authorities. Still, it was believed that some isolated incidences may persist, even as the frequency of such cases was believed to be declining. One documented case in 2000 resulted in the arrest and punishment of the involved officials.

Senior officials stated repeatedly that the Government "made it a principle to ban coercion at any level," and the SFPC has issued circulars nationwide prohibiting birth planning officials from coercing women to undergo abortions or sterilization against their will. However, the Government does not consider social compensation fees and other administrative punishments to be coercive. Under the State Compensation Law, citizens also may sue officials who exceed their authority in implementing birth planning policy, and in a few instances, individuals have exercised this right.

Corruption related to social compensation fees was a widespread problem. In response, State Council Decree 357 established during the year that collected "social compensation fees" must be submitted directly to the National Treasury, rather than retained by local birth planning authorities. During the year, SFPC officials reported that they responded to more than 10,000 complaints against local officials.

From 1998 through 2002, the U.N. Population Fund (UNFPA) conducted a 4-year pilot project in 32 counties. Under this program, local birth planning officials emphasized education, improved reproductive health services, and economic development, and they dropped the target and quota systems for limiting births. The SFPC worked closely with the UNFPA to prepare informational materials and to provide training for officials and the general public in the project counties. However, these counties retained the birth limitation policy, including the requirement that couples employ effective birth control methods, and enforced it through other means, such as social compensation fees.

In order to delay childbearing, the Marriage Law sets the minimum age at marriage for women at 20 years, and for men at 22 years. Although it continued to be illegal in almost all provinces for a single woman to bear a child, during the year Jilin Province passed a law making it legal, within the limits of the birth limitation law, for an unmarried woman who "intends to remain single for life" to have a child.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate pregnancies (see Section 5). The use of ultrasound for this purpose is prohibited specifically by the Population Law and by the Maternal and Child Health Care Law, both of which mandate punishment of medical practitioners who violate the provision. According to the SFPC, a few doctors have been charged under these laws. However, enforcement of this provision has been rare. The most recent official figures, from November 2000,

put the overall male to female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the national ratio was 151.9 to 100. The skewed ratio was also thought in part to reflect underregistration of female children whose parents wished to avoid paying social compensation fees. Because the Maternal and Child Health Law mandates that medical facilities provide basic child health services, including immunization, to all children regardless of registration status, parents could delay registration of female children until it was necessary for enrollment in education programs. Such underregistration was common among rural parents, but parents often later were forced to pay the fee in order to give the children access to schooling and other social benefits.

The Maternal and Child Health Care Law requires premarital and prenatal examinations in part to determine whether couples have acute infectious diseases or certain mental illnesses (not including mental retardation) or are at risk for passing on debilitating genetic diseases. The law recommends abortion or sterilization in some cases. The law states that patients or their guardians must give written consent for such procedures, but lack of informed consent was a general problem in the practice of medicine in the country. There have been numerous cases in which informed consent cards have been forged or were not obtained in the administration of medical tests and medical trials. However, specific information was not available regarding the obtaining of informed consent for sterilization procedures. In practice, however, most regions of the country still did not have the medical capacity to determine accurately the likelihood of passing on debilitating genetic diseases.

As of 2001, the China Psychiatric Association no longer listed homosexuality as a mental illness. Many Chinese gays and lesbians saw the move as a sign of increased tolerance. Nonetheless, most gatherings of gays and lesbians still took place clandestinely.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution states that freedom of speech and freedom of the press are fundamental rights to be enjoyed by all citizens; however, the Government tightly restricted these rights in practice. The Government interpreted the Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government strictly regulated the establishment and management of publications. The Government did not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule. The Party and government continued to control many and, on occasion, all print and broadcast media tightly and used them to propagate the current ideological line. All media employees were under explicit, public orders to follow CCP directives and "guide public opinion," as directed by political authorities. Both formal and informal guidelines continued to require journalists to avoid coverage of many politically sensitive topics. The State Security Law forbids journalists from divulging state secrets. These public orders, guidelines, and statutes greatly restricted the freedom of broadcast journalists and newspapers to report the news and led to a high degree of self-censorship. The Government continued an intense propaganda campaign against the Falun Gong.

Some dissidents remained active and continued to speak out, despite the Government's restrictions on freedom of speech. For instance, AIDS activist Wan Yanhai publicly continued to press the Government for more transparency in the fight against HIV/AIDS despite being detained by the authorities for 27 days in August and September. Labor lawyer Zhou Litai continued to draw attention to the plight of Chinese workers, despite harassment by local officials in Shenzhen. Members of the China Democracy Party continued to issue public statements calling for political reform and for President Jiang Zemin to step down. In March 114 relatives of victims of the 1989 Tiananmen Square massacre, led by activist Ding Zilin, sent an open letter to the nearly 3,000 members of the NPC asking that the NPC's chairman, Li Peng, be put on trial for his role in the massacre.

Immediately before and after the 16th Party Congress in November, authorities rounded up a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. At year's end, a number of these persons remained in detention (*see* Section 1.d.).

However, the Government continued to threaten, arrest and imprison persons exercising free speech. In March Li Yanling, wife of imprisoned journalist Jiang Weiping, was detained by Dalian officials for having written a letter to President Jiang Zemin calling for her husband's release from prison. In August the International Confederation of Trade Unions (ICTU) formally filed a complaint with the International Labor Organization (ILO) criticizing the detention of labor activist Di Tiangui. Di has been detained by Taiyuan police since June 1 for trying to set up an organization for retired workers.

Although there were a few privately owned print publications, all articles had to be vetted by the authorities before publication. There were no privately owned television or radio stations, and all programming had to be approved by the Government. Commercial program producers sought to expand the limits of broadcast content.

With the Government's consent and sometimes open support, the press published some stories related to citizens' rights, legal reform, official corruption, and official misconduct and gross abuses, particularly by law enforcement officials. For example, a number of newspapers, including the English-language *China Daily*, were very critical of an official letter issued in August by public security officials in Lanzhou, Gansu Province, claiming that anticorruption stories written by local newspaper reporters damaged the image of the police.

However, newspapers could not report on corruption without government and party approval, and publishers published such material at their own risk. In recent years, journalists and sometimes editors were harassed, detained, threatened, and even imprisoned for reporting on subjects that met with the Government's or local authorities' disapproval, including corruption. During the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close down publications and punish journalists for printing material deemed too sensitive. On January 25, Jiang Weiping, formerly a reporter for the Hong Kong-based *Wen Wei Po* newspaper and the official Xinhua news agency, was sentenced to 8 years in prison for "subverting state power." Jiang had written a series of articles exposing official corruption in Dalian, Shenyang, and Daqing. On March 24, Beijing photographer Yang Wei was assaulted by employees of a local company after they discovered he was working on a corruption story about the company. Local police released all suspects in the case. Also in March, the Guangzhou-based newspaper *Southern Weekend* was forced to stop its print run and remove a story critical of financial mismanagement at one of the country's top charities, Project Hope. In June Canadian journalist Jiang Xueqin was deported after covering labor unrest in Daqing. In December 2001, Wang Jinbo was sentenced to 4 years in prison for having e-mailed articles to overseas publications advocating a review of verdicts issued regarding the June 4, 1989, Tiananmen massacre. In March the Committee to Protect Journalists (CPJ) declared China "the world's leading jailer of journalists for the third year in a row," with 35 journalists imprisoned. As of year's end, CPJ reported that the total had risen to 36, including 14 Internet journalists.

Government restrictions on the press and the free flow of information continued to prevent accurate reporting on the spread of HIV/AIDS and the role of blood collection procedures in the spread of the disease in rural areas.

For several years, journalists openly have called for legislation granting press freedom protection. In May 2000, the legal affairs bureau of Anhui Province issued a regulation banning government departments from refusing press interviews.

The Government kept tight control over the foreign press during the year and continued efforts to prevent foreign media "interference" in internal affairs. The June 15 edition of the *Economist* was banned due to an editorial it ran entitled "Set China's Politics Free." *Time Magazine* was temporarily banned after an article appeared on the Falun Gong. In July BBC World Television was blocked for several weeks after it ran a report about the banned Falun Gong spiritual movement.

The publishing industry consists of three kinds of book businesses: Approximately 500 government-sanctioned publishing houses, smaller independent publishers that cooperate with official publishing houses to put out more daring publications, and an underground press. The Government-approved publishing houses were the only organizations legally permitted to print books. The Government exerted control by issuing a limited number of publishing licenses, which were required for each edition of any book. A party member at each publishing house monitored the content of the house's publications and used the allocation of promotions, cars, travel, and other perks to encourage editors to exercise "proper" judgment about publications. Overt intervention by the State Publications Administration and Party Propaganda Bureau occurred strictly post-publication. Some independent publishers took advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally were not subjected to the same multilayered review process as official publications of the publishing houses.

Underground printing houses, which grew in number, have been targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products). These campaigns had the effect of restricting the availability of politically sensitive books.

Formal censorship of written material came at the time of publication. Many intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercised self-censorship. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate.

In March the Department of Cultural Affairs in Urumqi, Xinjiang, ordered the destruction of thousands of books on Uighur history and culture. Among the 330 titles were "A Brief History of the Huns and Ancient Uighur Literature," "Ancient Uighur Craftsmanship," and other books deemed "problematic." The books detailing and documenting Uighur history originally had been published with the approval of the authorities.

In September the Government launched a 2-month campaign to ban books that threatened the Party. Among the banned books was the best-selling "Villains Holding Sway," an indictment of corrupt officials; "I Have a Mother Like This," a sarcastic look at a matriarch so committed to the Party that she abandons her family; and "The Unequal Treatment of Nationals," focused on the widening wage gap between the country's urban and rural citizens. "A Tale of Migrants of the Big River" was banned because of its open discussion of social unrest among persons relocated by the construction of the Three Gorges Dam.

Customs officials seized shipments of Bibles that were not authorized by the Government (*see* Section 2.c.).

The authorities continued to jam, with varying degrees of success, Chinese- and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA), and the British Broadcasting Corporation (BBC). English-language broadcasts on VOA generally were not jammed, unless they immediately followed Chinese-language broadcasts, in which case portions of the English-language broadcasts were sometimes jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. In the absence of an independent press, overseas broadcasts such as VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and even government officials.

On January 1, a policy requiring foreign television outlets to use a government "rebroadcast platform" to distribute their channels reportedly went into effect. Some observers, including Human Rights Watch, expressed concern that this requirement heightened official censorship capabilities. In addition, universities, hotels, residences, and government institutions were reportedly required to reapply for access to foreign cable and satellite broadcasts.

In 2001 some government-owned local cable television networks began providing uncensored foreign news programming, including programs from CNN and European news services, to cable television customers for a fee. Prior to 2001, only major hotels and residence compounds for foreigners could legally show uncensored television news from outside of the country.

During the year, Falun Gong followers overrode television broadcasts several times to broadcast pro-FLG statements during regular programming. In September 15 persons were given sentences ranging from 4 to 20 years in prison for interfering with a cable television system in the northeastern city of Changchun in March. On December 30, the Intermediate People's Court in Xining sentenced four FLG adherents to up to 20 years in prison for tapping into cable television signals. The Government also reported several instances of individuals interfering with domestic broadcasts transmitted via satellite, replacing regular programming with pro-FLG material.

In January Zhang Yongning, producer of "Lan Yu," a motion picture filmed clandestinely in Beijing and centered on a homosexual love story set during the 1989 Tiananmen Square uprising, applied for approval from the Bureau of Film to show the film in the country. Although permission was denied, illegal DVD copies of "Lan Yu," like most other banned films, were readily available in major cities.

The Government continued to encourage expanded use of the Internet; however, it also took steps to increase monitoring of the Internet and continued to place restrictions on the information available. While only a very small percentage of the population accessed the Internet, use among intellectuals and opinion leaders was widespread and growing rapidly. According to a report released by the China Internet Network Information Center, the number of Internet users in the country grew by 75 percent during the year to 59.1 million.

During the year, a Harvard Law School report concluded that China had the most extensive Internet censorship in the world. According to the report, the Government blocked at least 19,000 sites during the 6-month study, and may have blocked as many as 50,000. Blocked sites included those of major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, democracy activists, and religious and spiritual organizations. In

September the Government blocked Google, a foreign-based search engine. After 2 weeks, during which the Government allegedly enhanced blocks on sensitive sites, access was restored. Altavista, another foreign-based search engine, was also blocked. The Government denied that it ever blocked the search engines. The authorities reportedly began to employ more sophisticated technology, such as “packet sniffers,” enabling the selective blocking of specific content rather than entire Web sites in some cases. Such technology was also used to block e-mails containing sensitive content. The Government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities have interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting “evil cults” was banned, as was providing information that “disturbs social order or undermines social stability.” Internet service providers were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many Internet service providers practiced extensive self-censorship to avoid transgressing the very broadly worded regulations. Another regulation requires Internet cafe patrons to register with “software managers” and produce a valid identification card to log on. The State Council also has promulgated a comprehensive list of prohibited Internet activities, including using the Internet to “incite the overthrow of the Government or the Socialist system” and “incite division of the country, harming national unification.” In April the Ministry of Public Security announced a campaign to “clean up the Internet environment” before the 16th Party Congress.

During the year, authorities arrested dissidents for disseminating information through the Internet. In the most serious punishment yet for an Internet-related crime, Li Dawei, a former police officer from Gansu, was sentenced in July to 11 years in prison for downloading “reactionary” articles and maintaining contacts with foreigners. On September 14, Chen Shaowen was detained for subversion by local officials in Lianyuan, Hunan, for having posted almost 40 articles deemed “reactionary.” On November 7, 22-year-old Beijing Normal University Student Liu Di was arrested after expressing views critical of the Government in an online essay. At year’s end, according to the international NGOs Reporters Without Borders and the Committee to Protect Journalists, 14 persons were being held for publishing or distributing information online.

In March the Government began a “Public Pledge on Self Discipline for China’s Internet Industry” drive. More than 300 companies signed up, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo!’s China division. Those who signed the pledge agreed not to spread information that “breaks laws or spreads superstition or obscenity.” They also promised to refrain from “producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability.” In protest against the self-censorship pledge, a group of 18 dissidents published a “declaration of Internet users’ rights” in July. The declaration called for complete freedom to surf the Internet, with restrictions placed only on sites with pornographic, slanderous, or violent content.

Provisional figures issued in March showed that the country had more than 200,000 Internet cafes. On June 16, a fire at an unlicensed Internet cafe in Beijing’s university district killed 25 persons and injured 12. In response, authorities closed down more than 14,000 Internet cafes nationwide, 3,100 of them permanently, and in October issued more restrictive regulations governing the operation of such businesses. The new regulations limit hours of operation, allow authorities to view records of Internet use, and require identification card registration.

The Government did not fully respect academic freedom and continued to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding the issues that they could examine and the conclusions that they could draw. On January 29, Xu Zerong, a scholar who wrote his doctoral dissertation on the Korean War, was sentenced to 13 years in prison for “illegally providing state secrets” by sending confidential reference materials on the Korean War to a contact in Hong Kong.

The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad but did not impose such restrictions on privately sponsored students, who constituted the majority of students studying abroad.

Researchers residing abroad also have been subject to sanctions from the authorities when their work did not meet with official approval. Other foreign-resident Chinese scholars were detained in previous years.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. The Constitution stipulates that such activities may not challenge “Party leadership” or infringe upon the “interests of the State.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly moved to suppress demonstrations involving expression of dissenting political views.

At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The most widely publicized demonstrations in recent years were those of the Falun Gong spiritual movement. The Government continued to wage a severe political, propaganda, and police campaign against the FLG movement during the year. Since the Government banned the FLG in 1999, mere belief in the discipline, without any outward manifestation of its tenets, has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment, and in many cases, to suffer torture and death. Several hundred practitioners have been tried and convicted of crimes, including that of “using a heretical cult to disturb social order,” which was established in the 1999 anticult legislation. However, the great majority of practitioners were punished without a trial, primarily in the reeducation-through-labor system. Many thousands of persons have been detained in reeducation-through-labor and custody and repatriation camps; others have been confined to psychiatric hospitals. In 2001 facilities were established specifically to “rehabilitate” practitioners who refused to recant their belief voluntarily (*see* Section 2.c.).

The tactic used most frequently by the central government against the FLG, however, has been to make local officials, family members, and employers of known practitioners responsible for preventing FLG activities by their family members or associates. In many cases, practitioners were subject to close scrutiny by local security personnel and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

The number of protests by individuals or small groups of FLG practitioners at Tiananmen Square remained very low during the year. Some observers attributed this to the effectiveness of the sustained government crackdown, which by the end of 2001 had essentially eliminated public manifestations of the movement. Authorities also briefly detained foreign practitioners who attempted to unfurl banners on Tiananmen Square or pass out leaflets, in most cases deporting them after a few hours.

In many cases, the authorities dealt with demonstrations about economic issues more leniently than with those that addressed political issues, but some economic demonstrations were dispersed by force. During the year, Ministry of Public Security publications indicated that the number of demonstrations was growing and that protesters were becoming more organized. According to the most recently available MPS report, in 1999 more than 100,000 demonstrations took place, up from 60,000 in 1998. Some of these demonstrations included thousands of participants.

On February 21, during President Bush’s visit to Beijing, MPS officials detained 47 Christians, who managed an elder care facility in a Beijing suburb, for holding an illegal gathering. The leader of the group, Chen Zhongxin, and his followers were released after the President left the country.

In March, over several weeks, tens of thousands of workers in Liaoyang and Fushun, Liaoning Province, and Daqing, Heilongjiang Province, protested against non-payment of back wages, loss of benefits, and inadequate severance pay. Many alleged that managers and local government officials had stolen funds earmarked for plant modernization and pension plans. Police detained four leaders of the protests—Yao Fuxin, Pang Qingxiang, Xiao Yunliang, and Wang Zhaoming—without charge. Their families had serious difficulties finding defense attorneys. After 9 months, Pang Qingxiang and Wang Zhaoming were released on probation but barred from meeting with other laid-off workers. On December 31, Wang Zhaoming was detained again after he hired a lawyer to sue the police over his 9 months of detention. Yao Fuxin and Xiao Yunliang were charged with subversion for political activities they allegedly had engaged in several years before the labor protests occurred.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of truly

autonomous political, human rights, religious, environmental, labor, and youth organizations that might directly challenge government authority. Since 1999, all concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from Public Security authorities.

There were no laws or regulations that specifically governed the formation of political parties. The Government moved decisively, using detentions and prison terms, to suppress the China Democracy Party, which activists around the country have tried since 1998 to organize into the country's first opposition political party.

According to government statistics, at the end of 2001, there were 129,000 social organizations, including 1,687 national-level and cross-provincial organizations, 19,540 provincial organizations, and 50,633 local and county-level organizations registered with the Ministry of Civil Affairs. There were 82,000 private, nonprofit corporations registered. Experts estimated that there were at least 1 million, and perhaps as many as 2 million, unregistered NGOs. Although these organizations all came under some degree of government control, they were able to develop their own agendas. Some had support from foreign secular and religious NGOs. Some were able to undertake limited advocacy roles in such public interest areas as women's issues, the environment, health, and consumer rights. To register, NGOs were required to obtain an organizational sponsor, typically a government agency carrying out work in a similar subject area. In addition, local-level NGOs must have an official office and at least \$3,600 (RMB 30,000) in funds, and national-level groups must have at least \$12,000 (RMB 100,000). Applications must be vetted by the Government, which has 2 months in which to grant approval. Once established, groups were required to submit to regular oversight by both the organizational sponsor and the Ministry of Civil Affairs. NGOs must not violate the "four cardinal principles" by advocating nonparty rule, "damage national unity," or "upset ethnic harmony." Groups that disobeyed guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges. It was difficult to estimate how many groups may have been discouraged from organizing NGOs because of these regulations. However, preexisting groups reported little or no additional interference by the Government since the regulations came into effect in 1998.

In April the Central government allowed an international NGO to establish branches and recruit members in the country. Lions Clubs International was allowed to officially establish two chapters, one in Shenzhen city and a second in Guangdong Province.

c. Freedom of Religion.—The Constitution provides for freedom of religious belief and the freedom not to believe; however, the Government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. There are five officially recognized religions—Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of the five faiths. Membership in religions was growing rapidly; however, while the Government generally did not seek to suppress this growth outright, it tried to control and regulate religious groups to prevent the rise of groups or sources of authority outside the control of the Government and the Communist Party.

Overall, government respect for religious freedom remained poor, and crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan Buddhists continued. The Government continued its repression of groups that it determined to be "cults" and of the Falun Gong in particular. Various sources reported that thousands of FLG adherents have been arrested, detained, and imprisoned, and that several hundred or more FLG adherents have died in detention since 1999; many of their bodies reportedly bore signs of severe beatings or torture or were cremated before relatives could examine them. The atmosphere created by the nationwide campaign against the FLG reportedly had a spillover effect on unregistered churches, temples, and mosques in many parts of the country.

All religious groups and spiritual movements were required to register with the State Council's Religious Affairs Bureau (RAB), which was responsible for monitoring and judging the legitimacy of religious activity. The RAB and the CCP's United Front Work Department (UFWD) provided policy "guidance and supervision" over implementation of government regulations on religious activity. The Government continued and in some areas intensified a national campaign to enforce the State Council and provincial regulations that require all places of religious activity to register with the RAB or to come under the supervision of official "patriotic" religious organizations. Some groups registered voluntarily, some registered under pressure, some avoided officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups reported that authorities refused

them registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members. In some areas, efforts to register unauthorized groups were carried out by religious leaders and civil affairs officials. In other regions, police and RAB officials performed registration procedures concurrently with other law enforcement actions. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks.

Leaders of unauthorized groups were sometimes the targets of harassment, interrogations, detention, and physical abuse. Authorities particularly targeted unofficial religious groups in Beijing and the provinces of Henan, Shandong, and Guangxi, where there were rapidly growing numbers of unregistered Protestants, and in Hebei, a center of unregistered Catholics. For example, police arrested more than 20 Christians gathered in the Shanghai home of house church leader Xu Guoxing for a worship service on December 8. All were eventually released except Xu, who was sentenced, without trial, to 18 months of reeducation-through-labor.

However, many small "family churches," generally made up of family members and friends, that conducted activities similar to those of home Bible study groups, usually were tolerated by the authorities as long as they remained small and unobtrusive. Family churches reportedly encountered difficulties when their memberships became too large, when they arranged for the use of facilities for the specific purpose of conducting religious activities, or when they forged links with other unregistered groups.

In some areas, harassment of churches by local RAB officials was attributed, at least in part, to financial issues. For example, although regulations require local authorities to provide land to church groups, some local officials tried to avoid doing so by denying registration. Official churches also sometimes faced harassment when local authorities wished to acquire the land on which a church was located. In addition to refusing to register churches, there also were reports that RAB officials have pressed for "donations" from churches in their jurisdictions as a means of raising extra revenue.

In certain areas in the southeast, government supervision of religious activity was minimal, and registered and unregistered churches were treated similarly by authorities, existing openly side by side. Coexistence and cooperation between official and unofficial churches in such areas, both Catholic and Protestant, was close enough to blur the line between the two. In those areas, many congregants worshipped in both types of churches.

Authorities also have destroyed or seized unregistered places of worship. Early in the year, according to the Guangzhou-based Southern Metropolis Daily, a small Taoist temple in a central residential area of that city was demolished by a squad of 90 policemen. The temple, which had escaped official notice for 20 years, was branded a "center of superstitious activity." In April police demolished a partially constructed Catholic Church in Xiao Zhao village, Hebei Province, for not having a proper building permit.

However, the Government continued to restore or rebuild some churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution and allowed the reopening of some seminaries during the year, although implementation of restoration activity varied from locality to locality. Nonetheless, there were far fewer temples, churches, and mosques than existed 50 years ago, despite the recent increase in number of religious believers. Christian leaders in several parts of the country reported that local officials have been reluctant to return Church property that was confiscated before the 1949 Communist revolution. The difficulty in registering new places of worship led to serious overcrowding in existing places of worship in some areas. Some observers cited the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and "underground" churches.

In December 2001, all seven members of the Politburo attended a Party Work Conference on religion. President Jiang Zemin and Premier Zhu Rongji gave speeches praising the social work being done by numerous religious institutions and urged "mainstream" religious groups that were underground to register with the RAB. At the same time, the leaders called for stepped-up measures to eliminate "nonmainstream" religious groups.

Some Protestant house church groups reported that after the December 2001 State Council Work Conference on Religion, police raids on worship services increased, resulting in greater numbers of detentions. On February 5, Huang Aiping,

Li Wulong, and Ji Qingjun were sentenced to 7 years in prison for “using a cult organization to violate the law” in Xiamen, Fujian Province. The three were members of the Blood and Water Holy Spirit Full Gospel Preaching Team, which was founded in Taiwan and was banned on the mainland in 1996 as an “illegal infiltration organization.” In December 2001, Gong Shengliang, founder of the South China Church, was sentenced to death on a wide range of criminal charges, including rape, arson and assault. His niece, Li Ying, was sentenced to death with a 2-year reprieve. In September an appeals court overturned the death sentences, and in October Gong was sentenced to life in prison and Li to 15 years. In the retrial, the court dropped all “evil cult” charges against the members of the South China Church. Other church members, Xu Fuming and Hu Yong, received life sentences. Four members of the congregation, Li Yingping, Meng Xicun, Xiang Fengping, and Liu Xianzhi, claimed that they were tortured by police until they agreed to sign accusations claiming they had been raped by Gong. The four women, found not guilty in the retrial, were immediately detained after the trial and sent to reeducation-through-labor camps.

The law does not prohibit religious believers from holding public office; however, most influential positions in government were reserved for party members, and party officials stated that party membership and religious belief are incompatible. This had a disproportionate effect in such areas as Xinjiang and Tibet, where the minority populations are adherents of Islam or Buddhism. Party membership also was required for almost all high-level positions in government and in state-owned businesses and organizations. The Party reportedly issued circulars ordering party members not to adhere to religious beliefs, and reminding cadres that religion is incompatible with party membership, a theme reflected in authoritative media. The Routine Service Regulations of the People’s Liberation Army state explicitly that servicemen “may not take part in religious or superstitious activities.” Party and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite official regulations encouraging officials to be atheists, in some localities as many as 20 to 25 percent of party officials engaged in some kind of religious activity. Most of these officials practiced Buddhism or a folk religion. Religious figures, who were not members of the CCP, were included in national and local government organizations, usually to represent their constituency on cultural and educational matters. The NPC included several religious leaders, including Pagbalha Geleg Namgyai, a Tibetan reincarnated lama who was a vice chairman of the Standing Committee of the NPC. Religious groups also were represented in the Chinese People’s Political Consultative Conference, a forum for “multiparty” cooperation and consultation led by the CCP, which advises the Government on policy.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that did not involve “foreign control.” What constitutes “control” was not defined. Regulations enacted in 1994, and expanded in September 2000, codified many existing rules involving foreigners, including a ban on proselytizing by foreigners. For the most part, authorities allowed foreign nationals to preach to foreigners in approved, registered places of worship, bring in religious materials for personal use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Collective religious activities of foreigners also were required to take place at officially registered places of worship or approved temporary locations. Foreigners legally were barred from conducting missionary activities, but foreign Christians teaching English and other subjects on college campuses openly professed their faith with minimum interference from authorities as long as their proselytizing was low key. Many Christian groups throughout the country have developed close ties with local officials, in some cases running schools to help educate children who otherwise would receive a substandard education and operating homes for the care of the aged. Likewise, Buddhist-run private schools and orphanages in the central part of the country not only educated children but also offered vocational training courses to teenagers and young adults.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate “political reliability,” and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs was provided by foreign organizations. Both official and unofficial Christian churches had problems training adequate numbers of clergy to meet the needs of their growing congregations. Since no priests or other clergy in the official churches were ordained between 1955 and 1985, the shortfall was most severe for persons between the ages of 40 and 70. Due to government prohibitions, unofficial churches

had particularly significant problems training clergy or sending students to study overseas, and many clergy received only limited and inadequate preparation. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents (see Section 2.d.). In 2001 RAB officials started to interview candidates for ordination to the Catholic priesthood in Shenyang. Some Catholic clerics also complained that they were forced to bribe local RAB officials before being allowed to enter seminaries.

Traditional folk religions have been revived in recent years and were widespread. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, at the same time, folk religions have been labeled as “feudal superstition” and sometimes were repressed because their resurgence was seen as a threat to party control. Local authorities have destroyed thousands of shrines.

Buddhists made up the largest body of organized religious believers. Tibetan Buddhists in some areas outside of the Tibet Autonomous Region (TAR) had growing freedom to practice their faith. Diplomats have seen pictures of a number of Tibetan religious figures, including the Dalai Lama, openly displayed in parts of Sichuan, Qinghai, and Gansu Provinces. Likewise, abbots and monks in those predominantly Tibetan areas outside the TAR reported they had greater freedom to worship and conduct religious training than their coreligionists within the TAR. However, restrictions remained, especially at monasteries with close ties to foreign organizations. Some monks who studied abroad were prevented from returning to their home monasteries. (A discussion of government restrictions on Tibetan Buddhism in the TAR can be found in the Tibet Addendum.)

During Tibetan New Year in February, a monk in Aba City in Sichuan Province was arrested for passing out pictures of the Dalai Lama, posting pro-democracy leaflets, and distributing information on China’s human rights violations. The materials notably did not advocate Tibetan independence. Following the arrest, authorities tightened security and further restricted travel to the area. In October in Ganzi city, also in Sichuan Province, more than 10 persons were arrested in connection with foreign-sponsored long-life ceremonies for the Dalai Lama that had been held earlier in the year, and hundreds of PLA troops were stationed in the area. At least five of those arrested were sentenced to 2 to 3 years of reeducation-through-labor.

In 2001 the Government expelled thousands of Tibetan nuns, monks, and students from the Serthar Tibetan Buddhist Institute (also known as the Larung Gar Monastic encampment) located in the Ganzi Tibetan Autonomous Prefecture in Sichuan Province. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Authorities demolished hundreds of residential structures. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. After a year’s absence, during which time he underwent medical treatment, Khenpo Jigme Phuntsok was allowed to return to Serthar in July. Thousands of monks and nuns also returned.

In the past, official tolerance for religions considered traditionally Chinese, such as Buddhism and Taoism, was greater than that for Christianity. However, as these non-Western faiths have grown rapidly in recent years, there were signs of greater government concern and new restrictions, especially on syncretic sects.

Regulations restricting Muslims’ religious activity, teaching, the religious education of youths under the age of 18, and places of worship continued to be tight in Xinjiang, and the Government dealt harshly with Muslims who engaged in political speech and activities that the authorities deemed separatist. Regional-level party and government officials repeatedly called for stronger management of religious affairs and for the separation of religion from administrative matters. Authorities reportedly reserved the right, in some cases, to censor imams’ sermons particularly during sensitive religious holidays. In 2000 the authorities began conducting monthly political study sessions for religious personnel; the program continued during the year. In addition they required every mosque to record the numbers and names of those attending each day’s activities. The official Xinjiang Daily reported that early in 2000 Yining county reviewed the activities of 420 mosques and implemented a system of assigning ethnic party cadres to mosques in order to improve vigilance against “illegal religious activities.” The authorities also initiated a campaign to discourage overt religious attire such as veils and to discourage religious marriage ceremonies. In addition, in some areas fasting reportedly was prohibited or made difficult during Ramadan. There were numerous official media reports that the authorities confiscated illegal religious publications in Xinjiang. The Xinjiang

People's Publication House was the only publisher allowed to print Muslim literature in Xinjiang.

In some areas where ethnic unrest has occurred, particularly among Central Asian Muslims (and especially the Uighurs) in Xinjiang, officials continued to restrict the building of mosques. However, in other areas, particularly in areas traditionally populated by the non-Central Asian Hui ethnic group, there was substantial religious building construction and renovation.

The Government permitted Muslim citizens to make the Hajj to Mecca, and in some cases subsidized the journey. According to the China Islamic Association, 2,000 Muslims took part in the Hajj as members of official delegations in 2001. According to some reports, the major limiting factors for participation in the Hajj were the cost and controls on passport issuance. Other Muslims made the trip to Mecca via neighboring countries, especially Pakistan, and may not have been counted in government statistics.

The Government refused to establish diplomatic relations with the Holy See, and there was no Vatican representative in the country. The Government's refusal to allow the official Catholic Church to recognize the authority of the Papacy in matters such as the ordination of bishops led many Catholics to refuse to join the official Catholic church on the grounds that this refusal denies one of the fundamental tenets of their faith.

Some bishops in the official Catholic Church were not openly recognized by the Holy See, although many have been recognized privately. Frequently, bishops were first consecrated and later sought Papal approval of their consecrations, sometimes secretly, causing tensions between the Government and the Vatican. While both government and Vatican authorities stated that they would welcome an agreement to normalize relations, issues concerning the role of the Pope in selecting bishops and the status of underground Catholic clerics have frustrated efforts to reach this goal. Some underground Catholic priests, as well as some church members, indicated they were unwilling to accept the authority of bishops selected without Vatican approval. Newly nominated bishops seeking unofficial Papal approval frequently found themselves at odds with other church leaders, who were sympathetic to the central government, and who insisted that consecrations of new bishops be conducted by more senior bishops not recognized by the Vatican. Catholic priests in the official church also faced dilemmas when asked by parishioners whether they should follow Church doctrine or government policy restricting the number of children per family. This dilemma was particularly acute when discussing abortion.

There were many religious detainees and prisoners. In some cases, officials have used prison or reeducation-through-labor sentences to enforce regulations.

A number of Catholic priests and lay leaders were beaten or otherwise abused during the year. In Hebei Province, where an estimated half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have forced many underground priests and believers to choose between joining the Patriotic Church or facing fines, job loss, periodic detentions, and, in some cases, the barring of their children from school. Some Catholics have been forced into hiding. The whereabouts of underground Bishop Su Zhimin, whose followers reported that he was arrested in 1997, remained unclear. Underground Catholic sources in Hebei claimed that he still was under detention, while the Government denied having taken any "coercive measures" against him. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained under detention in Hebei. Underground Bishop Joseph Fan Zhongliang of Shanghai remained under surveillance and often had his movements restricted. During the year, underground Bishop Jia Zhiguo of Hebei was again detained for several days before the start of Holy Week, allegedly in an attempt to pressure him to join the Chinese Catholic Patriotic Association. Fujian Province clerics reported that, while there had been no recent signs of a general crackdown against underground Catholics, as was seen in 1999 and 2000, the April detention of two underground priests created a generalized fear that other detentions might follow.

There was evidence that the official Protestant seminary's "theological reconstruction campaign," during which some professors were purged from the Nanjing Seminary, had ended. There were no new reports of seminary professors or Protestant preachers purged for theological perspectives different from those held by Bishop Ding Guangxun, national leader of the official Protestant church. Foreign teachers were officially invited to teach at both Catholic and Protestant seminaries during the year.

The increase in the number of Christians resulted in a corresponding increase in the demand for Bibles, which were available for purchase at most officially recognized churches. However, foreign experts confirmed reports of chronic shortages of

Bibles, primarily due to limited print runs at the one government-approved publisher and logistical problems in disseminating Bibles to rural areas. The situation has improved in recent years. Customs officials continued to monitor for the “smuggling” of Bibles and other religious materials into the country. Hong Kong resident Li Guangqiang (Lai Kwong-keung), arrested in July 2001 for smuggling Bibles into the mainland, was sentenced on January 28 to 2 years in prison. He was released in early February on medical parole. Two Chinese men arrested with Li, Yu Zhudi and Lin Xifu, were sentenced to 3 years in jail. There were also credible reports that the authorities sometimes confiscated Bibles in raids on house churches.

Religious groups that preached beliefs outside the bounds of officially approved doctrine (such as the imminent coming of the Apocalypse, or holy war) or that had charismatic leaders often were singled out for particularly severe harassment. Some observers attributed the unorthodox beliefs of some of these groups to undertrained clergy. Others acknowledged that some individuals may have been exploiting the re-emergence of interest in religion for personal gain. Police continued their efforts to close down an underground evangelical group called the “Shouters,” an offshoot of a pre-1949 indigenous Protestant group. Many groups, especially those in house churches, reportedly were viewed by officials as “cults.” The Government continued a general crackdown on groups it labeled cults, such as Eastern Lightning, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, the Family of Love, the Dami Mission, and other groups. According to reports, the crackdown on the Falun Gong in 1999 led to a tightening of controls on all non-officially sanctioned groups.

Weekly services of the foreign Jewish community in Beijing have been held uninterrupted since 1995 and High Holy Day observances have been allowed for more than 15 years. The Shanghai Jewish community was allowed to hold services in an historic Shanghai synagogue, which has been restored as a museum. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis. The Church of Jesus Christ of Latter-day Saints meets regularly in a number of cities, but its membership was strictly limited to the expatriate community.

During the year, the Government continued its harsh and comprehensive campaign against the Falun Gong. There were many thousands of cases of individuals receiving criminal, administrative, and extrajudicial punishment for practicing FLG, admitting that they believed in FLG, or simply refusing to denounce the organization or its founder. By mid-year 2001, the campaign against FLG appeared to have abated somewhat in eastern and southern China, perhaps due to the decreased number of practitioners in those regions, but the campaign in Sichuan Province and the northeast continued.

Since the Government banned the FLG in 1999, the mere belief in the discipline (and since January, even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained since 2000 were released, those identified by the Government as “core leaders” have been singled out for particularly harsh treatment. More than a dozen FLG members have been sentenced to prison for the crime of “endangering state security,” but the great majority of FLG members convicted by the courts since 1999 have been sentenced to prison for “organizing or using a sect to undermine the implementation of the law,” a less serious offense.

However, most practitioners were punished administratively. Many thousands of persons were in reeducation-through-labor camps. Other practitioners were sent to detention facilities specifically established to “rehabilitate” practitioners who refused to recant their belief voluntarily. In addition, hundreds of FLG practitioners have been confined to mental hospitals (*see* Section 1.d).

Police often used excessive force when detaining peaceful FLG protesters, including some who were elderly or who were accompanied by small children. During the year, there were numerous credible reports of abuse and even killings of FLG practitioners by the police and other security personnel, including police involvement in beatings, detention under extremely harsh conditions, and torture (including by electric shock and by having hands and feet shackled and linked with crossed steel chains). Various sources reported that since 1997 several hundred FLG adherents have died while in police custody (*see* Section 1.a.). In February Chengdu University Associate Professor Zhang Chuansheng, a longtime FLG practitioner, was arrested in his hometown and taken to Chengdu’s main prison. He died there 3 days later. Prison authorities claimed the 54-year-old had died of a heart attack, but his family, who saw his body after Zhang’s death, claimed he had been severely beaten.

FLG practitioners continued their efforts to overcome government attempts to restrict their right to free assembly, especially in Beijing, but the number of protests at Tiananmen Square decreased considerably during 2001 and remained low during the year (*see* Section 2.b.).

In 2001 the Government launched a massive anti-FLG propaganda campaign, initiated a comprehensive effort to round up practitioners not already in custody, and sanctioned the use of high pressure indoctrination tactics in an effort to force practitioners to renounce the FLG. Neighborhood committees, state institutions (including universities), and companies reportedly were ordered to send all known FLG practitioners to intensive anti-FLG study sessions. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend such classes. Those who refused to recant their beliefs after weeks of intensive anti-FLG instruction reportedly were sent to reeducation-through-labor camps, where in some cases, beatings and torture were used to force them to recant; some of the most active FLG practitioners were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

Authorities also detained foreign practitioners. For example, in November 2001, more than 30 foreigners and citizens resident abroad were detained in Beijing as they demonstrated in support of the FLG. They were expelled from the country; some credibly reported being mistreated while in custody.

During the year, the authorities also continued a general crackdown on other groups considered to be “cults,” often using the 1999 decision to ban cults under Article 300 of the Criminal Law. Regulations require all qigong meditation and exercise groups to register with the Government. Those that did not were declared illegal. The Zhong Gong qigong group, which reportedly had a following rivaling that of FLG, was banned in 2000 under the anticult application of the Criminal Law, and its leader, Zhang Hongbao, who resides abroad, was charged with rape, forgery, and other crimes. This created an atmosphere of uncertainty for many qigong practitioners, and there were reports that some qigong practitioners feared practicing or teaching openly. During the year, authorities and experts wrote articles characterizing the rise of religious groups that failed to register and “cults” such as Falun Gong as part of a plot by the West to undermine Chinese authority. In February 2001, Zhang Xinying, vice chairman of the Chinese Society of Religious Studies, said that the rise of “cults” was due to frequent abuse of the concept of “religious freedom” by “some people with ulterior motives.” Other senior leaders made similar comments in the context of criticizing FLG.

The Government taught atheism in schools. While the Government claimed that there were no national-level regulations barring children from receiving religious instruction, in some regions local authorities barred persons under 18 from attending services at mosques, temples, or churches.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Government restricted freedom of movement within the country and restricted the freedom to change one’s workplace or residence. The Government’s national household registration and identification card system, used to control and restrict the location of an individual’s residence, remained in place but continued to erode, and the ability of most citizens to move around the country to work and live continued to improve. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions during the year, especially before politically sensitive anniversaries and to forestall Falun Gong demonstrations.

The “floating population” of economic migrants who left their home areas to seek work was estimated to be between 80 and 130 million. This itinerant population lacked official residence status, which was required for full access to social services. These migrant workers were generally limited to types of work considered least desirable by local residents, and they had little recourse when subject to abuse by employers and officials. However, some cities, such as Beijing, were beginning to offer some social services free of charge.

In 1998 the Ministry of Public Security issued revised regulations that allow persons from the countryside to apply for permanent residence in a city if: 1) they have investments or property in a city; 2) they are elderly and have children who live in a city; or 3) their spouses live in a city. There were separate, more liberal, regulations for some persons with advanced degrees.

Landmark regulations under consideration at year’s end would give rural migrants a legal right to work in cities, prohibit job discrimination based on residency,

require employers to sign contracts with migrant workers, and encourage urban schools to enroll the children of rural migrants.

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some “undesirables,” including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. These persons often were detained or expelled under custody and repatriation regulations or similar administrative regulations (see Section 1.d.). There were reports of spot checks of identification documents, housing raids, and harassment of migrants at train and bus stations in Beijing during the year, particularly prior to the October 1 National Day holiday.

Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and while foreign dignitaries visited the country.

Under the “staying at prison employment” system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain persons permission to return to their homes after serving their sentences. Those persons sentenced to a total of more than 5 years in reeducation-through-labor camps on separate occasions also could lose their legal right to return to their home area. For those assigned to camps far from their residences, this practice constituted a form of internal exile. The number of prisoners subject to this restriction was unknown. Authorities reportedly forced other recently released prisoners to accept jobs in state enterprises where they could be closely monitored. Other released or paroled prisoners returned home but were not permitted freedom of movement. Former senior leader Zhao Ziyang remained under house arrest, and security around him was tightened routinely during sensitive periods. Zhao was allowed approximately one trip outside of Beijing per year.

Official poverty alleviation programs and major state projects, such as environmental and reforestation programs, have included forced relocation of persons to new residences. The Government estimated that by the completion of the Three Gorges Dam, at least 1.2 million people will have been relocated for this project.

The Government permitted legal emigration and foreign travel for most citizens. Passports were increasingly easy to obtain. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad; however, the Government did not control privately sponsored students, who constituted the majority of citizens studying abroad. Business travelers who wished to go abroad could obtain passports relatively easily.

There were reports that some academics faced travel restrictions around the year’s sensitive anniversaries, particularly the June 4 anniversary of the 1989 Tiananmen Square massacre, and there were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents. Some FLG members also reportedly had difficulty in obtaining passports during the year. In May 2001, the Government prevented Dr. Gao Yaojie, who had exposed the cause of an AIDS epidemic in several villages, from traveling abroad to receive an award.

Similarly, visas to enter the country also were denied. For example, some foreign academics continued to be denied visas. International observers and human rights organizations reported that they could substantiate claims that border control points kept background records of certain individuals who were to be denied entry. Authorities denied these reports.

The Government continued efforts to attract persons who had studied overseas back to the country. Official media have stated that persons who joined foreign organizations hostile to the country should quit them before returning home and refrain while abroad from activities that violate China’s laws.

Although a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the country has no law or regulations that authorize the authorities to grant refugee status. The Government reportedly continued to draft working rules on granting such status. The Government cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country; the Government was less cooperative when dealing with some other refugees. The Government does not provide first asylum. However, since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons—fewer than 100 annually—from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to

operate along its northeastern border with North Korea because it considered North Koreans who crossed the border to be illegal economic migrants.

During the year, thousands of North Koreans were seized, detained, and forcibly returned to their homeland, where many faced persecution. In recent years, crackdowns on prostitution and forced marriages have resulted in increased deportations of North Korean women. During the year, the Government did permit approximately 130 North Koreans to travel to Seoul after they had entered diplomatic compounds or international schools in China, and hundreds more arrived in South Korea via third countries such as Mongolia, Vietnam and Cambodia after transiting through China. In response to these high profile incidents, the Government tightened border controls, and border crossings declined significantly late in the year.

The Government also arrested and detained some foreign missionaries and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. For example, Reverend Bong-il Choi was detained on April 12, humanitarian worker Hee-tae Kim was detained on August 31, and humanitarian worker Hiroshi Kato was detained in October.

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

Citizens lack the right to change their government peacefully and cannot freely choose or change the laws and officials that govern them. Rural citizens voted directly for their local village committees, which were not considered to be government bodies, and for party-reviewed candidates for delegate positions in township and county-level people's congresses. However, people's congress delegates at the provincial level were selected by county-level people's congresses, and in turn provincial-level people's congresses selected delegates to the National People's Congress. Although the CCP vets candidates for all elections above the village level, many county and provincial elections were competitive to some degree, with more candidates running than there were seats available.

According to the Constitution, the NPC is the highest organ of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In general the election and agenda of people's congresses at all levels remained under the firm control of the CCP, the paramount source of political authority. By year's end, 19 provincial party leaders had been named to head provincial people's congresses in order to reassert party control over the legislatures. The CCP retained a tight rein on political decisionmaking and forbade the creation of new political parties. The Government continued efforts to suppress the China Democracy Party, an organization that had attracted hundreds, perhaps thousands, of members nationwide since its founding in 1998. Public security forces had previously arrested nearly all of the CDP's leaders, and late in the year a renewed crackdown targeted remaining activists. For example, CDP activists He Depu, Sang Jianchen, Zhao Changqing, Ouyang Yi, Dai Xuezhong, and Jiang Lijun were among those persons arrested in November after signing an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre.

Scores of CDP members were detained in cities throughout the country in the period prior to the 10th anniversary of the Tiananmen massacre in 1999. The CDP's three best known leaders, Xu Wenli, Wang Youcai, and Qin Yongmin, were sentenced in 1998 to prison terms of 13, 12, and 11 years, respectively. Xu Wenli was released on medical parole to the United States in December. Since December 1998, at least 38 core leaders of the CDP have been sentenced to long prison terms on subversion charges. Hu Mingjun and Wang Sen, CDP leaders in Sichuan, were sentenced in May to 10- and 11-year sentences, respectively, on subversion charges for supporting protesting workers at the Dazhou Iron and Steel Plant in December 2000. In December 2001, Lu Xinhua, one of the founders of the Hubei chapter of the CDP, was sentenced to 4 years in prison for writing an article saying that President Jiang Zemin's political theory was a vestige of feudalism and the imperial system. Also in December 2001, Wang Jinbo, a CDP activist in Shandong Province, was sentenced to 4 years for subversion after posting on the Internet articles from foreign Web sites and urging the Government to reassess the 1989 crackdown on Tiananmen Square democracy advocates.

Under the Organic Law of the Village Committees, all of the country's approximately 1 million villages were expected to hold competitive, direct elections for sub-governmental village committees. A 1998 revision to the law called for improve-

ments in the nominating process and improved transparency in village committee administration. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or party branches.

According to the Ministry of Civil Affairs, the majority of provinces have carried out at least four or five rounds of village elections. Foreign observers who monitored local village committee elections judged the elections they observed, on the whole, to have been fair. However, the Government estimated that one-third of all elections had serious procedural flaws; reballoting occurred in some of these cases and many villages had yet to hold truly competitive elections. Corruption and interference by township level officials continued to be a problem in some cases.

Since 1998 there has been experimentation at the township level designed to expand the role of township residents in the selection of their leaders; these experiments initially went forward at the recommendation of the NPC despite provisions in China's Constitution which forbid direct election of officials above the village level. Such experimentation came to favor a system of "elections" incorporating open nomination of candidates by township residents and pro forma confirmation by the township people's congress, selected either directly by residents or indirectly by "residents' representatives." However, in July 2001, the NPC issued a directive reminding those responsible that such procedures need to be consistent with the Constitution. While limited experimentation continued to take place, the results of such elections were vulnerable to being overturned as "unconstitutional."

Candidates favored by local authorities have been defeated in some elections, although in general the CCP dominates the local electoral process. Approximately 60 percent of the members elected to the village committees were party members. National-level election procedures mandate secret ballots and require villagers to be given ballots with space for write-in candidates, and these requirements were implemented in most cases.

In 2001 the SPC found 17,931 government officials guilty of corruption or of accepting bribes during the year. In addition, according to the Supreme People's Procuratorate's report to the NPC, in 2001 procuratorates at all levels investigated 40,195 public officials for graft or bribery and sentenced 20,120 persons for those crimes during the year.

The Government placed no restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the party or government structure. One member of the 22-member Politburo was a woman, and only one of 29 ministerial-level positions was held by a woman. Women freely exercised their right to vote in village committee elections, but only a small fraction of elected members were women. The Government and party organizations included approximately 12 million female officials out of 61 million party members. Women constituted 21.83 percent of the NPC. The 16th Party Congress elected 27 women to serve as members or alternates on the 198-person Central Committee, an increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 56 nationalities were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minorities to serve as members or alternates on the Central Committee. Minorities held few senior party or government positions of significant influence.

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

The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions. It was difficult to establish an NGO, and the Government tended to be suspicious of independent organizations; most existing NGOs were quasi-governmental in nature and were closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information was disseminated outside of the country through organizations such as Hong Kong-based Information Center for Human Rights and Democratic Movement and New York-based Human Rights in China. The press regularly printed articles about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations and criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. The Government maintained that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social

situation, and level of economic development. The Government established the China Society for Human Rights, a “nongovernmental” organization whose mandate was not to monitor human rights conditions but to defend the Government’s views and human rights record.

The Government had active human rights dialogs with many countries, including Australia, Canada, Chile, Hungary, Norway, Switzerland, the United Kingdom, and the United States, as well as with the European Union.

In May 2000, the U.N. Committee Against Torture issued a report expressing concern about continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities. It recommended that the country incorporate a definition of torture into its domestic law in full compliance with international standards, abolish all forms of administrative detention (including reeducation-through-labor), promptly investigate all allegations of torture, and provide training courses on international human rights standards for police. Government officials who appeared before the Committee stated that the country had done a great deal in recent years to address torture by officials but noted that problems remained in supervising the judicial system. In November 2000, the Government signed a Memorandum of Understanding (MOU) with the U.N. High Commissioner on Human Rights that was designed to help the country comply with the terms of the International Covenant on Civil and Political Rights, which the Government has signed but not ratified, and the International Covenant on Economic, Social, and Cultural Rights, which the Government has ratified. Under the MOU, programs to be implemented include human rights education for judges, prosecutors, and police; other human rights education programs; the publication of reports; and fellowships for experts to study abroad. At year’s end, the Government made a commitment to extend invitations, without conditions, to the U.N. Special Rapporteur on Torture, the U.N. Special Rapporteur on Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the leaders of the U.S. Commission on International Religious Freedom.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice societal discrimination based on ethnicity, gender, and disability persisted. The concept of a largely homogeneous Chinese society pervaded the thinking of the Han majority.

Women.—Violence against women was a significant problem. There was no national law specifically targeting domestic violence, although amendments to the Marriage Law, adopted in April 2001, were aimed in part at providing protection against spousal abuse. NPC members claimed that most of the 33 changes to the law were designed to support the rights of women and children victimized by family violence. In recognition of the seriousness of spousal abuse, 13 provinces and provincial level cities have passed legislation to address the problem. Sociologists noted that there has been no detailed research on the extent of physical violence against women. However, anecdotal evidence suggests that the reporting of domestic abuse was on the rise, particularly in urban areas, because greater attention has been focused on the problem. A July 2000 survey report by the All-China Women’s Federation (ACWF) found that violence occurred in 30 percent of families, and 80 percent of cases involved husbands abusing their wives. Actual figures may be higher because spousal abuse still went largely unreported. The survey found that domestic violence occurred at all socioeconomic levels. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances in which local birth planning officials reportedly have used physical coercion to meet government goals (see Section 1.f.). In addition, women faced a disproportionate burden due to the Government’s enforcement of its birth limitation laws and practices, which require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to some estimates by experts, there were 4 to 10 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women trapped thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country was involved in prostitu-

tion, with the percentage higher in cities. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis. In light of this and, in particular, of the growing threat of AIDS among sex workers, the U.N. Convention on the Elimination of Discrimination Against Women (CEDAW) Committee in 1998 recommended that due attention be paid to health services for female prostitutes. Although the Central government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far, actions to crack down on this lucrative business, which involved organized crime groups and businesspersons as well as the police and the military, have been largely ineffective.

Trafficking in women and children and the kidnaping and sale of women and children for purposes of prostitution or marriage were serious problems (see Section 6.f.).

No statute outlaws sexual harassment in the workplace. The problem remained unaddressed in the legal system and often in society. There were reports that due to the lack of legal protections and to women's economic vulnerability, many victims of sexual harassment did not report it out of fear of losing their jobs. However, experts stated that more women were raising their concerns about sexual harassment because of greater awareness of the problem.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The 1992 Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Women's economic and political influence has increased. Nonetheless many activists and observers increasingly were concerned that the progress that has been made by women over the past 50 years was being eroded and that women's status in society had regressed during the 1990s. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the Government to educate women about their legal rights, and there was anecdotal evidence that women increasingly were using laws to protect their rights.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result, very few cases were brought to court. Some observers also noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than sex discrimination and sexual harassment. The structure of the social system also prevented women from having a full range of options. Women who sought a divorce faced the prospect of losing their housing since government work units allot housing to men when couples marry.

Women have borne the brunt of the economic reform of state-owned enterprises. Of the millions of workers laid off due to the reform of state-owned enterprises, a disproportionate percentage were women, many of whom did not have the skills or opportunities to find new jobs. Discriminatory hiring practices appeared to be on the increase as unemployment rose. Increasingly, companies discriminated by both sex and age, although such practices violate labor laws.

Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some even lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also had the effect of reducing pensions, which generally were based on years worked.

The law provides for equal pay for equal work. However, a recent government survey found that women were paid only 70 to 80 percent of what men received for the same work. Most women employed in industry worked in lower skilled and lower paid jobs.

According to official figures, in 1995 there were 145 million illiterate persons above the age of 15. Women made up approximately 70 percent of this total. A 1998 Asian Development Bank report estimated that 25 percent of all women were semi-literate or illiterate, compared with 10 percent of men.

A high female suicide rate continued to be a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (approximately 500 per day). The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Many observers believed that violence against women and girls; discrimination in education and employment; the traditional preference for male children; the country's birth limitation policies; and other societal factors contributed to the especially high female suicide rate.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to figures released by the All-China Women's Federation, at the end of 1997, women made up 36 percent of all university students, and 30 percent of all graduate students. However, educators in the large cities reported that there was a trend toward greater gender balance in universities. Some academics have reported that in some undergraduate and graduate departments women were beginning to outnumber men. However, women with advanced degrees reported an increase in discrimination in the hiring process as the job distribution system opened up and became more competitive and market driven.

Children.—The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children did not attend school for the required period. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory fees to meet revenue shortfalls. Such fees made it difficult for poorer families to send their children to school or to send them on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often did not attend school, although they could be allowed to do so if they pay required school fees, which usually were higher for non-residents and which their parents generally could not afford. The Government campaign for universal primary school enrollment by 2000 (which was not met) helped to increase enrollment in some areas. It also reportedly led school officials to inflate the number of children actually enrolled.

An extensive health care delivery system has led to improved child health and a continued decline in infant mortality rates. According to the most recent official figures, the infant mortality rate was 32 per 1,000 in 1996. According to UNICEF statistics, the mortality rate for children under 5 years of age was 40 per 1,000 live births.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the SFPC, only a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

Despite government efforts to prevent kidnaping and the buying and selling of children, these problems persisted in some rural areas (*see* Section 6.f.). There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. Children also were trafficked for labor purposes. Girls and women were trafficked for prostitution and for sale as brides (*see* Section 6.f.).

Children were reportedly detained administratively in custody and repatriation centers, some in the company of their parents. Others were detained for minor crimes they committed or because they were homeless. According to a credible report, children at times accounted for as many as 20 percent of those detained in custody and repatriation centers. Such children routinely were detained with adults and sometimes were required to work (*see* Sections 1.d. and 6.c.).

Female infanticide, sex selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons, and the birth limitation policy. Many families, especially in rural areas, used ultrasound to identify female fetuses and terminate pregnancies. An official study in Hainan found that 68 percent of abortions were of female fetuses. Official figures from November 2000 put the overall male-female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the ratio was 151.9 to 100 (*see* Section 1.f.). Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide trend. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest

in areas where women had a lower social status and economic and medical conditions were poor.

The Law on the Protection of Juveniles forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annually was approximately 1.7 million, despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of children in orphanages were female, although some were males who were either disabled or in poor health. The treatment of children at these institutions has improved, especially with the increased attention created by foreign adoptions, but serious problems remained and mortality rates in some institutions were high. Medical professionals frequently advised parents of children with disabilities to put the children into orphanages. In recent years, some private orphanages (not funded by the Government), in which conditions may be generally better for children, have started to operate. In areas where such orphanages existed, some state-run orphanages exhibited a willingness to learn from them and to adopt some of their more modern practices, including the use of foster care.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, especially those who were admitted with serious medical problems. In an effort to address this problem, in 1997 the NPC revised the adoption law to make it easier for couples to adopt. The new law dropped a restriction that parents who adopt a child must be childless. It also allows for multiple adoptions and lowers the age at which couples were eligible to adopt. Since 1997 there have been credible reports of renovation and new construction of orphanages and of improved care of children in some areas. Over \$30 million (RMB 248.4 million) reportedly has been allocated for this program since 1997.

Persons with Disabilities.—The law protects the rights of the country's persons with disabilities. According to the official press, all local governments have drafted specific measures to implement the law. The press publicized both the plight of persons with disabilities and the Government's efforts to assist them. The Government, at times in conjunction with NGOs such as the Lions Club International, sponsored a wide range of preventive and rehabilitative programs, including efforts to reduce congenital birth defects, treat cataracts, and treat hearing disorders. The goal of many of these programs was to allow persons with disabilities to be integrated into the rest of society.

However, reality for persons with disabilities lagged far behind legal dictates, and many did not receive or have access to special assistance or to programs designed to assist them. Misdiagnosis, inadequate medical care, pariah status, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, often far from the parents, and in which care was often substandard. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities lived in extreme poverty. Unemployment among disabled adults remained a serious problem. The Government's official strategy was to integrate persons with disabilities into the mainstream work force, but efforts to do so must confront a cultural legacy of discrimination and neglect. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The Population and Family Planning Law, which went into effect September 1, requires local governments to employ such practices to raise the percentage of healthy births.

Persons in urban areas with mental illness or disability who were found on city streets could be detained administratively under custody and repatriation regulations, ostensibly for their protection (*see* Section 1.d.). The conditions under which they were held in such centers reportedly were poor, and they were sometimes required to work.

National/Racial/Ethnic Minorities.—According to the 2000 census, the total population of the country's 55 ethnic minorities was 106.43 million, or 8.41 percent of the total population. Most minority groups resided in areas they traditionally have inhabited. The Government's avowed policy on minorities calls for preferential treat-

ment in marriage regulations, birth planning, university admission, and employment. However, in some areas, ethnic minorities, especially those living in urban areas, have been pressured to limit births to the lower number Han Chinese are allowed (*see* Section 1.f.). Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice minorities faced discrimination. Most of the minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibet. The Government did not openly recognize racism against minorities or tension among different ethnic groups as problems. Ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs associated with development projects; Han workers were brought in from Sichuan and elsewhere to work, especially on technical projects such as oil and gas pipelines.

Government development policies have long been in place to improve minority living standards. However, real incomes in minority areas, especially for non-Han groups, remained well below those in other parts of the country, and the majority Han Chinese have benefited disproportionately from government programs and economic growth. Many development programs have disrupted traditional living patterns of minority groups, including ethnic Tibetans and the Muslim Turkic majority of western Xinjiang. There was evidence that official poverty alleviation programs and major state projects, such as building dams and environmental/reforestation projects, included the forced evacuation of persons (*see* Section 2.d.).

Since 1949 government policy has resulted in a significant migration of Han Chinese to Xinjiang. According to a government white paper, in 1998 there were approximately 8 million Uighurs, 2.5 million other ethnic minorities, and 6.4 million Han in Xinjiang, up from 300,000 Han in 1949. The Government does not count "temporary workers" as part of the official population in the area in which they work. Temporary workers may spend several years at their new location, and there was no evidence to suggest that they were required to return to their home province within any specific time limit. The migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. By some estimates, 250,000 Han annually have moved into the region in the last few years. Similarly, many non-Tibetan residents of the Tibet Autonomous Region have lived there for years as "temporary" residents (*see* Tibet Addendum).

In many areas with a significant population of minorities, there were two-track school systems using either Mandarin or the local minority language. Students can choose to attend schools in either system. Designed to protect and maintain minority cultures, this divided education system placed those graduating from minority schools at a disadvantage in competing for jobs in government and business, which required good Chinese-language skills. Graduates of these schools typically needed 1 year or more of intensive Chinese before they could handle course work at a Chinese-language university. The vast majority of Uighur children in Xinjiang attended Uighur-language schools, and generally received an hour's Chinese language instruction per day. Tuition at Chinese-language schools in Xinjiang was generally more costly and thus most Uighur children living in rural areas were unable to afford them.

The Communist Party has an avowed policy of boosting minority representation in the Government and the CCP, and minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. A September 1999 government white paper reported that there were 2.7 million minority officials in the Government. Many members of minorities occupied local leadership positions, and a few held positions of influence in the local party apparatus or at the national level. However, in most areas, ethnic minorities were shut out of positions of real political and economic power, which fed resentment of Han officials holding the most powerful party positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued, and the authorities imposed heightened restrictions on political, civil, and religious freedoms in the region. A campaign that began in 1997 to stress unity and to condemn "splittism" and religious extremism showed no signs of abating. During the year, authorities continued to prohibit activities it deemed separatist in nature, announced tightened security measures, and mounted campaigns to crack down on opposition. Because the Xinjiang Uighur Autonomous Region government regularly lists together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, arrests, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. The strike hard campaign in Xinjiang specifically targeted the "three

evils” of extremism, splittism, and terrorism as the major threats to Xinjiang’s social stability. Many observers raised concerns about the Government’s use of the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders.

In 2001 there were numerous reports that Uighurs were being executed or sentenced to long prison terms for separatist activities. In April 2001, immediately after the start of the strike hard campaign, 25 political activists in Kashgar prefecture were arrested for allegedly conspiring to set up an “Eastern Turkestan Republic.” Charges ranged from “endangering state security” to “illegally setting up an organization,” although human rights groups stated that no specific act committed by the group was mentioned. In April 2001, three Uighurs were sentenced for being members of the “1999 August 9 disturbances,” which refers to a demonstration held in front of the local Communist party building to protest the arrest of an imam. Also in 2001, police arrested 186 persons in Aksu prefecture for offenses such as “endangering state security” and seized illegal religious publications, while in the capital, Urumqi, eight persons accused of having endangered social stability were sentenced to prison terms of between 4 and 13 years. According to official accounts, by May 2001 the authorities were prosecuting more than 3,000 cases, and massive public sentencing rallies attended by more than 300,000 persons had been held throughout the region.

In March 2000, a Xinjiang court sentenced Rebiya Kadeer, a prominent Uighur businesswoman and former member of the provincial-level Chinese People’s Political Consultative Conference, to 8 years in prison on charges of “passing state intelligence” to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested in 1999 while on their way to meet a visiting foreign delegation. Kadeer’s son and the secretary were sentenced administratively to 2 and 3-year reeducation-through-labor terms, respectively, in November 1999. Kadeer was reported to be in poor health but has been unable to get adequate medical treatment. Government officials claimed she was well cared for and received better medical treatment than ordinary prisoners. Many foreign observers believed Kadeer was singled out for her activism on behalf of Uighurs and for her husband’s involvement with Uighur causes and Radio Free Asia. In December Kadeer’s family was briefly detained and questioned during a visit of senior foreign officials.

In late 2001, the U.N. Human Rights Committee ruled that Uighur scholar Tohti Tunyaz had been arbitrarily detained. He was sentenced in 1999 to an 11-year term for “inciting separatism” and “illegally acquiring state secrets” after he returned to Xinjiang in connection with his research studies on ethnic minorities at the University of Tokyo.

Possession of separatist publications or audiovisual materials was not permitted, and, according to reports, possession of such materials resulted in lengthy prison sentences. The author of a history of the Uighurs that was severely criticized by provincial-level and national authorities in the mid-1990s remained prohibited from publishing or from meeting with foreigners. A Uighur-language press existed in Xinjiang, but it had a very small circulation.

Han control of the region’s political and economic institutions also contributed to heightened tension. Although government policies brought tangible economic improvements to Xinjiang, Han have received a disproportionate share of the benefits. The majority of Uighurs were poor farmers, and 25 percent were illiterate.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for freedom of association. However, in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the Communist Party and headed by a high-level party official, was the sole legal workers’ organization. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including enterprise-level unions that, according to otherwise unsubstantiated ACFTU claims, increased threefold in the last 5 years to more than 1.6 million unions. Independent unions are illegal. The Tangxia Migrant Workers’ Association, although established with the approval of local authorities in April, was shut down after 3 months of operation when authorities became concerned that it was exhibiting the characteristics of an independent union. The Trade Union Law allows workers to decide whether to join official unions in their enterprises. There were no reports of repercussions for the small percentage of workers in the state-owned sector who had not joined.

Although the ACFTU and its constituent unions had a monopoly on trade union activity, their influence over the workplace diminished with the economic reforms of recent years. ACFTU unions were relatively powerless to protect the tens of millions of members who have lost their jobs or had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises (SOEs). The unions have, however, provided some benefits and reemployment assistance to affected workers.

The ACFTU had difficulty organizing in the country's rapidly growing private and foreign-invested sectors, where union membership during the year was estimated to be less than 20 percent. With declines in the state-owned sector and organizational weakness outside the state sector, the ACFTU's membership declined from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent in recent years. According to the ACFTU, this figure rebounded to approximately 60 percent (131 million) by the end of June.

The existence of an enormous rural labor force—some 550 million out of a total labor force of approximately 750 million—also complicated the organization and protection of workers. Farmers did not have a union or any other similar organization. Of some 130 million rural residents working in township and village enterprises, only a very small percentage were represented by unions. A “floating” migrant labor force of 80 to 130 million persons has proven especially difficult to organize and protect. Some of these migrants gravitated to temporary or seasonal low-wage work in urban areas where their residence, under the country's registration system, often was illegal. Many migrants, including substantial numbers of young women, were attracted to the growing private sector where unions were few and where their desire to earn more than they could in rural areas made them easy to exploit.

The ACFTU strongly supported major amendments to the Trade Union Law, passed by the NPC in October 2001. The amended law gives the ACFTU clearer responsibility to represent workers' interests first and foremost. The amendments also give union organizing activities in the private sector the legal protection that they previously lacked. The amended law provides specific legal remedies against attempts by employers to interfere with organizing activities or to punish union officials for failure to carry out official duties. However, the amendments did not include any change in the legal monopoly of the ACFTU.

During the year, the Government, as in the past, took specific actions against illegal union activity, including the detention or arrest of labor activists. Four leaders of a large workers' protest in Liaoyang city in Liaoning Province were detained in March (*see* Section 2.b.). Two of the four, Yao Fuxin and Xiao Yunliang, remained in detention at year's end, charged with subversion. In May two worker activists, Hu Mingjun and Wang Sen, were found guilty of subversion for supporting December 2000 worker protests in Sichuan Province. In June Di Tianguai was detained after trying to organize a national federation of retired workers. Di also was charged with subversion.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. Shanghai labor dissident Wang Miaogen, detained in 1996, was still being held in a psychiatric hospital. Li Wangyang, who was released from prison in June 2000 after serving 11 years of a 13-year sentence for organizing an independent union during the 1989 prodemocracy movement, and who was sentenced to a second prison term in 2001 for “incitement to subvert state power,” remained in prison. Other labor activists reportedly still in detention included Zhang Shanguang, Li Jiaqing, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, Liu Jingsheng, and labor lawyer Xu Jian.

The country was a member of the ILO and had ratified core ILO conventions prohibiting child labor, including the worst forms of child labor, and discrimination in remuneration for male and female workers. At year's end, the Government had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor. However, in 2001 the Government signed a memorandum of understanding with the ILO for cooperation in such areas as industrial relations, employment promotion, and occupational safety.

At year's end, the Government had not replied to an ILO request for further information in connection with a 1998 complaint brought to the ILO by the International Confederation of Free Trade Unions (ICFTU) alleging the detention of trade unionists and violations of the right to organize. During the year, the ICFTU submitted another complaint to the ILO alleging repression of independent workers' protests in Liaoyang and Daqing and calling attention to the sentencing of two worker activists in Sichuan Province.

The ACFTU maintained active relations with international trade union organizations and established exchanges and cooperative relations with more than 400 trade

unions and international and regional trade organizations in more than 130 countries and regions. In 2000 the ACFTU received its first-ever visit from the head of the ICFTU, and during the year reportedly hosted another ICFTU team. Also during the year, an ACFTU representative was, for the first time, elected to the governing body of the ILO.

In 2001 one of the first free elections, by secret ballot, of the leadership of a factory's ACFTU-affiliated union was held at a foreign-owned factory in Guangdong. In October a second such election was held at a foreign-owned factory in Fujian Province.

b. The Right to Organize and Bargain Collectively.—The Labor Law permits collective bargaining for workers in all types of enterprises. Under the law, collective contracts are to be developed through collaboration between the labor union (or worker representatives in the absence of a union) and management and should specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in accordance with the collective contract.

The country's shift toward a market economy and changing labor-management relations created pressures for collective bargaining that would include more genuine negotiations and take workers' interests into greater account. The amended Trade Union Law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests; however, in practice genuine collective bargaining still did not occur. The ACFTU continued to rely on arrangements among party representatives, management, and union leaders, in which workers had virtually no input.

In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargaining collectively with management.

Workplace-based worker committees were common. These committees were expected to guide union activities and be the vehicle for worker input into enterprise policies. However, in SOEs, many were little more than rubber stamps for deals predetermined by enterprise management, the union, and the CCP representative.

The amended Trade Union Law strengthens the longstanding prohibitions against antiunion discrimination by providing specific legal remedies for such actions (*see* Section 6.a.). The law also specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions was common. Antiunion activity was virtually unknown in the state-owned sector.

Neither the Constitution nor the law provides for the right to strike. The amended Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers have interpreted this provision to offer at least a theoretical legal basis for the right to strike. However, government treatment of worker protests as illegal demonstrations established that there was still no officially accepted right to strike. In addition, no other types of planned worker action were allowed.

As the pace of economic change accelerated, changing relationships between workers and management, growing unemployment, wage and benefit arrearages, and uncertainties about the viability of a new social safety net system resulted in a growing number of labor disputes and spontaneous protests.

The number of labor disputes and protests continued to rise during the year, and the intensity of these protests increased. In March thousands of oil workers in Daqing, Heilongjiang Province, publicly protested the terms of their severance from a state-owned oil company. Also in March, thousands of workers in Liaoyang and Fushun cities in Liaoning Province protested unpaid wages, layoffs, and alleged corruption. As in previous years, officials largely avoided using violence to end the protests and relied on the police to control and disperse protesters. High-level government officials investigated the circumstances of the Daqing protests and were reported to have concluded that the oil company followed the law in its severance policies. In the Liaoyang protests, police detained four protest leaders.

The Labor Law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee under government sponsorship. If no solution is reached at this level, the dispute may be submitted to the courts. According to Ministry of Labor and Social Security (MOLSS) statistics, 64,000 labor disputes were settled through mediation in 2001. Arbitration committees nationwide handled 155,000 disputes in 2001, an increase of approximately 14 percent over the previous year. Of these cases, 150,000 were resolved.

Observers differed over the effectiveness of these dispute resolution procedures in protecting workers' rights and interests. Workers were reported to have little trust

in the fairness of workplace mediation. They viewed unions, which played a major mediation role, as inclined to favor management. A 1999 ICFTU report contended that mediation efforts often were preferential to employers and were largely ineffective in advocating worker rights. Workers appeared to favor arbitration over workplace mediation. While workers had little say in the choice of arbitrators and often looked with suspicion on the local government role in the process, the majority of arbitration decisions favored workers. In the view of some observers, this fact helped to explain the rapid rise in the number of arbitration cases.

Laws governing working conditions in Special Economic Zones (SEZs) were not significantly different from those in effect in the rest of the country. Lax enforcement of these laws by provincial and local officials was a serious problem in the SEZs, as in other parts of the country. Wages in the SEZs and in the southeastern part of the country generally were higher for some categories of workers than in other parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials have admitted that some investors in the SEZs were able to negotiate “sweetheart” deals with local partners that bypassed labor regulations requiring the provision of benefits and overtime compensation. Some foreign businesses in the SEZs had ACFTU-affiliated unions, and management reported positive relations with union representatives, in part because the ACFTU discouraged strikes and work stoppages.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced and bonded labor, and the Government denied that forced or bonded labor was a problem. However, forced labor was a problem in penal institutions. Prisoners regularly worked in prisons and reeducation-through-labor institutions. In some cases, prisoners worked in facilities directly connected with penal institutions; in other cases, they were contracted to nonprison enterprises. The economic benefits that penal institutions received from prisoners’ work and the inconsistent application of standards of official accountability increased the chance that prison labor was coerced and abusive.

Some persons in pretrial detention also were required to work. Inmates of custody and repatriation centers, who were detained administratively without trial, were required to perform labor while in detention, often to repay the cost of their detention (see Section 1.d.). Most such inmates performed agricultural labor.

In 1992 and 1994, the U.S. and Chinese governments signed agreements that allow U.S. officials, with the approval of the Government, to visit prison production facilities to check specific allegations that prisoners in these facilities have produced goods exported to the United States. Some, although not all, of these allegations claimed that these goods were produced under conditions of forced labor. Since these agreements were signed, the Government’s cooperation with U.S. officials has been poor. Between 1997 and 2001, the Government allowed U.S. officials to conduct only one visit to a prison labor facility. During the year, limited progress was made with the initiation of regular meetings between U.S. Embassy and Ministry of Justice officials. Embassy officials conducted one prison visit during the year. However, the Government did not change its position that reeducation-through-labor facilities were not prisons, and no progress was made in allowing Embassy officials to visit them under the prison labor agreements.

Most anecdotal reports contended that working conditions in the penal system’s light manufacturing factories were similar to those in other factories, while conditions in prison farms and in mines were often particularly severe. In May 2001, 39 prisoner-miners were killed in a coal mine flood in Sichuan Province. There were no comprehensive statistics for work-related deaths and injuries among prisoners.

The Government prohibits forced and bonded labor by children, but some child trafficking victims were reportedly sold into forced labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children, but the Government had not adopted a comprehensive policy to combat child labor. The labor law specifies that, with a few strictly supervised exceptions, “no employing unit shall be allowed to recruit juveniles under the age of 16.” The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children’s subsistence. Workers between the ages of 16 and 18 were referred to as “juvenile workers” and were prohibited from engaging in certain forms of physical work, including labor in mines.

The Government maintained that the country did not have a widespread child labor problem, and it was generally believed that the majority of children who worked did so at the behest of their families, especially in impoverished rural areas, to supplement family income. Apart from agricultural work, child workers in rural

areas appeared to work primarily for township and village enterprises. In urban areas, they worked as car washers, garbage collectors, and street vendors. Some observers believed that coal mines, which often operated far from urban centers and out of the purview of law enforcement officials, also occasionally employed children. The existence of a large adult migrant labor force, often willing to work long hours for low wages, reduced the attractiveness of child labor for employers.

However, in an apparent shift from the Government's previous reluctance to acknowledge that child labor was a problem, in 2001 the Government publicly convened an interagency commission, under the leadership of the Ministry of Public Security, to study the issue. In October the State Council issued regulations updating and strengthening existing child labor prohibitions. For example, the regulations require employers to check the identity cards of all applicants and specify fines for violations.

Some students worked in light industrial production within or for their schools. In 2001 an explosion at an elementary school in Jiangxi Province killed 42 persons, most of them school children. Local residents credibly claimed that fireworks, assembled by pupils in the school, caused the explosion. The Government initially denied this allegation but later implicitly acknowledged its accuracy. In the wake of the accident, the Jiangxi Provincial Education Department ordered all primary and secondary schools to conduct safety inspections, to limit outsiders' access to school facilities, and to ensure that "production activities that might compromise the safety of teachers and students" were prohibited. In addition, some local and provincial officials were dismissed.

In June the Government ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The amended Trade Union Law strengthens the authority of unions to protect workers against violations of their legal rights or contractually agreed conditions of work. The Law on the Prevention and Treatment of Occupational Diseases, passed in 2001, and the Production Safety Law, passed during the year, clarify responsibilities for work-related illness and accidents and provide for specific penalties for violation of the law. Nonetheless, lax enforcement of these laws and related regulations was a problem.

There was no national minimum wage. The Labor Law allows local governments to determine their own standards for minimum wages. Local governments generally set their minimum wage at a level higher than the local minimum standard income but lower than the average wage. Widespread official corruption and efforts by local officials to attract and keep taxpaying, job-producing enterprises that might otherwise locate elsewhere undercut enforcement of the minimum wage provisions.

The Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, especially in the private sector. They were particularly ignored in enterprises that could rely on a vast supply of low-skilled migrant labor. In many industries such as textile and garment manufacturing, compulsory overtime reportedly was common, often without overtime pay. During the year, auditors found that some factories routinely falsified overtime and payroll records. There also were reports of workers being prevented from leaving factory compounds without permission.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was administratively joined with the State Administration for Coal Mine Safety Supervision (SACMSS), was responsible for providing a nationwide framework for work safety. The Ministry of Health was responsible for prevention and treatment of occupational illness. SAWS/SACMSS staffed nearly 70 field offices throughout the country. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. However, enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. According to official statistics, 87,320 workers were killed in work-related (including traffic) accidents in the first 9 months of the year. Of these, 9,216 were killed in industrial and mining accidents. Of the 9,216, 4,205 were killed in coal mining accidents.

These official statistics almost certainly underestimated the real scope of workplace deaths and injuries. Enterprise owners and managers sometimes failed to re-

port accidents and health problems. Local officials also often underreported such incidents.

The high rate and seriousness of coal mining accidents highlighted serious enforcement problems in that sector. For example, on December 6 a fire in an illegal single-shaft mine run by government-owned Wanbao Coal Mine in Taonan City, Jilin Province, killed 30 persons. In recent years, the Government shut tens of thousands of small coal mines and announced tougher mine inspection and closure standards. Some of the worst mining accidents occurred in mines that had reopened illegally after being officially closed. Observers attributed the enforcement problem in the coal mining sector primarily to corruption; a need to sustain employers in small localities, where many of the most dangerous mines were located; and a paucity of inspectors.

Less than half of rural enterprises met national dust and poison standards. Many factories that used harmful products, such as asbestos, not only failed to protect their workers against the ill effects of such products, but also failed to inform them about the hazards.

Approximately 43.5 million workers were reported to be participating in the country's new work-injury insurance system at the end of 2001. This total represented an increase from the 42 million workers covered at the end of 2000 but fell short of the announced target of 50 million.

In recent years, small but growing numbers of workers began to use lawsuits to pursue work injury and illness claims against employers.

f. Trafficking in Persons.—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking were serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons, but a minority of cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that some victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. Some experts, including the CEDAW Committee, have suggested that the serious imbalance in sex ratios in some regions (*see* Section 1.f.) has created a situation in which the demand for marriageable women cannot be met by local brides, thus fueling the demand for abducted women. The problem of a shortage of marriageable women was exacerbated by the tendency for many village women to leave rural areas to seek employment. In addition, the cost of traditional betrothal gifts given to a bride's family sometimes exceeded the price of a trafficked bride and thus made purchasing a bride more attractive to poor rural families. Some families addressed the problem of a shortage of women by recruiting women in economically less advanced areas. Others sought help from criminal gangs, which either kidnaped women and girls or tricked them by promising them jobs and an easier way of life and then transported them far from their home areas for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished. According to reports, many of the kidnappings also occurred in provinces where the male to female ratio was generally balanced.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Trafficking of North Korean women and girls into the country to work in the sex industry was reportedly widespread in the northeastern part of the country; border guards reportedly were involved. Many such women, unable to speak Chinese, were virtual prisoners. Others chose to stay in their new situation because China was less poverty-stricken than North Korea. A few of the Korean women were sold against their will to rural men in both ethnic Korean and ethnic Han areas. Others ended up working as prostitutes. According to press reports, North Korean brides were sold for approximately \$38 (RMB 315) to \$150 (RMB 1,245). Women reportedly also were trafficked from Vietnam into the country for purposes of forced marriage.

Chinese citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that Chinese citizens were trafficked to Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States. A large number of citizens were trafficked through Hong Kong.

Most trafficked Chinese women in Malaysia were from the coastal areas of Guangdong, Fujian, and Shanghai; they were trafficked by ethnic Chinese gangs.

Most Chinese women trafficked to Australia reportedly came from Shanghai, Hong Kong, and Guangzhou.

In February a Singapore court jailed for 30 months a man who trafficked four Chinese women to be waitresses on a Singapore-based cruise ship. The young women were forced to work as prostitutes on the ship after their arrival. In 2000 authorities in Italy reported that an estimated 30,000 illegal Chinese immigrants worked in sweatshop conditions outside of Florence, with many children working alongside their parents in the production of scarves, purses, and imitations of various brand name products.

Alien smuggling rings often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 248,000 to 415,000) each for their passage. Upon arrival, many reportedly were forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often also were forced to pay charges for living expenses out of their meager earnings. The conditions under which these trafficked persons had to live and work were generally poor, and they were often required to work long hours. The smuggling rings that trafficked them often restricted their movements, and their travel documents, which were often fraudulent, frequently were confiscated. Victims of trafficking faced threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protested the situation in which they found themselves.

Kidnaping and the buying and selling of children continued to exist, especially in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively richer areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances that their children would be able to send to them. In an effort to gain a degree of control over this problem, in mid-2000, the Government began to use DNA technology to confirm parentage. The Chinese Ministry of Public Security reportedly invested millions of dollars to establish a national DNA databank. During the year, the databank was operational.

The purchase of women was criminalized in 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Beginning in 2000, authorities organized a nationwide crackdown aimed at stemming the growth of trafficking in women and children. As part of that program, according to official media reports, 110,000 women and 13,000 children who had been abducted were rescued. Authorities have continued to combat the problem of trafficking; in 2000 they arrested more than 19,000 persons, and sentenced more than 11,000 to punishments including, in a few cases, death.

However, despite government efforts to crack down on trafficking in women and children, the demand far outstripped the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution.

The Government continued to struggle with the pervasive problem of official corruption, as demonstrated by the prosecution and sentencing of roughly 18,000 officials on corruption-related charges in 2000. There were foreign reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, which sometimes involved trafficked women. Disregard of the law also manifested itself at the village level, where village leaders have in some cases sought to prevent police from rescuing women who have been sold as brides to villagers.

Agencies involved in combating trafficking included the Ministry of Public Security, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council.

Some victims of domestic trafficking were given assistance and returned to their homes. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The All-China Women's Federation assisted victims in obtaining medical and psychological treatment.

Persons who were trafficked from the country and then repatriated sometimes faced fines for illegal immigration upon their return; after a second repatriation,

such persons could be sentenced to a term in a reeducation-through-labor camp. Alien smugglers were fined \$6,000 (RMB 50,000) and most were sentenced to up to 3 years in prison, although some have been sentenced to death.

Although the central government and various provincial and local governments have attempted to crack down on the sex trade and thus on one type of trafficking, there were numerous credible reports in the media of complicity in prostitution by local officials. Actions to stop this lucrative business were largely ineffective. According to press reports, at least eight persons convicted of trafficking women and children for prostitution were executed during a 2001 campaign, and at least seven others were sentenced to long prison terms. The effort to combat trafficking continued during the year. On September 10, death sentences were granted to 10 members of a gang of child traffickers based in Hebei for kidnaping and selling 16 children between June 2000 and April 2001. Eight other gang members were given life sentences. The Government also maintained a national telephone hot line on abduction, as well as a national databank on victims and traffickers. Nongovernmental experts observed that the national campaign against trafficking focused primarily on the criminal aspects of the trafficking problem and less on the reintegration of victims into their communities, despite the involvement of the ACWF.

UNICEF trained law enforcement personnel to work with trafficking victims. During the year, the Government conducted public education campaigns in provinces and counties against trafficking as a preventive measure. The campaigns included speeches by national and provincial leaders, newspaper articles, and television programs. In addition, the Government-funded ACWF and its subsidiary women's federations at the provincial level conducted educational activities. In some cities, signs in bus and train stations warned women of potential dangers, and police in the stations were trained to look for women who might be traveling against their will.

TIBET

(The United States recognizes the Tibet Autonomous Region (TAR), hereinafter referred to as "Tibet," to be part of the People's Republic of China. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern. For information on ethnic Tibetans living in other regions of China outside the TAR, see the China Country Report on Human Rights Practices.)

Respect for the Integrity of the Person.—The Government's human rights record remained poor, although there were some positive developments. The year was marked by the first early releases of Tibetan political prisoners, with seven prisoners released before serving their full sentences. The Government also permitted visits to Tibet by emissaries of the Dalai Lama and provided reporters and foreign officials with somewhat greater access to the region. However, authorities continued to commit serious human rights abuses, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views. The overall level of repression of religious freedom in Tibet, while somewhat less oppressive for lay followers than in previous years, remained high. Individuals accused of political activism faced ongoing harassment during the year. There were reports of imprisonment and abuse of nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days, while activities viewed as vehicles for political dissent, including celebration of some religious festivals, were suppressed. There were reports of small-scale political protests by ethnic Tibetans in a number of ethnic Tibetan areas, including areas outside Tibet.

There were no reports of prisoner deaths during the year. Deaths of at least 41 Tibetan political prisoners since 1989 can be attributed to severe abuse under detention; at least 20 of those prisoners had been in Lhasa's Drapchi Prison. In 2001 Ngawang Lochoe (also known as Dondrub Drolma), a 28-year-old nun at Sandrup Dolma Lhakang temple, reportedly died after serving 9 years of a 10-year sentence for participating in "counterrevolutionary propaganda and incitement." She died the same day that she was moved to a hospital from Drapchi Prison, reportedly from respiratory and heart failure.

During the year, Chinese authorities granted early releases to seven Tibetan political prisoners, with sentence reductions ranging from 2 months to 12 years. Ngawang Choephel, a Tibetan ethnomusicologist sentenced in 1996 to 18 years in prison on charges of espionage, was released on medical parole in January.

Five nuns serving long prison terms for protest-related activity were released prior to the end of their prison terms; three of these terms were due to expire within a year. Ngawang Sangdrol, the longest-serving female political prisoner in Tibet, was released on medical parole on October 17. Her prison sentence had been ex-

tended three times for her involvement in prison demonstrations but in 2001 was reduced by 18 months for good behavior. She was due for release in 2011. During her incarceration, she was beaten severely on multiple occasions and held in solitary confinement for an extended period. On March 21, Gyaltzen Dolkar was released after serving more than 11 years of a 12-year sentence for demonstrating and recording patriotic Tibetan songs. In May Tenzin Thubten and Ngawang Choekyi were released. They were also among the group of 14 nuns who received lengthy sentence extensions for recording songs in prison in 1993. Tenzin Thubten was 2 months short of serving her full 12-year sentence when released, while Ngawang Choekyi was released almost 3 years before the end of her term. Ngawang Choezom was released in June, 9 months before the end of her 11-year sentence.

In March Tibet's longest-serving political prisoner, Takna Jigme Sangpo, was released from Drapchi Prison into the custody of a Lhasa relative. He subsequently left the country for medical treatment and, at year's end, resided in Europe. Sangpo, who in the 1960s and 1970s had served 13 years in prison, was given a 15-year sentence in 1983 for "spreading and inciting counter-revolutionary propaganda." He subsequently received two sentence extensions for protest activity in prison and was scheduled for release in September 2011.

There were credible reports that prisoners continued to be mistreated. Many former prisoners maintained that authorities used electric shocks, suspension in painful positions, and other forms of torture and abuse. Prisoners routinely were subjected to "political investigation" sessions and were punished if they were deemed to be insufficiently loyal to the state. Unrepentant political prisoners at Lhasa's Drapchi Prison were sent to "isolation cells" for 6 months to 1 year to "break their spirit." Prisoners in this detention area were kept isolated from other prisoners, and sometimes were confined to solitary cells. Sangpo described six other prisoners as having served some portion of their sentences there.

According to Chinese officials, Chadrel Rinpoche, who was accused of betraying state secrets while helping the Dalai Lama choose the 11th reincarnation of the Panchen Lama, was released from prison in February, having served his full sentence. Officials claimed that since his release he has been "studying scriptures in seclusion," but credible reports indicated that he effectively was held under house arrest.

In December an appeals court upheld death sentences against Tenzin Delek Rinpoche and Lobsang Dhondup, who were arrested and sentenced earlier in the year for alleged involvement in a series of bombings in Sichuan (*see* Section 1.e.).

Jigme Tenzin Nyima and Nyima Choedron, owners of a Lhasa orphanage closed by officials in 1999, were convicted of "espionage and endangering national security" and were serving sentences, according to a Prison Administration Bureau official. The status of a third orphanage staff member, reportedly still under detention at year's end, was unknown.

Legal safeguards for ethnic Tibetans detained or imprisoned were the same as those in the rest of China and were inadequate in both design and implementation. A majority of judges were ethnic Tibetans, but most had little or no legal training. Authorities worked to address this problem through increased legal education opportunities. Trials were brief and were closed if issues of state security were involved. Maximum prison sentences for such crimes were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions in support of Tibetan independence, and such activities did not have to be violent to be illegal or to draw a heavy sentence.

The lack of independent access to prisoners and prisons made it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners. According to the Tibet Information Network (TIN), there were 160 to 170 Tibetan political prisoners imprisoned in China, a majority of whom were monks and nuns imprisoned in Tibet. A Prison Administration Bureau official told a foreign delegation in May that of the 2,300 prisoners currently serving sentences in Tibet, 5 percent were incarcerated for "endangering state security or national unity." He reported that, due to releases, the number decreased from 115 such prisoners in 2001 to 110 prisoners as of May. Based on TIN's February report, these included approximately 90 monks and 15 nuns. In August three monks at Drepung Monastery and two at nearby Nechung Monastery were detained after a picture of the Dalai Lama was found in the car of one of the monks. Two of the monks also were implicated in an attempt to raise the Tibetan flag at a ceremony celebrating the "50th Anniversary of Tibet's Peaceful Liberation" in 2001.

Family planning policies permit most ethnic Tibetans, as well as other minority groups resident in Tibet, to have more children than Han Chinese, who were subject to the same limits as Han Chinese in other areas of the country. Urban Tibetans were permitted to have two children, while those in rural areas often had three or

more. In practice, Tibetans working for the Government, especially Communist Party members, were pressured to limit themselves to one child.

The Government regulated foreign travel to Tibet, requiring individual travelers to secure permits for entry to Tibet. Movement of foreigners within Tibet also was controlled tightly. Official visits were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the local authorities. Travel of foreigners and foreign NGO staff was closely monitored, although some foreign NGOs reported fewer restrictions on their travel.

During the year, there were many reliable reports of increased difficulties for ethnic Tibetan residents in obtaining passports. The Government also placed restrictions on the movement of ethnic Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were numerous reports of arbitrary detention of persons, particularly monks, returning to Tibet from Nepal. Detentions generally lasted for several months, although in most cases no charges were brought formally.

Forced labor reportedly was used in some prisons, detention centers, reeducation-through-labor facilities, and at work sites where prisoners were used as workers. Prisoners at many sites received some remuneration and could earn sentence reductions by meeting or exceeding work quotas.

Chinese law mandates that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks. However, some former prisoners reported that work requirements were more onerous than those set forth in the law. At Drapchi Prison, male prisoners reportedly worked in vegetable fields and in factories at the prison. Female prisoners cleaned toilets and also were involved in tailoring, cleaning, or spinning and sorting wool to be used in the manufacture of carpets and sweaters.

Freedom of Religion.—The overall level of religious repression in Tibet, while less oppressive for lay followers than in previous years, remained high. The Government maintained tight controls on some religious practices and some places of worship. While it allowed many types of religious activity, the Government did not tolerate religious manifestations that it viewed as advocating Tibetan independence or any expression of separatism, which it describes as “splittism.” The Government remained suspicious of Tibetan Buddhism in general because of its links to the Dalai Lama, and this suspicion extended to religious adherents who did not explicitly demonstrate their loyalty to the State. Security was intensified during sensitive anniversaries and festival days, while activities viewed as vehicles for political dissent, including celebrations of some religious festivals, were suppressed.

Early in the year, the Government continued its practice of harshly criticizing the Dalai Lama’s political activities and leadership of a government-in-exile. However, the criticism was muted somewhat after the Government extended invitations to several emissaries of the Dalai Lama to visit Tibet and other areas of China. Gyalo Thondup, the Dalai Lama’s elder brother, visited in July, making his first trip to Tibet since he left in 1959. In September Lodi Gyari and Kelsang Gyaltzen, the Dalai Lama’s representatives to the United States and Europe respectively, traveled to Beijing, Lhasa, and other cities where they met with a number of government officials. It was unclear whether the Government viewed these visits as first steps toward dialog with the Dalai Lama’s representatives. The ban on the public display of photographs of the Dalai Lama continued, and such pictures were not readily available except illegally in many parts of Tibet.

Government officials stated that the “patriotic education” campaign, which began in the mid-1990s and dispatched work teams to conduct intensive mandatory political training sessions for nuns and monks at religious sites, was completed in 2000. Officials acknowledged, however, that patriotic education activities for monks and nuns continued on a regular basis at some monasteries and nunneries. There were several credible reports during the year of work teams conducting mandatory political training for monks and nuns at specific religious sites in advance of important anniversaries or other events. Training sessions, which addressed such topics as relations between Tibetans and Han Chinese, Tibet’s historical status as a part of China, and the role of the Dalai Lama in attempting to “split” the country, were aimed at enforcing compliance with government regulations and policies, and either cowing or weeding out monks and nuns who resisted political indoctrination and remained politically loyal to the Dalai Lama.

According to regulations posted at the entrances of many monasteries, monks were required to be “patriotic,” and authorities often required monks and nuns to: Sign a declaration agreeing to reject independence for Tibet; reject Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th reincarnation of the Panchen Lama; reject and denounce the Dalai Lama’s political authority; recognize the unity of China and Tibet; and not listen to the Voice of America or Radio Free Asia.

Some noncompliant monks and nuns have been expelled from religious sites. Others departed “voluntarily” rather than denounce the Dalai Lama.

Ongoing political education requirements were resented deeply by monks, nuns, and lay Buddhists. Although there was some reduction of patriotic education activities throughout the region as the objectives of increasing control over the monasteries and reducing the numbers of monks and nuns were achieved, many monasteries and nunneries were disrupted severely, and some monks and nuns fled to India to escape the campaigns.

The number of Tibetans who entered Nepal seeking refugee status to escape conditions in Tibet decreased from approximately 3,000 in 2000 to 1,268 during the year, according to the UNHCR. It was difficult for Tibetans to travel to India for religious purposes. Nevertheless, many Tibetans, including monks and nuns, visited India via third countries and returned to Tibet after temporary stays. In May TIN reported that the Chinese government appeared to be making greater efforts to encourage exiles to return to Tibet. While some exiled Tibetans have returned, the approval process remained cumbersome.

Chinese officials stated that Tibet had more than 46,000 Buddhist monks and nuns and more than 1,700 monasteries, temples, and religious sites. However, officials have cited these same figures since 1996, despite the fact that the numbers of monks and nuns have dropped significantly at many sites as a result of the patriotic education campaign and the expulsion of “unpatriotic” monks and nuns. These figures encompass only Tibet; tens of thousands of monks and nuns live in other ethnic Tibetan areas of China, including parts of Sichuan, Yunnan, Gansu, and Qinghai Provinces. The Government stated that there were no limits on the number of monks in major monasteries, and that each monastery’s “democratic management committee” (DMC) could decide on its own how many monks the monastery could support. However, these committees were government-controlled, and in practice the Government generally imposed strict limits on the number of monks in major monasteries. Some monasteries reportedly were required to decrease the number of monks associated with them.

In 2001 Chinese authorities ordered thousands of monks and nuns to leave the Serthar Tibetan Buddhist Institute, also known as the Larung Gar monastic encampment, located in the Ganze Tibetan Autonomous Prefecture in Sichuan Province. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. After a year’s absence, during which time he underwent medical treatment, Khenpo Jigme Phuntsok was allowed to return to Serthar in July, and thousands of monks and nuns were again in residence at year’s end.

The Government had the right to disapprove any individual’s application to take up religious orders; however, it did not exercise this right uniformly. In some areas, it was against regulations to join a monastery before the age of 18, but many younger boys continued the tradition of entering monastic life. Young novices, who traditionally served as attendants to older monks while receiving a basic monastic education and awaiting formal ordination, continued to be admitted to some TAR monasteries.

Most Tibetans practiced Buddhism to some degree. This held true for many ethnic Tibetan government officials and Communist Party members. Some 1,000 Tibetan Buddhist religious figures held positions in local people’s congresses and committees of the Chinese People’s Political Consultative Conference. The Government continued to insist that party members adhere to the Party’s code of atheism. A 3-year drive to promote atheism and science among government workers, first begun in January 1999, had apparently ended. During the year, some reports indicated that government workers felt reduced pressure to restrict their personal expressions of religious belief. However, authorities continued to pressure public sector employees, through political training and threats of termination, to demonstrate their loyalty to the State and refrain from actions that could be construed as lending explicit or tacit support to the Dalai Lama. Public sector employees were reportedly pressured not to send their children to India to be educated and to refrain from going on pilgrimages to Mt. Kailash, a holy site in Western Tibet believed by Tibetan Buddhists to be the abode of Lord Shiva, during the Sagadawa festival. Restrictions prevented the celebration of the Dalai Lama’s birthday in July. However, major religious festivals such as Monlam, Sagadawa, and the Drepung Shodon were celebrated in a slightly more open atmosphere than in previous years.

The Government continued to oversee the daily operations of major religious sites. The Government, which did not contribute to the regular operating funds of monasteries, retained management control of the monasteries through democratic man-

agement committees and local religious affairs bureaus. In recent years, DMCs at several large monasteries began to collect all funds generated by sales of entrance tickets or donated by pilgrims, which previously were disbursed to monks engaged in full-time religious study for advanced religious degrees. As a result, such "scholar monks" had to engage in income-generating activities at least part-time. Experts expressed concern that fewer monks would be qualified to serve as teachers in the future as a result. In addition, the Government moved in recent years to curb the proliferation of monasteries, which it contended were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

During 1999 the TAR Religious Affairs Bureau confirmed that its officers were members of the Communist Party and that members were required to be atheists; a large percentage of the members of the religious affairs bureaus were non-Tibetans. Regulations restrict leadership of DMCs to "patriotic and devoted" monks and nuns, and they specify that the Government must approve all members of the committees. At some monasteries, government officials also sat on the committees.

Following the December 1999 flight to India of the Karmapa, leader of Tibetan Buddhism's Karma Kargyu school and one of the most influential religious figures in Tibetan Buddhism, authorities restricted access to Tsurphu monastery, the seat of the Karmapa. In several public statements, the Karmapa asserted that he left because of controls on his movements and the refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his mentors to come to him. The Karmapa alleged that several of his personal attendants were detained during the year. In August foreign officials were allowed to visit the Tsurphu monastery, where approximately 300 monks were said to be in residence. There were few monks or other visitors present during the visit. Officials claimed that the monks were away on summer holiday visiting their families. According to credible reports, no new monks have been permitted to enter Tsurphu monastery since the Karmapa left, but religious activity at the monastery continued.

The departure of the Karmapa increased tensions and heightened the authorities' efforts to exert control over the process for finding and educating reincarnated lamas. The Dalai Lama, who by tradition plays a role in the selection of important religious figures, continued to refuse to recognize the selection of Sonam Phuntsog as the seventh reincarnation of the Reting Rinpoche, and many of the monks at Reting Monastery reportedly also did not accept the child as the Reting Rinpoche. Sonam Phuntsog lived with his family under heavy guard in his residence near the monastery. Authorities tightly controlled access to the area. Another young reincarnate lama, 9 year-old Pawo Rinpoche, lived under effective house arrest at Nenang monastery and reportedly was denied access to his religious tutors. The Pawo Rinpoche, recognized by the Karmapa, was one of the senior Karma Kargyu lamas remaining in Tibet.

The Panchen Lama is one of Tibetan Buddhism's most prominent figures. The Government continued to insist that Gyaltzen Norbu, the boy it recognized and enthroned in 1995, was the Panchen Lama's 11th reincarnation. The authorities tightly controlled all aspects of his life, and he made a highly orchestrated visit to Tibet in July. His public appearances were marked by a heavy security presence, and the authorities strictly limited access to the boy. Meanwhile, repeated requests for access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th Panchen Lama, to confirm his well-being and whereabouts, were denied. He first disappeared in 1995, when he was 6 years old. Government officials stated that the boy was being held for his own protection and that he lived in Tibet and attended classes as a "normal schoolboy." The authorities also maintained that both boys were well cared for and were receiving a good education. The vast majority of Tibetan Buddhists continued to recognize Gendun Choekyi Nyima as the Panchen Lama. The Communist Party urged its members to support the "official" Panchen Lama, and government authorities at both the regional and city levels had pictures of the boy printed for use in public and private religious displays; however, very few photographs of him were on display. Instead, more prominently displayed were pictures of the 10th Panchen Lama, which some foreign observers interpreted as a rejection of Gyaltzen Norbu, the boy recognized by the Government to be the Panchen Lama. Pictures of Gendun Choekyi Nyima were banned by the Government.

The Government stated that since the end of the Cultural Revolution, it had contributed sums in excess of \$36 million to \$48 million (RMB 300 to 400 million) toward the restoration of a number of important Buddhist sites that were destroyed before and during the Cultural Revolution. Government funding of restoration efforts ostensibly was done to support the practice of religion but also was done in part to promote the development of tourism in Tibet. Most recent restoration efforts were funded privately, although several large religious sites also received government support for reconstruction projects during the year.

Economic Development and Protection of Cultural Heritage.—Tibetans, as one of China's 55 minority ethnic groups, receive preferential treatment in marriage and family planning policies, and, to a lesser extent, in university admissions and government employment. According to official government statistics, 74 percent of all government employees in Tibet were ethnic Tibetans. Nonetheless, many positions of political authority were held by ethnic Han Chinese, and most key decisions in Tibet were made by ethnic Han. Although the TAR government passed a law in May making Tibetan the official language of Tibet and promoting its development, the widespread teaching and use of Mandarin Chinese undermined the ability of younger Tibetans to speak and read their native language.

Tibet is one of China's poorest regions, and ethnic Tibetans are one of the poorest ethnic groups. The central government and other provinces of China heavily subsidized the Tibetan economy, which, according to official statistics, grew by an average annual rate of over 10 percent for the last decade. Over 90 percent of Tibet's budget came from outside sources. Tibet also benefited from a wide variety of favorable economic and tax policies. Government development policies have helped raise the living standards of most ethnic Tibetans, particularly by providing better transportation and communications facilities. However, in recent years, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in Tibet have led to a substantial increase in the non-Tibetan population, including China's Muslim Hui minority as well as Han Chinese, in Lhasa and other urban areas as migrant workers from China's large transient population sought to take advantage of the new economic opportunities. Most of these migrants professed to be temporary residents, but small businesses run by ethnic Han and Hui citizens, mostly restaurants and retail shops, predominated in almost all Tibetan cities.

The Dalai Lama, Tibetan experts, and others expressed concern that development projects and other central government policies initiated in 1994 and reemphasized and expanded at the Fourth Tibet Work Forum in 2001 would continue to promote a considerable influx of non-Tibetan Chinese into Tibet. They feared that Tibet's traditional culture and ethnic Tibetan demographic dominance will be overwhelmed by such migration.

Tibetans were reportedly discriminated against in employment in some urban occupations; ethnic Han were hired preferentially for many jobs and received greater pay for the same work. In addition, many jobs required proficiency in Chinese, which limited opportunities for many ethnic Tibetans. Connections also reportedly worked to the advantage of the ethnic Han, who tended to hold most of the higher ranking positions, and it was more difficult for Tibetans than Han to get permits and loans to open businesses. Other fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively, that were broadly denied in the rest of China were also denied in Tibet.

Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa the Chinese cultural presence was obvious and widespread. Buildings were of Chinese architectural style, the Chinese language was spoken widely, and Chinese characters were used in most commercial and official communications. A traditional Tibetan-style building complex located in the UNESCO-protected downtown area of Lhasa was demolished during the year to make way for a more modern structure.

Chinese officials asserted that 95 percent of Tibet's officially registered population was Tibetan, with Han and other ethnic groups making up the remaining 5 percent. However, officials acknowledged that these figures did not include the large number of "temporary" Han residents, including military and paramilitary troops and their dependents, many of whom had lived in Tibet for years. Many observers estimated that more than half of Lhasa's population was Han Chinese, and even official estimates put the number of temporary Han Chinese residents at over 100,000; elsewhere in Tibet, the Han percentage of the population was significantly lower. In rural areas, the Han presence often was negligible.

Malnutrition among Tibetan children has historically been widespread in many areas of the TAR. This was particularly true of rural areas and resulted in high rates of stunted growth among children. Nutritional deficiency ailments, such as goiter (from a lack of iodine), night blindness (from a lack of Vitamin A), and rickets were said to be relatively common among children in some areas. Special programs, sponsored by both government bodies and foreign NGOs, were in place in some areas to address these problems.

According to official government statistics, 42 percent of persons in Tibet were illiterate or semi-literate. Illiteracy and semi-literacy rates were as high as 90 percent

in some areas. Approximately 87 percent of eligible children attended primary school. Most pupils in rural areas received only 1 to 3 years of education.

Primary schools at the village level followed a Tibetan curriculum. According to local education officials, Tibetan was the main language of instruction in 60 percent of middle schools, especially in more remote areas, although there were special classes offering instruction in Chinese. However, some NGOs maintained that the official figures were inaccurate, claiming that fewer Tibetan children received instruction in the Tibetan language. Most of those who attended regional high schools continued to receive some of their education in Tibetan, but knowledge of Chinese was essential as most classes were in Chinese. Tibetan curriculum high schools existed in a few areas. The Government continued to allocate funds to enable Tibetan secondary students to study in schools elsewhere in China. According to government figures, there were 13,000 Tibetan students studying in approximately 100 schools in different parts of China. Knowledge of Chinese usually was necessary to receive a higher education, although some colleges established to serve ethnic minorities allowed for study of some subjects in Tibetan.

Tibet University was established to train Tibetan teachers for the local educational system. Ethnic Tibetans resented the fact that Han representation in the student body and faculty far exceeded their proportion of the total TAR population. Although Tibetans were given admission preference, Han Chinese students frequently gained admission because they scored higher on admission exams due to stronger Chinese-language skills and educational backgrounds. Authorities reportedly required professors, particularly those from Tibet University's Tibetan Language Department, which was viewed as a potential source of dissent, to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activity on campus. Many ancient or religious texts were banned from the curriculum for political reasons.

Prostitution was a growing problem in Tibet, as it was elsewhere in the country. Hundreds of brothels operated semi-openly in Lhasa. Up to 10,000 commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the Party, the Government, and the military. Most prostitutes in Tibet were ethnic Han women, mainly from Sichuan. However, a substantial number of ethnic Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibet was unknown but was believed to be relatively high.

During the year, there were reports that TAR authorities were pressuring employers of ethnic Tibetans who were raised or educated in India to dismiss such employees, especially in the tourism industry. Lhasa tour agencies were forced to dismiss ethnic Tibetan tour guides educated in India and Nepal. These guides were required to seek employment with the Government's Tibet Tourism Bureau (TTB). Prior to gaining employment with the TTB, applicants were required to pass an examination on tourism and political ideology. Many Tibetan tour guides educated abroad reportedly failed the exam.

Tibet Autonomous Regional Television, a Tibetan-language satellite television channel, broadcast in Tibetan for 12 hours each day. There also were two bilingual channels on which Tibetan language programs made up 15 percent of the total. The Tibetan language services of Voice of America (VOA) and Radio Free Asia (RFA), as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese language services. However, Tibetans were able to listen to the broadcasts at least some of the time. RFA stated that Tibetans were subject to intimidation and fines for listening to foreign-language broadcasts.

The Internet has been available in Tibetan cities since 1999. Lhasa had numerous Internet cafes, and the number of Internet users in Tibet continued to grow rapidly.

China's economic development policies, supported in Tibet by government subsidies, were modernizing parts of Tibetan society and changing traditional Tibetan ways of life. Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of ethnic Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

HONG KONG

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China (PRC), and maintains a high degree of autonomy except in matters of defense and foreign affairs. It has well-established institutions that support the rule of law and a vigorous civil society. The Basic Law, the SAR's constitution, was approved

by the PRC in 1990. It provides for the protection of fundamental rights and calls for progress toward universal suffrage and further democratization after a 10-year period, starting with Hong Kong's July 1, 1997 reversion to Chinese sovereignty.

The Chief Executive is chosen by an 800-person selection committee composed of individuals who are either directly elected, indirectly elected, or appointed. The Chief Executive supervises a cabinet of principal officers whom he appoints. The power of the Legislative Council (legislature) is significantly circumscribed by the Basic Law. The legislature is composed of 24 directly elected members representing geographic districts, 30 indirectly elected members representing functional (occupational) constituencies, and 6 members elected indirectly by an election committee. Majorities are required in both the geographic and the functional constituencies to pass legislation introduced by individual legislators. Members could not initiate legislation involving public expenditure, political structure, government operations, or government policy.

By law and tradition, the judiciary is independent and the Basic Law vests Hong Kong's highest court with the power of final adjudication; however, under the Basic Law, the Standing Committee of the PRC's National People's Congress (NPC) has the power of final interpretation of the Basic Law.

A well-supervised police force under the firm control of civilian authorities maintained public order. An Independent Police Complaints Council, made up of public members appointed by the Chief Executive, monitored and reviewed the work of an office that investigated public complaints against the police. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed or interfered in police functions.

Hong Kong, with a free market economy, is an international trade, shipping, and finance center and is a principal platform for trade and investment with the PRC. The economy has suffered 5 years of deflation and was stagnant in 2002 with gross domestic product (GDP) growth of approximately 1.5 percent. Per capita GDP was approximately \$24,000; the population was approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary generally provided effective means of dealing with individual instances of abuse. Human rights problems that existed both before and after the handover included: limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; some degree of media self-censorship; violence and discrimination against women; discrimination against the disabled and ethnic minorities; restrictions on workers' rights to organize and bargain collectively; intimidation of domestic workers of foreign origin; and trafficking in persons for the purposes of forced labor and prostitution. Despite the ban on the Falun Gong in mainland China, the Falun Gong remained legally registered, and practitioners continued their activities in Hong Kong. In September the Government issued a consultation paper to elicit public discussion of legislation to implement Article 23 of the Basic Law, which triggered intense public debate about the impact of such legislation on civil liberties and fundamental freedoms. Article 23 calls for the Government to draft and implement laws that criminalize subversion, secession, treason, sedition, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security.

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 deprivations of life committed by the Government or its agents.

There were two cases of death in police custody in the first 6 months of the year. In May there were two cases of suicide involving prison inmates. One case of death in police custody from 2001 was pending results of an inquest.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law forbids torture and other abuse by the police. There were no reports that police used excessive force against persons in custody during the year. The law stipulates punishment for those who violate these prohibitions. Disciplinary action could range from warnings to dismissal. Criminal proceedings could be undertaken independently of the disciplinary process. Allegations of excessive use of force are required to be investigated by the Complaints Against Police Office (CAPO), whose work was monitored and reviewed by the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive.

There were no complaints of forced confessions during the year.

In the first 8 months of the year, CAPO received 322 complaints of assault by the police against persons not in custody. Of the 107 cases in which investigations were completed and endorsed by the IPCC, none were substantiated. Seventy-six were withdrawn, 22 were deemed “not pursuable,” 1 was judged to be “no fault,” 4 were judged to be false, and 4 were judged “unsubstantiated.” The remaining 215 cases were pending at year’s end.

In February three police officers were jailed for fabricating allegations against a disco manager to cover up a January 2001 assault on him by one of the officers. In 2001 six police officers accused of assaulting a television cameraman during interrogation were acquitted in District Court. An internal police disciplinary inquiry was completed; at year’s end, the case was pending required follow-up hearings.

The U.N. Human Rights Committee and local human rights groups have called for a more independent and efficient monitoring body with statutory powers, noting long delays in hearing some allegations, the large difference between the number of complaints received and the few that are substantiated, the light punishment that police officers received when complaints were found to be substantiated, and the unwillingness of some witnesses to pursue complaints for fear of retribution. Various observers have expressed concern that police responsibility for investigation of police misconduct undermined the credibility of IPCC investigations and called on the Government to reconsider its approach. At year’s end, the Government was considering legislation to provide a statutory basis for the IPCC, which would allow it to set up its own secretariat, receive funding to hire its own permanent staff, and initiate investigations.

Prison conditions generally met international standards. Men and women were housed separately, juveniles were housed separately from adults, and pretrial detainees were held separately from convicted prisoners. From April 2001 to April 2002, the average occupancy rate for Hong Kong’s main prison facility was 131 percent, and the rate for all other penal institutions was 113 percent. The Government began to address the problem of prison overcrowding by converting buildings in three locations to provide space for 520 additional prisoners and redistributing the prison population. In addition, completion of the Immigration Department’s Detention Center in Tuen Mun in 2005 is expected to provide 400 additional places and eliminate the housing of immigration offenders in prison or detention facilities managed by the Correctional Services Department.

The Government permitted prison visits by human rights monitors. Local justices of the peace regularly inspected prisons, and most of these visits were unannounced. However, the justices of the peace spoke with prisoners in the presence of Correctional Services Department staff. Human rights monitors have called for revisions to the inspection system.

d. Arbitrary Arrest, Detention, or Exile.—Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions. Suspects must be charged within 48 hours or released. The average length of preconviction incarceration did not exceed 80 days.

The law does not provide for, and the Government did not use, forced exile.

e. Denial of Fair Public Trial.—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary has remained independent since the handover, underpinned by the Basic Law’s provision that Hong Kong’s common law tradition be maintained. Under the Basic Law, the courts may interpret on their own provisions of the Basic Law that are within the limits of the autonomy of the region. The courts also may interpret other provisions of the Basic Law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR. Before making final judgments on these matters, which are unappealable, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the PRC’s National People’s Congress. The Basic Law requires that when the Standing Committee makes an interpretation of Basic Law provisions, the courts, in applying those provisions, “shall follow the interpretation of the Standing Committee.” Judgments previously rendered are not affected. The National People’s Congress’ mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Hong Kong members are nominated by the Chief Executive, the President of the Legislative Council, and the Chief Justice. Human rights and lawyers’ organizations long have expressed concern that this process, which circumvents the Court of Final Appeal’s power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts’ authority.

In a controversial 1999 “right of abode” case (concerning the right of certain persons to reside in Hong Kong), the Government, after losing the case in the Court of Final Appeals, sought a reinterpretation of relevant Basic Law provisions from the Standing Committee of the PRC’s National People’s Congress. This action raised questions about the independence and ultimate authority of the judiciary. After the controversy, the Government expressed its intention to make recourse to the NPC interpretation mechanism a rare and exceptional act, and there have been no such occurrences since the one instance in 1999.

The Court of Final Appeal is the SAR’s supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. Legal experts and legislators have complained that the commission’s selection process is opaque. The Government responded that privacy concerns prevented opening the process to the public. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on the courts. Approximately 40 percent of judges were expatriates from other common law jurisdictions. Judges have security of tenure until retirement age (either 60 or 65, depending on the date of appointment).

Under the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court (which has limited jurisdiction in civil and criminal matters), the magistrates’ courts (which exercise jurisdiction over a wide range of criminal offenses), the Coroner’s Court, the Juvenile Court, the Lands Tribunal, the Labor Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Trials were by jury except at the magistrate-court level, and the judiciary provided citizens with a fair and efficient judicial process.

Under corruption prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that which is commensurate with his official income or who is in control of monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

Human rights activists remained concerned that the legal system may favor those closely aligned with China. However, other observers pointed out that significant convictions of mainland Chinese entities or those close to them continued to occur, suggesting that the courts were operating without undue bias.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts’ reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years, the Government has developed a bilingual legal system. It has increased the number of officers in the Legal Aid Department proficient in Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with the English and Chinese texts being equally authentic. All courts and tribunals could operate in either Chinese or English. Judges, witnesses, the parties themselves, and legal representatives each could decide which language to use at any point in the proceedings.

Some human rights groups alleged that the Government has not protected vigorously enough the interests of Hong Kong residents arrested in mainland China. There was no agreement allowing Hong Kong officials access to Hong Kong residents arrested or detained in mainland China. Under an agreement signed in 2000 and in effect since 2001, PRC and SAR public security authorities were required to notify each other of certain categories of detentions of each other’s residents.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice. Interception of communications was conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps required high-level authorization for interception operations, but a court-issued warrant was not required. The Government did not release information regarding how often the Chief Executive used his powers to authorize telephone wiretaps and interception of private mail.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), is tasked with preventing the misuse and disclosure of data such as medical and credit records. The PDPO also prohibits matching sets of personal data without the consent of the subject indi-

vidual or the commissioner, although some government departments were exempted in order to combat social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses. In other cases, an injured party could seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, it may issue enforcement notices to direct remedial measures. Between June 2001 and June 2002, the PCO investigated 1,027 complaints of suspected breaches of the ordinance, completing action on 956. The PCO found violations of the PDPO in 30 of these cases, resulting in 1 successful prosecution leading to a fine. The rest resulted in issuances of warning notices and requirements for remedial action to comply with the Ordinance. The Personal Data Privacy Ordinance is not applicable to PRC government organs in Hong Kong. At year's end, the Government was considering whether it should be made applicable to PRC bodies.

In March the Government introduced a draft privacy code that seeks to outlaw secret video cameras and monitoring of e-mail and phone calls in the workplace by employers. At year's end, the draft legislation awaited action by the Legislative Council.

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. A wide range of views and topics appeared in the press, including articles critical of the PRC and Hong Kong SAR governments. Some who monitored press freedom asserted that some journalists and news media practiced self-censorship, mainly in PRC-related reporting. Overall, the media has been outspoken in defending civil liberties; however, the Telecommunications Ordinance potentially allows limits on some speech and press freedoms by granting the Government wide-ranging powers to ban messages whenever it “considers that the public interest so requires.” In practice, the Government has never invoked this law to limit freedom of speech.

The Basic Law's Article 23 requires that the Government enact legislation prohibiting treason, secession, sedition, subversion against the Central People's government, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. The process of introducing this legislation began in September with the Government's release of a consultation document proposing guiding principles for the legislation. Legislative Council members, human rights groups, business associations, representatives of the media, foreign governments, and others voiced concern that when enacted these laws and other provisions passed to implement Article 23 could restrict fundamental rights and freedoms. Of particular concern were the proposed extension of treason, sedition, secession, and subversion criminal offenses to permanent residents, without regard to nationality or legal domicile; the proposal to ban organizations affiliated with mainland political organizations that have been banned by the PRC on national security grounds; the proposal for extended emergency powers for the police; new uncertainty about the parameters of “unlawful disclosure” of state secrets; and other proposals perceived as potentially limiting freedom of speech and press. Some concern derived from the Government's decision to provide a consultation document, but not a draft of the legislation itself, for public discussion. The Government stated repeatedly that civil liberties were guaranteed by the Basic Law and the ICCPR and that it had revised its proposal to accommodate public concerns. Opponents of the proposed legislation conducted a series of protests, including a December 15 march in which tens of thousands of persons participated. A counter-rally in support of the legislation also drew thousands of participants. At year's end, the process of developing the legislation continued, and the Government expressed the goal of passing the new provisions before the end of the legislative session in July 2003.

Individuals could criticize the Government publicly or privately without reprisal, and many persons spoke freely to the media and used the media to voice their views. Political debate was vigorous, and numerous viewpoints, including stories and opinions critical of the SAR and PRC governments and statements by leading Chinese dissidents and proindependence Taiwan activists, were provided in the mass media, in public forums, and by political groups.

During the year, newspapers published a wide variety of opinions, including opinions on Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There were some 15 daily newspapers, all privately owned in name although 4 were supported financially—and guided editorially—by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable) and two commercial radio stations functioned with virtually no government control. International media organizations operated freely.

Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

China still requires some journalists to apply for permission to make reporting trips to the mainland, but in October the Government somewhat eased those requirements, announcing that it would simplify visa application procedures and drop the requirement for a host organization for foreign journalists from Hong Kong, if their organizations have offices in Beijing, Shanghai, or Guangdong Province. All local journalists from Hong Kong can cover mainland stories, but must register with the Hong Kong Macau Affairs Office. At least three Hong Kong publications that were banned on the mainland were blocked from registering their reporters for mainland reporting.

Despite regular coverage of sensitive subjects in print and in the broadcast media, professional journalist groups and NGOs asserted that media self-censorship continued. The Hong Kong Journalists Association, for example, commented in a June report that self-censorship was on the rise. The Association reported that subjects avoided included topics of particular sensitivity to China, leadership dynamics, and Taiwanese and Tibetan independence. In April the South China Morning Post (SCMP) dismissed its Beijing bureau chief, Jasper Becker. Becker asserted that he was dismissed because the paper was increasingly steering clear of controversial mainland stories. The SCMP's editor, in turn, asserted that Becker would not follow instructions from the paper's China editor, and that the newspaper was not changing its policy on China coverage and had not been directed by Beijing to dismiss Becker. The SCMP continued to cover a number of sensitive political issues involving the PRC and Hong Kong SAR governments. In August a leading scholar of Chinese law submitted an article on the obstacles faced by criminal defense lawyers in the PRC to "China Law and Practice." Despite an initial commitment, the publishers of the journal ultimately withdrew their offer to publish the article, citing "political realities." The publisher later denied self-censorship, stating that the article contained comments that could result in defamation and contempt of court charges.

The Government-owned Radio Television Hong Kong (RTHK) continued to enjoy the editorial independence granted to it in its framework agreement between the Government and the station's Director of Broadcasting. Local pro-PRC figures have called for the station to be more supportive of the PRC and Hong Kong governments and for RTHK to conform to PRC political usage, for example by not referring to Taiwan leader Chen Shui-bian as "president" on the grounds that Taiwan is not a country. In August a government official contacted RTHK's director of broadcasting about the station's plans to conduct a phone interview with Taiwan Vice President Annette Lu. The interview did not take place. The Government official denied pressuring RTHK and stated that the Government respected the editorial independence of all media organizations.

The Basic Law provides for academic freedom, and the Government generally respected that freedom in practice. There was independent research, a wide range of opinions, and lively debate on campuses.

In June a U.S.-based academic who has been refused a visa to enter China since 1996 was questioned for 40 minutes by immigration officials upon his entry to Hong Kong. He was subsequently allowed to enter.

There were no restrictions on the use of the Internet.

The Falun Gong was able to print flyers and small items in Hong Kong, despite reported concerns of some printers about associating with the group, but most of its publishing took place outside the SAR. One bookstore, owned by a practitioner, carried Falun Gong books.

In August the Government issued warnings against distributing a catalog for an art exhibition at a public venue that showcased the work of an Australian Falun Gong practitioner. The Government requested that the exhibit organizer not distribute the catalog, which noted that the artist had been imprisoned in China for several months in 2000 for being a Falun Gong practitioner. In the end, the organizer ignored the requests and the Government neither stopped the exhibition nor restricted distribution of the catalog. However, the artist was denied entry into Hong Kong to attend the exhibit. The Government stated that the decision to deny entry was based on immigration irregularities, not on her Falun Gong affiliation.

b. Freedom of Peaceful Assembly and Association.—The Basic Law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given) for a march

involving more than 30 persons and for an assembly of more than 50 persons. The police must give a clear reply within 48 hours if they object; no reply indicates no objection. In practice, demonstrators could assume “no objection” if they were not notified to the contrary 48 hours in advance of the planned demonstration. The posthandover provision in the Public Order Ordinance that empowered police to object to demonstrations on national security grounds has never been invoked. Appeals of a denial to demonstrate could be made to a statutory appeals board comprising members from different sectors of society. Both the board’s proceedings and the police’s exercise of power were subject to judicial review.

In September some organizations held a protest march asking the Government to abolish provisions in the Public Order Ordinance requiring prior approval for assemblies and demonstrations. The organizations also urged the Government to withdraw charges against three political activists arrested in May for organizing an unauthorized rally in February. In November the three activists were convicted and sentenced to a 3-month probation. This was the first case since 1997 in which protestors were charged for not obtaining advance permission from police for holding a demonstration.

Since the handover, there have been over 11,000 public meetings and public processions. Approximately half of these demonstrations required notification. Since the handover, the police have objected to six demonstrations, three of which proceeded after the demonstration organizers altered their plans. In the first 6 months of the year, police objected to 3 out of 1,145 demonstrations.

Demonstrators have complained that demonstrations often were limited to “designated areas” where they received little public attention and that police sometimes outnumber demonstrators. A police order issued in 1998, while underlining that it is police policy “to facilitate, as far as possible, all peaceful public order events,” also stipulated that certain “internationally protected persons” are, in addition to security, entitled to “protection of their dignity.” In July these issues were prominent when some groups were required by police to hold their demonstrations during the fifth anniversary handover ceremony, attended by PRC President Jiang Zemin, in protest zones that were 200 meters further away from dignitaries than in 1997.

In addition to holding assemblies and marches on Hong Kong-related issues, groups continued to be free to demonstrate on issues of sensitivity in mainland China. In May approximately 1,500 persons marched through central Hong Kong to commemorate the 13th anniversary of the June 4, 1989, massacre in Beijing’s Tiananmen Square. On June 4, tens of thousands attended the annual candlelight vigil to commemorate the anniversary. The Public Meetings and Processions Appeal Board overturned a police decision to ban the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China from holding a June 4 rally outside the Central government Offices.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC, holding some protests in front of the Hong Kong offices of the Central government. In August a group of 16 Falun Gong practitioners, including 4 from Switzerland and 1 U.S. legal permanent resident, were convicted and fined for obstruction after refusing repeated police instructions to remain in a designated demonstration zone. This was the first time that Falun Gong practitioners were convicted of an offense in Hong Kong. The group’s appeal was pending at year’s end.

The Basic Law provides for freedom of association and the Government generally respected this right in practice. Since the handover, no applications for registration have been denied. From January through October, the Societies Licensing Office of the police registered 1,157 new organizations for a total of 7,104 registered since the 1997 handover. Pro-Taiwan groups also have expressed concern that the amended Societies Ordinance—which like the amended Public Order Ordinance was passed by the Provisional Legislature—could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization.

c. Freedom of Religion.—The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the Government generally respected these provisions in practice.

The Government does not recognize a state religion but does grant public holidays to mark numerous special days on the traditional Chinese and Christian calendars, as well as the Buddha’s birthday.

Religious groups were not required to register with the Government and were exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations. Some groups, such as the Falun Gong and various other martial arts/meditation groups, known collectively as qigong groups, that did not consider themselves religions, have registered under the Societies Ordinance. Catholics freely and openly recognized the Pope as the head of the Catholic Church. The Vatican maintained a Diocese overseen by a local Bishop.

According to the Basic Law, the PRC government had no authority over religious practices in the SAR. PRC representatives in the SAR and two PRC-owned newspapers nonetheless have criticized some religious and other spiritual groups and individuals. Local religious leaders also have noted that the Basic Law provision that calls for ties between local religious organizations and their mainland counterparts to be based on “nonsubordination, noninterference, and mutual respect” could be used to limit such ties. Similarly, the Catholic Bishop of Hong Kong expressed concern that religious groups could be negatively affected by Article 23 laws.

During the year, Falun Gong, a spiritual movement that has explicitly characterized itself as “not a religion,” practiced freely and held regular public demonstrations against PRC policies. In 2001 a series of developments sparked concerns about pressures on the Government to constrain the group’s criticism of the PRC’s anti-Falun Gong policies. In particular, statements by Chief Executive C.H. Tung in May and June 2001 that the group was “no doubt an evil cult” and that the Government would not let the Falun Gong “abuse Hong Kong’s freedoms and tolerance to affect public peace and order” prompted concern. In May 2001, the Government barred the entry into Hong Kong of approximately 100 overseas-based Falun Gong practitioners during President Jiang Zemin’s visit, although several hundred local and foreign Falun Gong practitioners demonstrated freely on numerous occasions and at numerous venues during the visit. In June 2002, over 90 foreign practitioners were denied entry upon arrival at the Hong Kong international airport (see Section 2.d.). Falun Gong representatives claimed that Hong Kong practitioners remained generally undeterred by these developments, but stated that the number of practitioners in Hong Kong had dropped from approximately 1,000 to approximately 500 since the PRC government began its mainland crackdown in mid-1999.

Other qigong groups, including Zhong Gong (which was banned in the PRC in late 1999), Xiang Gong, and Yan Xin Qigong, also were registered as societies and practiced freely. Another group allegedly listed as an “evil cult” by the PRC, the Taiwan-based Quan Yin Method, was registered legally and practiced freely.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice with some prominent exceptions. Travel documents were obtained freely and easily. There were limits on travel to the mainland imposed by the mainland government.

As was the case before the handover, the Taiwan passport is not recognized as valid for visa endorsement purposes.

Since the handover, several prominent overseas dissidents have been denied entry or visas to enter Hong Kong. In April exiled mainland dissident Harry Wu, who held foreign citizenship, was refused entry to Hong Kong, on the grounds of protecting Hong Kong’s security. The Government asserted that the denial of Wu’s entry was in accordance with the law. In June Wu was denied a visa to come to Hong Kong, where he had been invited to address a seminar. Also in June, over 90 foreign Falun Gong adherents who intended to stage protests during the fifth anniversary of the handover celebration were denied entry upon arrival at the Hong Kong international airport.

In August the Court of Final Appeals upheld the right of nonpermanent residents to return after leaving, a right that in practice had been treated as requiring case-by-case consideration.

Chinese authorities did not permit a number of Hong Kong human rights activists and prodemocracy legislators to visit the mainland.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol does not extend to Hong Kong, and the SAR eliminated its first asylum policy (extended only to Vietnamese) in 1998. On a case-by-case basis, the Director of Immigration had discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need. The general practice was to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, received a subsistence allowance from the

UNHCR, but were not allowed to seek employment or enroll their children in local schools. The UNHCR worked with potential host country representatives in Hong Kong to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those that arrive from the mainland, as promptly as possible. From January to October, a total of 4,927 illegal PRC migrants were repatriated to the mainland.

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

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (composed of individuals who are either directly elected, indirectly elected, or appointed), the direct election of only 26 of 60 Legislative Council members (to become 30 of 60 in 2004), and the inclusion of appointed members to the elected district councils. The approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of China's National People's Congress. The National People's Congress has the sole power to amend the Basic Law. Procedures for amendment or interpretations that originate in the mainland were unclear.

The Government is executive-led, with a two-tiered legislative system consisting of the Legislative Council and 18 district councils, and is staffed by a professional and independent civil service. The Basic Law provides for elections for Chief Executive in 2002 and 2007 by a selection committee of 800 local residents. The selection committee was composed of the 60 members of the Legislative Council, the 36 Hong Kong delegates to the National People's Congress, 41 representatives of the Hong Kong members of the Chinese People's Political Consultative Conference, 40 representatives from religious groups, and 623 persons elected by the same approximately 180,000 voters (some representing organizations; others voting as individuals) who choose the functional constituency representatives of the Legislative Council. In February C.H. Tung, unopposed, won his second 5-year term, which began in July.

The Basic Law permits amendment of the Chief Executive selection process after 2007 by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the National People's Congress Standing Committee. Article 45 of the Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." As of year's end, the Government had not initiated steps to prepare for a change in the procedure for choosing the Chief Executive as provided for under the law.

In July the introduction of a new "Principal Officials Accountability System" changed the SAR's government system by adding a layer of 11 political appointees to run the 11 policy bureaus. Three other civil service positions—Chief Secretary, Financial Secretary, and Justice Secretary—also were converted to political appointments, although without a change in personnel. These 14 political appointees were chosen by the Chief Executive and approved by the PRC government. They served as members of the Executive Council, which functioned as the Chief Executive's cabinet. The restructured Executive Council also includes members of two political parties, a labor leader, and two other private citizens, also appointed by the Chief Executive.

The members of the Legislative Council were elected in 2000 to 4-year terms; 24 members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 6 by votes of the 800-person selection committee. Prodemocracy candidates won 17 of the 24 seats elected on a geographic basis (including 1 in a December 2000 by-election) and 22 seats overall.

In both the 1998 and 2000 elections, the functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, reducing the total number of potential voters in functional constituencies from 1.15 million in 1995 to 180,000 in 1998. Human rights and democracy groups contended that the election of functional constituency representatives by so few persons was fundamentally undemocratic. There was general acceptance of the geographic electoral districts, which included over 3 million registered voters. Article 68 of the Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage." As of year's end, the Government had not initiated steps to prepare for a change in Legislative Council electoral arrangements as provided for under the law.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geo-

graphical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's written consent is required before bills affecting government policy may be introduced. The Government has adopted a very broad definition of "government policy" to block private member bills, and the President of the Legislative Council has upheld the Government's position. However, the Legislative Council's degree of popular representation and outspokenness resulted in its having some influence over the Government's positions. During the year, the Government took into consideration the views of an eight-party coalition on the Government's budget presentation. Similarly, legislators' views influenced the final text of an anti-terrorism bill presented by the Government as required by U.N. Security Council Resolution 1373.

The November 1999 elections for Hong Kong's District Councils were generally free and fair; however, democratic legislators and human rights activists argued that the appointment of nearly one-quarter of District Councilors by the Chief Executive was an undemocratic procedure. According to the District Councils Ordinance, the District Councils are responsible for advising the Government on matters affecting: (1) the well-being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities. The next District Council elections were scheduled for 2003.

In 2000 the Court of Final Appeal ended a century-old practice of excluding non-indigenous villagers (residents who were not members of long-term local families) from participating in some rural elections. The Court unanimously found that the practice violated both the Bill of Rights and the Sex Discrimination Ordinances. In October the Government introduced a bill on village elections to the Legislative Council that proposed to elect two village heads in the 2003 rural elections. Under this proposal, one village head would represent indigenous residents to deal with traditional affairs such as burial grounds, while the other leader would handle general affairs. In September approximately 4,500 village residents demonstrated against the Government's proposal, objecting to the inclusion of nonindigenous (persons not from the village's original families) village heads. At year's end, the bill was still under consideration in the Legislative Council.

Hong Kong sends 36 delegates to China's National People's Congress (NPC). The NPC requires the approval of two-thirds of Hong Kong's NPC delegates to place an amendment to the Basic Law on the NPC's agenda. Hong Kong's NPC delegates also were members of the selection committee that chose six of the Hong Kong legislators in 2000. In December Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents, up from 424 residents voting in the previous (1997) NPC election. Politicians and human rights activists have criticized the election process as undemocratic and lacking transparency.

Larger numbers of women sought public office than ever before. Women held 11 of the 60 Legislative Council seats, and made up between 5 and 33 percent of membership in political parties. The President of the Legislative Council is a woman, as are the heads of several government departments. Three of the 15 most senior government positions were held by women. The Equal Opportunities Commission, itself headed by a woman, noted that women were a minority in government advisory bodies.

Minorities also were represented in senior civil service positions.

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 (see Section 2.b.). These organizations had unrestricted contacts with the local community and with groups overseas. Government officials were generally receptive to, and respectful of, their views. Prominent human rights activists critical of mainland China also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong. The central Chinese government transmits Hong Kong's reports under these covenants, without editing, to the U.N. The SAR government and several domestic NGOs have testified before several U.N. human rights committees, including the United Nations Human Rights Commission in Geneva. The hearings, including concerns of the Commission, have received widespread and balanced press coverage.

The Office of the Ombudsman has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. The Ombudsman may publish investigation reports in which the identity of the complainant is protected. In addition to responding to public complaints, the Ombudsman may initiate investigations. The Ombudsman may report to the Chief Executive if recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations. The Chief Executive is bound by law to present such reports to the legislature. The Ombudsman (Amendment) Ordinance, in December 2001, helped strengthen the independence of the Ombudsman by delinking the office from government systems and processes. It empowered the office to set terms and conditions of appointment for staff and to have full powers to conduct its own financial and administrative matters.

The Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, the Equal Opportunities Commission, or the Office of the Privacy Commissioner for Personal Data, although it may investigate complaints of noncompliance with the law on access to information by government departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, but not those made against the Electoral Affairs Commission.

The U.N. Human Rights Committee and U.N. Committee on Economic, Social, and Cultural Rights (UNCESCR) expressed particular concern that Hong Kong had failed to establish a broadly-mandated human rights institution. Human rights groups also have complained that Hong Kong does not have a human rights commission.

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

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which provides for the incorporation into law of the International Covenant on Civil and Political Rights as applied to Hong Kong, entitles residents to the civil and political rights recognized therein “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” However, the ordinance binds only the Government, public authorities and persons acting on their behalf; that is, not private persons or entities. Three pieces of antidiscrimination legislation—the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance—have made it illegal for any person or entity (public or private) to discriminate on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising.

An Equal Opportunities Commission (EOC) was established in 1996 to work toward the elimination of discrimination and to promote equality of opportunity with specific reference to gender, disability, and family status. During the year, the Government extended the term of the EOC’s chairperson by just 1 year and said that it would keep the Commission’s work under review.

The EOC and human rights groups continued to call for laws specifically targeting, among other problems, public or private discrimination based on race and age. In 2001 the UNCESCR concluded that Hong Kong’s failure to prohibit race discrimination in the private sector constituted a breach of its obligations under the International Covenant on Economic, Social, and Cultural Rights. The UNCESCR also urged Hong Kong to prohibit discrimination on the basis of sexual orientation and age. The U.N. Committee on the Elimination of Racial Discrimination (UNCERD) recommended that “appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, color, descent or national or ethnic origin.” Meanwhile, press reports continued to identify examples of strong societal prejudice against minority groups and newly arrived mainland Chinese migrants. In addition, the EOC, on the basis of the large number of complaints and inquiries, continued to maintain that the elderly were discriminated against in the allocation of public housing, but noted that it was powerless to help, because there was no legislation prohibiting age discrimination.

During the year, the EOC received 785 total complaints for investigation and conciliation. The Commission handled 1,710 cases (including complaints from previous years) and concluded 1,403 cases. Of these, 741 cases were discontinued for various reasons, including withdrawal by the complainant; agreement reached before an investigation was completed; and a lack of substance. Of the remaining concluded

cases, 60 percent were successfully conciliated. Legal assistance was available for unsuccessful complainants.

Women.—Violence against women remained a problem, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows a woman to seek a 3-month injunction against her husband (extendable to 6 months). Domestic violence also may be prosecuted as common assault. The Government enforced the law and prosecuted violators, but sentences generally were lenient, consisting only of injunctions or restraining orders. During the year, there were 3,034 cases of domestic violence reported to the Social Welfare Department, which received reports of domestic violence from the police as well as from social workers, the Health Department, and volunteer organizations.

Cultural factors and inadequate information about available assistance and resources resulted in many cases of spousal abuse going unreported. In 2000 the Government established an interdepartmental Working Group on Sexual Violence to ensure coordination of efforts among various departments and authorities in handling the problem of sexual violence. In 2001 the Government established a Women's Commission to address women's concerns in a comprehensive and systematic manner. In May the Commission held a conference to help raise public awareness of gender-related issues and provide a forum for local, foreign and mainland experts to promote the well-being of women. The Government also funded programs such as family life education counseling, a hot-line service, temporary housing, legal aid, and child protective services; it also has initiated public education and media programs to promote public awareness and encourage women to seek professional assistance.

The reported incidence of rape was low. There were 59 cases reported to the police in the first half of the year and 95 in 2001. However, underreporting was a serious problem. The amendment to the Crimes Ordinance proposed in 2001, to expressly clarify that marital rape is a crime, had not yet passed as of year's end. Indecent assault cases reported to the police totaled 574 in the first 7 months of the year and 1007 in 2001.

Prostitution is not illegal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Some women working in the sex industry have been trafficked to Hong Kong (*see* Section 6.f.).

Sexual harassment was a problem. The Equal Opportunities Commission reported 50 sexual harassment complaints during the first half of the year, with 99 such complaints reported in 2001. However, government and NGO surveys conducted in 2000 suggested that sexual harassment was seriously underreported.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion (*see* Section 6.e.). During the year, a 2-month study of government and Hospital Authority jobs, commissioned by the EOC's task force on Equal Pay for Work of Equal Value, was conducted. The results were not yet available at year's end. The press reported occasional stories of women alleging discrimination in the workplace. Official unemployment figures for the second quarter of the year were 8.8 percent for men and 6.1 percent for women. However, human rights organizations and unions have asserted that the statistics inaccurately recorded many unemployed women as housewives and that, in fact, the unemployment rate for women was actually higher than the unemployment rate for men.

Women entered professional fields, including law and medicine, in growing numbers. Nonetheless, female judicial officers and judges made up only 19 percent of the judiciary. A July government survey showed that the number of female senior government officials had increased more than nine-fold in the past 2 decades but that women as a whole still earned only approximately two-thirds as much as men. In the Legislative Council, women held 11 of the 60 seats. Women held 20 percent of the most senior government positions and 23 percent of the senior policy level positions in the civil service.

Women were disproportionately represented in the lower echelons of the work force, holding positions such as retail sales assistants and office clerks. The law treats men and women equally in inheritance matters, although women still faced discrimination based on traditional practices (such as in the inheritance of small homes in rural areas of the New Territories).

The High Court ruled in 2001 that the 23-year-old practice of separately ranking boys and girls for secondary school admission purposes discriminated in favor of boys. Of the 807 cases initiated in 2001, 257 were successfully conciliated, 267 were satisfied with Education Department relief measures, and investigation was discontinued for 283, due to alternate arrangements or findings of no discrimination after 12 months of investigation. There were no pending complaints at year's end.

In 2001 the Government established a Women's Commission to promote and protect the interests and well-being of women. The Commission declared its intention to focus on provision of health services, childcare support, protecting women against violence, promotion of a women-friendly working environment, and legal issues relating to women and the family. However, the UNCECSR expressed concern that the Commission might not have sufficient resources and powers to pursue its mission.

In September the Government issued a draft outline of Hong Kong's second report under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to seek views from the public.

Children.—The Government was committed firmly to children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department is committed to providing schooling for children between 6 and 15 years of age and provided placement services for non-Chinese speaking children. Education was free and compulsory through grade nine. The Government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

Subsidized, quality medical care was available to all children who are residents.

At year's end, the Government was considering legislation proposed in 2001 to raise the age of criminal responsibility for children from 7 to 10 years. For the first 7 months of the year, there were 49 youths under the age of 16 who were incarcerated: 14 in prison, 9 in training centers, 24 in detention centers, and 2 in drug addiction treatment centers.

Child abuse and exploitation were not widespread. In the first 7 months of the year, there were 645 child abuse cases newly registered with the police: 265 involved physical abuse and 380 involved sexual abuse. The Government reported 99 cases of "cruelty to children" in the first half of the year; there were 181 cases in 2001, and 178 in 2000.

There are no specific laws dealing with child pornography, but child pornography is covered under other anti-pornography laws. A bill on Prevention of Child Pornography, introduced before the Legislative Council in January, would criminalize the making, production, distribution, publication, advertising, and possession of child pornography. The bill would also prohibit the procurement of children for making pornography, extend the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibit any arrangement or advertising relating to commission of those acts. At year's end, the bill was still being studied in committee.

The Government provided parent education programs in all 50 of the Department of Health's Maternal and Child Health Centers. The police maintained a child abuse investigation unit to improve the treatment of victims, and laws have been passed to make it easier for child victims to testify in court using an interviewing suite for recording statements. There are substantial legal penalties for mistreatment or neglect of minors. A witness support program helped child witnesses in need. A child witness information kit in Chinese, with books explaining legal and court proceedings, helped reduce children's anxiety about testifying. A Child Care Center Law helped to prevent unsuitable persons from providing childcare services and facilitated the formation of mutual help childcare groups.

Persons with Disabilities.—Discrimination against the physically and mentally disabled persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance called for improved building access and sanctions against those who discriminate, and the amended Buildings Ordinance updated design requirements. Despite inspections and occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Advocates complained that limited access for persons with disabilities at polling stations made voting difficult. The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but a consortium of organizations representing persons with disabilities reported that approximately 700,000 residents are disabled, and about half were able to work. Government estimates indicated that during the year there were approximately 265,000 persons with physical disabilities and 53,500 with mental disabilities. Of these, 52,500 were employed and 59,700 were considered "economically active," (such as small business owners and street vendors). As of April, there were 3,408 persons with disabilities employed as civil servants in a total civil service work force of approximately 173,000—approximately 2 percent of all civil servants. During the year, the Labor Department's Selective Placement Division found jobs

for 2,572 of 4,225 disabled job seekers. Approximately 10,000 students in a school population of 960,000, about 1 percent, were disabled. Of these, 3,657 were in mainstream schools where they received special education services.

In 2001 the UNCESCR recommended that the Government undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoyed the right to adequate and affordable health care. The Committee also noted its concern over the Government's "apparent lack of initiative" to undertake public education to combat discrimination against those with mental disabilities. In response, the EOC undertook a variety of activities during the year to address discrimination against persons with disabilities, including co-sponsoring seminars and research.

National/Racial/Ethnic Minorities.—The UNCESCR, the UNCERD, Hong Kong legislators, human rights groups, continued to call for laws specifically targeting racial discrimination in the private sector. In response, the Government conducted public consultations on the need for antiracism legislation. The Government's analysis of the consultations, released in August, showed significant support for enacting such legislation. As of year's end, however, the Government had not introduced legislation to prohibit racial discrimination in the private sector.

The Government's non-legally binding "Code of Practice for Employers," put into place in 2001 and designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. The Government has undertaken a public education and awareness campaign to combat race discrimination with only limited effect. In July the Government established a new Race Relations Unit to enhance services to ethnic minorities.

Minorities, who made up approximately 5 percent of the population, were well represented in the civil service and many professions. However, there were allegations of racial discrimination in such areas as private sector employment, admission to public restaurants, placement in public schools, treatment in public hospitals, apartment rentals, and acceptance to institutions of higher education. Foreign domestic workers, most of whom were from the Philippines and Indonesia, were particularly vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia to protect members from abuse and exploitation. The organization served the approximately 75,000 Indonesian domestic helpers who work in the SAR. Similar organizations worked for the interests of approximately 154,000 Philippine domestic helpers. According to organizations representing migrant workers, police intimidation of migrant workers also was a problem.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Union Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Union Ordinance does not restrict union membership to a single trade, industry, or occupation. The Government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the Government.

During the year, 23 new unions were registered, while 11 were deregistered; at year's end, there were 622 registered trade unions. As of 2001, over 22 percent of the approximately 3.3 million salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation of the antiunion discrimination provisions is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensation is \$19,230 (HK\$150,000). Some labor activists complained that the Labor Tribunals tended to push conciliation rather than issue orders.

The Basic Law commits the SAR to 40 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply (*see* Section 6.b.).

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions (although notification of the Labor Department within 1 month of affiliation is required).

b. The Right to Organize and Bargain Collectively.—In 1997 the prehandover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in 1997 after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government argued that existing law already offered adequate protection against unfair dismissal arising from antiunion discrimination. In 2001 the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the absence of protection against unfair dismissal.

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance removed the legal stipulation of trade unions' right to engage employers in collective bargaining; bans the use of union funds for political purposes; requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR; and restricts the appointment of persons from outside the enterprise or sector to union executive committees. Because of this law, the Hong Kong Confederation of Trade Unions promptly filed a complaint against the Hong Kong government for violation of ILO Conventions 87, 98, and 154. In 1999 the ILO Committee on Freedom of Association concluded that the Employment and Labor Relations (Miscellaneous Amendments) Ordinance breached Conventions 87 and 98 and recommended that the Government take legislative action to remedy the situation. The Government provided the ILO progress reports in 1999 and 2000 asserting that it was in compliance with all of the 40 ILO conventions that apply to Hong Kong. In 1999 the Government blocked a legislator's attempt to introduce two bills on collective bargaining and antiunion discrimination on the grounds that they would affect government spending and operations and therefore fell outside the scope allowed for private member bills under the Basic Law. With the repeal of the short-lived collective bargaining legislation, the prehandover framework continued. There were no laws that stipulated collective bargaining on a mandatory basis.

Collective bargaining was not practiced widely. Unions generally were not powerful enough to force management to engage in collective bargaining. The Government did not encourage it, since the Government itself did not engage in collective bargaining with civil servants' unions but merely "consulted" with them. Wage rates in a few trades like tailoring and carpentry were determined collectively in accordance with established trade practices and customs rather than as a statutory mechanism.

In 1998 the Government established the Workplace Consultation Promotion Unit in the Labor Department to facilitate effective communication, consultation and voluntary negotiation between employers and employees. The Government has set up tripartite committees for nine sectors of the economy, each of which has representatives from trade unions, employers and the Labor Department.

Work stoppages and strikes were permitted; however, there were some restrictions on this right for civil servants. Although there was no legislative prohibition of strikes, in practice, most workers had to sign employment contracts that typically stated that walking off the job was a breach of contract which could lead to summary dismissal.

There were no export processing zones.

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

d. Status of Child Labor Practices and Minimum Age for Employment.—The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age could be employed in certain non-industrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. To enforce compliance with the regulations, the Labor Department conducted regular workplace inspections. During the year, the Labor Department conducted 161,447 inspections, and discovered 12 violations of the Employment of Children Regulations, resulting in the assessment of \$4,102 (HK\$32,000) in fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for youths, except for 16- and 17-year-olds.

e. Acceptable Conditions of Work.—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure existed, wage levels customarily were fixed by individual agreement between employer and employee and were determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provided a decent standard of living for a worker and family. Two-income households were the norm. In 2001 the UNCESCR expressed concern over the lack of adequate regulation on statutory minimum wage, working hours, paid weekly rest, rest breaks and compulsory overtime.

The minimum wage for foreign domestic workers was approximately \$470 per month (HK\$3,666). The standard workweek was 48 hours, but many domestic workers worked far longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers were subject to deportation if they were dismissed. There were credible reports of such workers illegally being forced to accept less than the minimum wage and unacceptable living conditions. There have been a number of cases of foreign domestic workers successfully taking their employers to court for mistreatment.

The Occupational Safety and Health Branch (OSHB) of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance and its 30 sets of subsidiary regulations regulate safety and health conditions. During the year, the Labor Department conducted 162,417 inspections of workplaces and issued 3,174 summonses, resulting in a total of \$561,186 million in fines (HK\$4,377,250). Worker safety and health has improved over the years, due in part to the transfer of many manufacturing jobs to factories in mainland China, but serious problems remained, particularly in the construction industry. During the first 9 months of the year, there were 35,654 occupational injuries, of which 17,112 were classified as industrial accidents. There were 21 fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—There is no specific law prohibiting trafficking in persons; however, there are various laws and ordinances that allowed law enforcement authorities to take action against traffickers. Trafficking in persons was a problem; Hong Kong was both a transit and a destination point for trafficked persons. However, it was difficult for authorities to identify trafficking victims among the larger group of illegal immigrants.

Hong Kong was a transit point for some persons trafficked from China and other nations to third countries, despite active efforts by the Government to stop such trafficking. During the year, authorities caught 3,549 persons with forged travel documents. The most common method used to attempt to traffic persons through the SAR employed forged or illegally obtained travel documents to move through the airport. In past years, traffickers have attempted to smuggle persons in shipping containers. In 2001 the Government uncovered a trafficking ring and arrested 11 Hong Kong residents involved in a forgery operation that produced fraudulent passports.

There were reports that Hong Kong was a destination for women trafficked for the purpose of prostitution. According to a 2001 study, some of the women did not know before coming to Hong Kong that they would be pressured into serving as "escorts" for male customers of the bars where they were given jobs. Large numbers of mainland Chinese women also illegally engaged in prostitution with the reported assistance of organized criminal groups. There were reports as well that criminal elements brought in small numbers of women from the former Soviet Union, Eastern Europe, and Colombia for the purpose of engaging in illegal prostitution.

The authorities sought to combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. In the first 9 months of 2001, 982 nonresident women prostitutes and a much smaller number of their employers were arrested. Most of those arrested were deported rather than formally charged.

Persons also were trafficked to the SAR for labor purposes, including domestic labor. Some foreign domestic workers, particularly from Indonesia, have been recruited abroad and brought to Hong Kong only to be placed in coercive working and living conditions. Organized criminal groups generally were behind the illicit activ-

ity and sought to profit from it through forced labor, debt bonded labor, or prostitution.

Government policies to combat fraudulent marriages that could be used to disguise trafficking in persons appeared to be producing results. Immigration officials closely scrutinized applications for the entry of foreigners to take up residence with local spouses, and in cases where the claimed relationship as husband and wife was deemed not credible, applications were rejected.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences for up to 14 years for such activities as arranging passage of unauthorized entrants into Hong Kong, assisting unauthorized entrants to remain, using or possessing a forged, false or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The Security Bureau has policy responsibility for combating migrant trafficking and oversees the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received specialized training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

Legal aid was available to those who chose to pursue legal proceedings against an employer, and immunity from prosecution was often made available to those who assisted in the investigation and prosecution of traffickers. The Government did not provide funding to foreign or domestic NGOs for services to victims of trafficking. The Government's prevention efforts included providing pamphlets to workers about their rights; the pamphlets were widely distributed and were published in a wide range of languages.

MACAU

Macau, a 13 square mile enclave on the south China coast, reverted from Portuguese to Chinese administration on December 20, 1999 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The Sino-Portuguese Joint Declaration (1987) and the Basic Law—the SAR's mini-constitution promulgated by China's National People's Congress (NPC) in March 1993—specify that Macau is to continue to enjoy substantial autonomy and that its economic system and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which is in turn chosen by a Preparatory Committee composed of 60 Macau and 40 mainland representatives appointed by the NPC. In September 2001, voters elected 10 of the legislature's 27 members in direct elections in geographical constituencies. Ten others were elected by interest groups in functional constituencies, and the remaining seven were appointed by the Chief Executive. There are limits on the types of bills that may be initiated by individual members of the legislature. After the handover, most of the laws previously in force continued to apply. The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The police force is under civilian control. After peaking in 1999, serious organized crime-related violence appeared to have been curbed, and police reported a marked reduction in violent crime. A People's Liberation Army (PLA) garrison of 800 soldiers stationed in Macau played no role in internal security.

The market-based economy was fueled by textile and garment exports, along with tourism and gambling. The economy grew approximately 5 percent during the year. Per capita gross domestic product (GDP) was approximately \$14,300. The population was approximately 450,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. These problems included occasional reports of police abuse, the limited ability of citizens to change their government, limits on the legislature's ability to initiate legislation, inadequate provision for persons with disabilities, and a lack of legal protection for strikes and collective bargaining 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 arbitrary or unlawful deprivations of life committed by the Government or its agents.

There was one report of a suspicious death in custody. In May a prisoner was taken from his cell and transferred to a police station for interrogation. While at the station he became ill and was taken to a hospital, where he died. A postmortem

examination by the hospital found that he died of acute renal failure caused by assault with blunt force and had suffered from severe hepatic cirrhosis. The police carried out an investigation of possible police wrongdoing and passed their report to the Public Prosecutions Office; an investigation by the Public Prosecutions Office was pending 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 law prohibits such practices, and the Government generally respected these provisions in practice; however, there were reports of police brutality during the year. In February two officers allegedly assaulted two Hong Kong journalists who sought to enter Macau to cover the visit of Li Peng, Chairman of the NPC. The police denied the allegations. Results of investigations into the incident conducted by the police and Procurator's Office were not available at year's end.

Prison conditions met international standards, but in the last few years the prison population has more than doubled to 886 (including male and female inmates), almost two-thirds of whom are from the PRC. Facilities and personnel have failed to keep pace. In 2000 the Secretary for Security announced plans to hold talks with PRC authorities on a prisoner transfer agreement. The two sides had not reached an agreement at year's end.

The Government has permitted prison visits by human rights observers, but there were no such visits during the year.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. An examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of an indictment. The average length of pretrial incarceration was 3 months. Judges often refused bail in cases where sentences exceed 3 years. This practice contributed to overcrowding in prisons.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respected this provision in practice. According to the Basic Law, the courts have the power of final adjudication over all cases that are within the autonomy of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's government or concern the relationship between the central authorities and the (Special Administrative) Region," but before making their final (i.e., nonappealable) judgment, the court must seek an interpretation of the relevant provisions from the Standing Committee of the NPC. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the Special Administrative Region before giving an interpretation of the law. This Committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members.

The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates may have hampered development of the legal system. At year's end, 94 lawyers were registered with the Macau Lawyers Association, of whom 29 spoke Cantonese and 11 spoke Mandarin. The Government has instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary was relatively inexperienced (the first law school opened in the early 1990s), and the lack of locally trained lawyers was a serious impediment to the development and maintenance of an independent judiciary.

According to the Basic Law, the Chief Executive appoints judges at all levels, acting on the recommendation of an "independent commission," which he appoints, composed of local judges, lawyers, and "eminent persons." The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. According to the law, judges may be removed only for criminal acts or an inability to discharge their functions. Except for the Chief Justice, who must be a Chinese citizen with no right of abode elsewhere, judges may be foreigners.

There are four courts: The Primary Court (with general jurisdiction at first instance); the Administrative Court (with jurisdiction of first instance in administrative disputes); the Court of Second Instance; and the Court of Final Appeal.

The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law, trials are open to the public, except when publicity could cause

great harm to the dignity of the persons, to public morals, or to the normal development of the trial. Such a decision must be revoked if those motives cease to exist, and the verdict must always be delivered in public. The Criminal Procedure Code provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The 1997 Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and that witness statements read in court are admissible as evidence." There also are additional restrictions on the granting of bail and suspended sentences in organized crime cases.

The judiciary generally provides citizens with a fair and efficient judicial process, but the average waiting period between the filing of a civil case and its scheduled hearing continued to be nearly 12 months, although it was reduced slightly during the year. Since 1991 all legislation has been issued simultaneously in Chinese and Portuguese. Laws issued between 1976 and 1991 have been translated into Chinese.

The Public Prosecutions Office (headed by a Public Prosecutor General) enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions must be carried out without interference, and the law was generally respected in practice.

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. A judge's authorization is required for any official interference in these areas. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications without the consent of the concerned person may not be used in court.

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. Local law also protects citizens' right to petition the Government and the legislature.

The print media included eight Chinese-language dailies, four Portuguese-language dailies, and seven weeklies. There were three television networks. Macau Radio broadcast in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers were freely available. The dominant newspapers were sympathetic to official Chinese positions in their editorial line. Critics charged that these papers did not give equal attention to liberal and pro-democracy voices. The reversion to PRC sovereignty has produced no overt or apparent restrictions of press freedom. Government officials asserted that the local press has grown more aggressive in its demands for accountability from public officials since the 1999 handover.

Article 23 of the Basic Law obliges the SAR to enact legislation that would forbid any act of treason, secession, sedition, subversion against the Central People's government, or theft of state secrets, and links of the foregoing nature that are harmful to national security with foreign political organizations. Human rights groups have voiced concern that when enacted these laws and other provisions passed to implement Article 23 may restrict fundamental rights and freedoms.

Particular concern has been raised regarding the Penal Code's lack of specific sentences for such crimes. A legal vacuum was created when a Portuguese law dealing with crimes against state security became null and void after the handover. In October the Government announced that it was working on draft legislation for the Article 23 antisection law that would undergo a period of public consultation and then be submitted to the Legislative Assembly in 2003. At year's end, that work was still ongoing.

There were no government-imposed limits on Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly, and the Government generally respected this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days but no more than 2 weeks in advance of the event. No prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or attempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations.

The law provides for freedom of association, and the Government generally respected this right in practice. The law neither provides for nor prohibits establishment of political parties. Under the Societies Ordinance, however, persons can es-

establish “political organizations,” of which a few existed, including the pro-democracy New Democratic Macau Society, headed by a legislator. Both civic associations and candidates’ committees may present candidates in the elections by direct or indirect suffrage (see Section 3). Article 23 of the Basic Law obliges the Macau SAR to enact laws to prohibit foreign political organizations from establishing ties with domestic political organizations or bodies. The Government had not enacted any legislation to implement Article 23 (see Section 2.a.).

Falun Gong practitioners were allowed to continue their exercises and demonstrations in public parks. In recent years, police photographed practitioners. In the past, police occasionally took practitioners to the police station and made them wait a few hours while police checked their identification documents. Pro-democracy and Falun Gong activists living outside of the SAR stated that they were able to travel to the SAR without interference.

c. Freedom of Religion.—The Basic Law provides for freedom of conscience and religious belief as well as freedom to preach and to conduct and participate in religious activities. The Freedom of Religion Ordinance provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The SAR government generally respected these rights in practice. There is no state religion.

The Religious Freedom Ordinance requires the registration of religious organizations. Registration is handled by the Identification Services Office. There have been no reports of discrimination in the registration process.

Practitioners of Falun Gong (a spiritual movement that does not consider itself a religion) have not applied for registration because a local lawyer advised them that their application for registration would not be approved since the Falun Gong was banned in mainland China in October 1999. However, the Identification Services Office has not issued any instructions regarding the Falun Gong, and senior SAR government officials have reaffirmed that practitioners of Falun Gong may continue their legal activities without government interference. In recent years, police occasionally photographed practitioners and checked their identification documents (see Section 2.b.).

Religious bodies can apply to use electronic media to preach. The ordinance also stipulates that religious groups may maintain and develop relations with religious groups abroad.

Missionaries are free to conduct missionary activities and were active in the enclave. More than 30,000 children were enrolled in Catholic schools.

The Catholic Church recognizes the Pope as the head of the Church. In April the Holy See appointed a coadjutor Bishop for the Macau diocese. Editorials in the local Catholic newspaper noted this as an example of the Macau government’s independence and respect for religious freedom as provided for in the Basic Law.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government generally respected them in practice. In 2001 a female Falun Gong practitioner from Hong Kong was barred from entering Macau despite statements by the Chief Executive that there was no political blacklist of persons from Hong Kong. In past years, the police admitted that they kept a list of unwelcome persons who have criminal records and persons whom they believe have criminal intentions. In December 2000, the Government detained and turned back prodemocracy activists and Falun Gong practitioners who tried to enter the SAR during the period observing the anniversary of the handover. A Security Bureau spokesman stated that they were not admitted because it was suspected that they intended to carry out unlawful demonstrations and that the law, which gives residents the right to assemble and demonstrate, does not give nonresidents that right (see Section 2.b.). Foreign Falun Gong and democracy activists have traveled to Macau at other times without incident.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees in assisting refugees before the handover. There were no refugee cases during the year. The law makes no provision for first asylum. There were no reports of refugees being forced to return to a country where they feared persecution.

During the year, 1,198 illegal migrants were returned to the mainland, of whom 120 were male and 1,078 female.

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

The ability of Macau citizens to change their government is restricted. The Government is led by a Chief Executive chosen by a 200-member Selection Committee, which is in turn chosen by a 100-member Preparatory Committee, composed of 60 Macau and 40 mainland representatives appointed by the NPC of the PRC. The 27-member Legislative Assembly elected in 2001 is composed of 10 members elected in direct elections; 10 indirectly elected by local community interests such as business, labor, professional, welfare, cultural, educational and sports associations; and seven appointed by the Chief Executive. Prior to the 2001 elections, the Legislative Assembly was composed of 8 members elected directly, 12 elected indirectly, and 7 that were appointed. Elections are held every 4 years, and the number of legislators is to increase gradually in subsequent elections. In 2005 the number of directly elected seats is to be increased to 12, with 10 elected indirectly and 7 appointed. After 2009 the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage or for direct election of either the legislature or the Chief Executive.

There are limits on the types of legislation that legislators may introduce. Article 75 of the Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Bills relating to government policies must receive the written approval of the Chief Executive before they are submitted.

A 10-member Executive Council appointed by the Chief Executive consists of 2 legislators, 1 former legislator, 5 policy secretaries and 2 prominent businessmen. The Executive Council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

In January a bill approved by the Legislative Assembly in 2001 went into effect, transforming Macau's two provisional municipal councils into a new public body. Under the previous arrangement, a total of eight directly elected members sat on the two councils. The councils were responsible for culture, recreation and public sanitation functions. Under the new system, the councils have been merged into a single public body, called the Institute for Civic and Municipal Affairs, with all of its members appointed by the Chief Executive. The Basic Law states that "municipal organizations are not organs of political power."

Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, 1 appointed), including the President of the Assembly, were women. Women held a number of senior positions throughout the Government.

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

Domestic human rights groups generally functioned without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers, and the New Democratic Macau Association, continued to operate.

International human rights agreements that formerly were applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continued to apply to the SAR. In addition, the International Covenant on Civil and Political Rights is subsumed in the Basic Law.

The Commission Against Corruption received 1,116 complaints against public officials in a variety of agencies during the year. By year's end, the Commission had opened 131 files, of which 115 were criminal cases and 16 were administrative grievances. The Commission transferred 24 cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the Commission itself received no such complaints during the year.

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

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, political persuasion, ideological belief, educational level, economic status, or social condition. In addition, many local laws carry specific prohibitions against discrimination. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

Women.—The Government enforces criminal statutes prohibiting domestic violence and prosecutes violators. Police and court statistics do not distinguish between spousal abuse and other assault cases. If hospital treatment is required, a medical social worker counsels the victims of abuse and informs them about social welfare

services. Until their complaints are resolved, victims of domestic violence may be provided public housing, but no facilities were reserved expressly for them.

Private and religious groups sponsored programs for victims of domestic violence. The Government supported and helped to fund these organizations and programs. The Bureau for Family Action was created by the Government as a subordinate body of the Department of Family and Community of the Social Welfare Institute. The Bureau helps women who have been victims of domestic violence, providing not only a safe place for them and their children but also advice regarding legal actions against the perpetrators. A special family counseling service performed an average of 150 family services per month, including receiving phone calls and conducting interviews. Two government-supported religious programs also offered rehabilitation programs for women who have been victims of violence. Through September, 19 cases of spousal abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Co-ordination received 143 reports of offenses against the physical integrity of female spouses. From January to September, the Government received two criminal complaints of statutory rape and one case of ill treatment. The law on rape covers spousal rape. During the year, there were 13 reported rapes.

Prostitution is legal, but procuring is not. Although there was no reliable data regarding the number of persons involved, trafficking in women was a problem (see Section 6.f.).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general.

Women have become more active and visible in business. A government survey indicated that, as of June, women comprised 47.1 percent of the labor force. Equal opportunity legislation that is applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. However, there was wage discrimination in some sectors, notably construction. The equal opportunity legislation may be enforced by civil suits, but no cases alleging discrimination have been brought to court.

Children.—The Government is committed to protecting the rights and welfare of children; it does so by relying on the general framework of civil and political rights legislation to protect all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring involving minors.

School attendance is compulsory for all children aged 5 to 15 years. Basic education was provided in government-run schools and subsidized private schools and covers the pre-primary year, primary education, and general secondary school education. The Education Department provided assistance to families of those children that could not pay school fees. The children of illegal immigrants were excluded from the educational system. The Government provided free medical care for all children. Child abuse and exploitation were not widespread problems. Through September 15 cases of child abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Coordination received 20 reports of child abuse. From January to September, four criminal complaints regarding sexual abuse of children were received.

Persons with Disabilities.—The extent to which persons with physical disabilities experienced discrimination in employment, education, and provision of state services was not known fully. A 2001 census stated that there were 5,713 persons with disabilities in the SAR.

The Social Welfare Institute offered financial and rehabilitation assistance to persons with disabilities and helped to fund 5 residential facilities and 14 day centers providing services for the disabled. A few other special programs existed, aimed at helping persons with disabilities gain better access to employment, education, and public facilities. Nineteen nongovernmental entities providing services for persons with disabilities received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. An average of 86 percent of the total income of these nongovernmental entities came from the Government. Four nongovernmental entities were totally funded by the Government, including one residential home and one day training center for mentally retarded persons, one residence for former psychiatric patients and one day center for disabled children. Twenty-two schools had programs for persons with disabilities, providing special education programs for 752 students.

In October a new law was enacted, mandating improved accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings and pavements. The Government's Social Security fund may

grant subsidies for the elimination of architectural barriers in order to facilitate access by persons with a physical or behavioral disability.

National/Racial/Ethnic Minorities.—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 2 percent of the population) were generally respected. Although Portuguese officials no longer dominated the civil service, the Government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by less than 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service was growing.

Section 6. Worker Rights

a. The Right of Association.—The Government neither impeded the formation of trade unions nor discriminated against union members. The Basic Law stipulates that international labor conventions that applied to Macau before the handover shall remain in force and are to be implemented through the laws of the SAR. Human rights groups have expressed concern that local law does not have explicit provisions against antiunion discrimination.

Unions tended to stress the importance of stability and minimum disruption of the work force. Nearly all of the private sector union members belonged to the pro-China Federation of Trade Unions. Many local observers have claimed that this organization was more interested in furthering the Chinese political agenda than in addressing trade union issues such as wages, benefits, and working conditions. Only a small number of unions—six private sector unions and two public sector unions—were independent. All classes of workers have the right to join a union.

Unions may freely form federations and affiliate with international bodies. During the year, the SAR had eight independent industrial (sector-wide) unions. Three of the nearly 20 civil service unions—representing Portuguese, Macanese, and Chinese employees—were affiliated with the major non-Communist Portuguese union confederation, the Macau Sempre (Roots in Macau).

b. The Right to Organize and Bargain Collectively.—The Government did not impede or discourage collective bargaining, but there is no specific statutory protection for this right, since Portuguese laws that protected collective bargaining no longer apply. Wages were determined by market forces. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Chinese unions traditionally have not attempted to engage in collective bargaining.

Labor leaders have complained that there is no effective protection in local law from retribution should they exercise their right to strike. The Government argued that striking employees are protected from retaliation by labor law provisions that require an employer to have “justified cause” to dismiss an employee, and the Government enforced these provisions in practice. Strikes, rallies and demonstrations are not permitted in the vicinity of the Chief Executive’s office, Legislative Assembly and other key government buildings. Although there was at least one protest, there were no work stoppages or strikes during the year.

In August approximately 300 casino workers and their families protested against a new employment contract with their newly formed casino group employer. The employees feared that they would earn less under the new contracts, which required a reduction in tips but an increase in fixed salaries. The Government referred the dispute to the Labor and Employment Bureau for mediation, the results of which were pending at year’s end.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

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. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 may be authorized to work on an “exceptional basis.” Proposed changes to the law currently under consideration by the Government will prohibit minors under the age of 18 from working, while minors between the ages of 16 and 18 may be authorized to work on an “exceptional basis.” Some children reportedly

worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization (ILO) conventions are applied. The Labor Department enforced the law through periodic and targeted inspections and violators were prosecuted. The incidence of child labor was very low. The Labor Department Inspectorate did not conduct inspections specifically aimed at enforcing child labor laws, but it issued summonses when such violations were discovered in the course of other workplace inspections. No instances of child labor were reported during the year.

In August Macau ratified ILO Convention 182 on Elimination of the Worst Forms of Child Labor.

e. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no mandatory minimum wage. Average wages generally provided a decent standard of living for a worker and family. There were no publicly administered social security programs, but some large companies provided private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives reported that workers frequently agreed to work overtime to compensate for low wages. The Department of Labor provided assistance and legal advice to workers on request.

The Department of Labor enforces occupational safety and health regulations, and failure to correct infractions can lead to prosecution. In 2001 the Labor Department inspectorate carried out 1694 inspections and uncovered 29 violations carrying fines worth a total of \$20,814 (166,500 Patacas). There were four work-related death cases during the first half of the year and six cases in 2001. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from China, made up approximately 11 percent of the work force. These workers often worked for less than half of the wages paid to local residents performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to a labor-importing company for the purchase of their jobs. The U.N. Human Rights Committee has noted the lack of protective measures for working conditions and the absence of social security programs for nonresident workers as problems. Labor interests claimed that the high percentage of foreign labor eroded the bargaining power of local residents to improve working conditions and increase wages.

Due to an economic downturn and high unemployment, the Government has reduced the amount of foreign labor to give job priority to local residents. In a 2001 incident, approximately 40 workers from mainland China were detained after a standoff with their employer over compensation and abrupt dismissal. Some of the workers were deported before a judicial decision could be made on their labor-related claims. In another case, after dozens of foreign workers suddenly were laid off by a garment manufacturer, they petitioned the Government over being paid a fraction of their wages. In response the Government's Labor and Employment Affairs Bureau took action to mediate the pay dispute. The Government claimed that, since the workers' contracts had expired, their removal was lawful. However, a Labor and Employment Affairs Bureau official stated to the press that the dismissal of the workers was "unreasonable" and that the workers' demands were fair. There were no such demonstrations during the year.

f. Trafficking in Persons.—The law prohibits trafficking in persons. However, the SAR was both a transit point and a destination for trafficking in illegal aliens. It was also a transit point, and in the past has been a destination, for trafficking in women for the purpose of prostitution. During the year, the Government maintained that the current flow of women into the SAR for the purpose of prostitution was "a result of regional economic migration and not a corollary of trafficking in people."

Trafficking in persons is a crime established and punished under Article 7 of the Law on Organized Crime. The penalty for the crime of trafficking in persons is imprisonment for 2 to 8 years. This penalty is increased by one-third (within minimum and maximum limits) if the victim is under the age of 18 years. If the victim is under 14 years old, the penalty is imprisonment for 5 to 15 years. In cases in which a victim is raped by a trafficker, the two offenses are treated as different crimes.

In the past, there were credible reports that women from Vietnam were trafficked into Macau as mail-order brides, with the assistance of organizations purporting to be travel agencies, international labor organizations, or marriage mediating serv-

ices. Women from Malaysia, who usually were ethnic Chinese, also reportedly have been trafficked into the SAR; law enforcement authorities in Malaysia believed that the women were trafficked by Chinese criminal syndicates. In some cases, trafficking victims from Malaysia were lured by promises of well-paying jobs and then were forced to work as prostitutes.

Prostitution is not a crime in the SAR, but living off the proceeds of prostitution is a crime. In January the police arrested a Taiwan-run gang that allegedly paid Russian prostitutes a small amount of money during the first 6 to 12 months of their employment contracts to force their continued employment.

There were no government assistance programs in place for victims of trafficking. There were no local NGOs specifically dealing with the problem of trafficking, but there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

TAIWAN

Taiwan is a multiparty democracy. The 2000 victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian followed more than 50 years of rule by the Kuomintang (KMT) and marked the first transition from one political party to another in Taiwan's history. The president appoints the premier, who heads the Executive Yuan (EY), or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. In 2001 the DPP won a plurality of seats in the LY in free and fair elections. In the 2002 Taipei and Kaohsiung municipal elections, an incumbent KMT mayor in Taipei and an incumbent DPP mayor in Kaohsiung were re-elected in free and fair elections. In addition to the DPP, the KMT, the People First Party, and the Taiwan Solidarity Union played significant roles in the LY. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, and the Government respected the judiciary's independence in practice.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau, and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies are under effective civilian control. The police occasionally committed human rights abuses.

Taiwan has a dynamic, export-oriented, free market economy. Liberalization of the economy has diminished the dominant role that state-owned and party-run enterprises previously played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. Services and capital- and technology-intensive industries were the most important sectors. Major exports included computers, electronic equipment, machinery, and textiles. Taiwan's more than 22 million citizens generally enjoyed a high standard of living and an equitable income distribution.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. Principal problems included police abuse of detainees; allegations of judicial corruption; violence and discrimination against women; child prostitution and abuse; societal discrimination against Aborigines; restrictions on workers' freedom of association and on their ability to strike; and some instances of trafficking in women and children.

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 Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (*see* Section 1.d.). The MOJ claimed that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated. Nonetheless lawyers and legal scholars noted that abuses most often occurred in local police stations where interrogations were not recorded and when attorneys often were not present. Police emphasized confessions by sus-

pects as the principal investigative tool, and the judicial system sometimes accepted confessions even when they contradicted available physical evidence or logic. Law enforcement agencies remained weak in scientific investigative skills; however, the NPA continued to make efforts to improve by upgrading its crime laboratory technology and training crime scene examiners.

The NPA stated that regulations forbid the abuse of suspects and that police who abuse suspects are punished. However, there were credible reports that physical abuse or the threat of abuse was a recurring investigative technique. Detainees who are abused physically have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. According to the Government, there were no such cases during the year and two in 2001, one in Yunlin County and one in Kaohsiung. The policeman in the first case was found guilty and sentenced to 8 months in prison; no information was available regarding the second case. In 2000 the Taiwan High Court began the retrial of the "Hsichih Trio" who alleged police torture in extracting their confessions to a 1991 murder charge; the case remained pending at year's end.

Although the primary responsibility for investigating torture and mistreatment lies with prosecutors, the Control Yuan (CY), a coequal branch of the political system that investigates official misconduct, also investigates such cases. While the authorities stated that instilling respect for human rights was a part of basic police training, human rights groups asserted that the measures the authorities have taken to protect human rights were inadequate.

Corporal punishment is forbidden under military law and strictly prohibited in practice. In the past, military hazing was a problem; however, the Ministry of National Defense (MND) has implemented several programs in recent years to address the problem. In March a law was passed establishing committees for the protection and promotion of servicemen's rights and interests, which demonstrably have served to reduce incidents of hazing and mistreatment.

Prison conditions generally met international standards; however, overcrowding at the 49 prisons and overly long stays at detention centers for illegal aliens remained problems. Recent NPA initiatives have begun to have an impact, reducing the average stay at detention centers for illegal aliens from 98 days to 88 days. Also during the year, the number of inmates that exceeded the capacity of Taiwan's prisons fell to 2,420, or 4.4 percent of total inmates, from 4,940, or 9.6 percent of total inmates, in 2001. During the year, renovation, expansion and construction projects added approximately 3,500 beds.

The authorities permitted prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the authorities generally observed this prohibition. Police legally may arrest without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion. In 2000 the NPA ordered all police stations to prohibit the media from photographing persons under detention and to cease providing the names of detainees to the media. In 2001 the MOJ and the NPA strengthened efforts to prevent disclosure of information on detainees to the media; this reduced somewhat the unauthorized release of information.

Under the law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also apply for detention during trial. If a crime is punishable by less than 10 years' imprisonment then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within 3 months of indictment.

The Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase, but defense lawyers and human rights groups continued to complain that the rules did not provide adequate protection since suspects often did not have legal representation during police interroga-

tion. A contributing factor is the lack of a legal requirement that indigent persons be provided counsel during police interrogation, although counsel was provided during trials. In addition, informed observers reported that the “public defense counsels” did not provide effective defense assistance. They typically did not appear until the final argument of the trial, and they seldom spent a significant amount of time discussing the case with their clients.

The Constitution does not provide for forced exile, and it was not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; and the Government generally respected this provision in practice. However, while the Government has made efforts to eliminate corruption and to diminish political influence in recent years, they remained serious problems.

In recent years, the Judicial Yuan (JY) has taken several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by “assistant judges.” The judges themselves decide upon distribution of cases. Finally, judges and the President of the JY are prohibited from taking part in political activities. The Government’s anticorruption campaign also has reinforced the JY’s efforts to eliminate judicial corruption. Although the LY has yet to enact the JY President’s proposed code of judicial conduct, the proposals have resulted in revised precepts for evaluation of judicial performance and strengthened reviews of judges’ financial disclosure reports. In 2000 the JY initiated a human rights course in its judicial training program. These factors have reduced the incidence of judicial misconduct; however, there continued to be complaints of corruption on the part of individual judges. In 2000 a judge in Tainan was arrested on suspicion of running a brothel since 1998 and using his position to protect the business from police scrutiny. In July the judge was sentenced to 12 years in prison and deprived of his right to serve in the Government for 8 years following his release. At year’s end, his appeal was pending in the Taiwan High Court.

The JY is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 16-member Council of Grand Justices, which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Administrative Court also provides judicial review.

The law provides the right of fair public trial, and this generally was respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years’ imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial, but usually were not present during police interrogations. Informed observers reported that public defense counsels did not provide effective defense assistance (*see* Section I.d.). The law states that a suspect may not be compelled to testify, and that a confession shall not be the sole evidence used to find a defendant guilty. Nonetheless convictions frequently resulted from a combination of a confession and circumstantial evidence of varying quality. However, in 2001 a Taipei district court judge acquitted a defendant of theft charges on the grounds that his confession was made involuntarily. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences.

In May the LY passed criminal procedure legislation making judges impartial adjudicators of lawsuits rather than law enforcers for the Government obligated to personally help gather evidence for prosecutors. The revision, which downgrades the status of prosecutors from a rank similar to that of a judge, requires prosecutors to bear the full responsibility for investigations and charges them with the duty of convincing the judge of the guilt of the accused.

In 2001 the Council of Grand Justices declared certain due process provisions of the 1985 Antihoolum Law to be unconstitutional. The law departed from international standards by allowing police to detain suspects for up to 1 month—extend-

able to subsequent months—while the suspect was under investigation. In April the LY passed legislation eliminating that provision.

At year's end, six District Courts had adopted the new trial system that has been in use in the Shihlin District Court since 1999. Implemented in response to the JY President's 1999 judicial reform proposals and intended to better protect the rights of the accused, the new modified adversarial trial system is a potential model for the rest of the judicial system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution and the Criminal and Civil Codes contain provisions protecting privacy. In 2001 the LY amended the Code of Criminal Procedure to require prosecutors to obtain judicial approval of search warrants, except when “incidental to arrest” or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental to arrest provision is not only unconstitutional but is also often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A policeman who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison; however, few defendants or their spouses have filed charges against policemen found to have obtained evidence illegally. Furthermore, illegally obtained evidence is not excluded automatically from consideration by the court; instead, its admission is left to the discretion of the judge. Judges increasingly excluded illegally obtained evidence, although in the past such evidence was admitted and frequently provided the basis for conviction.

In 2001 the Council of Grand Justices ruled that the Police Administration Law (PAL), which had been used to give police wide discretion in searching persons in public places and stopping vehicles for inspections, did not entitle police to make such searches unless a clear risk to public safety had been established. Noting that such searches could infringe on freedom of movement, privacy, and the right to property, the Council instructed the NPA to revise the PAL in accordance with its ruling immediately. At year's end, the Executive Yuan was debating the revision to be proposed to the LY.

Although the MOJ and the police continued to use wiretapping as an investigative tool, unauthorized wiretapping has become less of a problem following passage in 1999 of the Telecommunications Protection and Control Law, which imposed severe penalties for unauthorized wiretapping. The Telecommunication Law and Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. The total number of approved wiretaps dropped from 13,000 in 1999 to 3,051 in 2000. Approvals subsequently increased to 7,218 in 2001 and to 8,631 during the first 10 months of the year. Officials attributed the recent increase to investigations into alleged vote-buying cases during local and national elections in the past 2 years. The law also regulates wiretapping by the intelligence services.

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.

Print media represented the full spectrum of views within society. However, some political influence still existed over the electronic media, particularly broadcast television stations. The ruling DPP was associated with Formosa TV (FTV), the Government was the largest shareholder of Taiwan Television Enterprise (TTV), the military was the largest shareholder of the Chinese Television System (CTS), and the opposition KMT was the largest shareholder of China Television Company (CTV). However, the existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, has diminished the importance of political party influence over the broadcast television stations.

Controls over radio stations were more limited than those over television stations and were gradually being liberalized. In 2001 the Government Information Office (GIO) received 503 applications for radio broadcast frequencies. A total of 77 frequencies were made available, including 45 medium-range and 32 short-range frequencies. As of 2001, 23 medium-range and 10 short-range frequencies had been apportioned. During the year, the Ministry of Transportation and Communications announced no plans to further expand the number of frequencies available.

Observers noted that licensing requirements obliged prospective radio station owners to have more capital than actually was required to operate a station, which

inhibited individuals or groups from applying for radio station licenses. However, the GIO claimed that the \$1.43 million (NT\$50 million) required capitalization was based upon consideration of actual business costs and noted that the required capitalization was reduced to \$28,600 (NT\$1 million) for radio stations serving remote areas or designated ethnic groups and civic organizations, or which promote local development. According to Ministry of Transportation and Communication statistics, more than 130 unlicensed “underground” radio stations, many associated with the ruling or with opposition parties, operated illegally.

Among other restrictions regulating the media were those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. DPP leaders, many of whom were convicted of sedition in the aftermath of the 1979 Human Rights Day demonstrations that turned into a riot, which is known as the “Kaohsiung incident,” nevertheless were not affected because their rights were restored through presidential amnesties by the previous administration.

There is a vigorous and active free press. In 1999 the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that was seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. However, in March the Government raided the offices of Next Magazine and confiscated 160,000 copies of an issue containing an article about \$100 million (NT\$3.5 billion) in secret funds established by former president Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The Taiwan High Court Prosecutor’s Office charged a reporter at the magazine with breaching national security; the case was pending at year’s end.

The GIO required that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, and still sought to ban the importation of publications that advocated communism or the establishment of united front organizations, endangered public order or good morals, or violated regulations or laws. The GIO also required that China-origin material be converted to traditional characters before being published in Taiwan. However, few local publishing companies observed this regulation, and substantial People’s Republic of China-origin material was imported and was widely available at schools and in research institutes. During the year, some academics and publishing houses called on the GIO to relax its restrictions on the use of simplified Chinese characters. Cable television systems broadcast uncensored television channels from mainland China.

The authorities generally did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the authorities generally respected this right in practice. Permits required for outdoor public meetings were granted routinely.

The Constitution provides for freedom of association; and the authorities generally respected this right in practice. The Civic Organization Law requires all civic organizations to register.

Under the Civic Organization Law the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the “Republic of China.” The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under either the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory. Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year. In 2000 the President granted a special amnesty to 19 conscientious objectors who had been imprisoned for refusing military service on religious grounds. In 2001 the LY passed an Alternative Service Law that permits conscientious objector draftees to fulfill their military service commitments through community service.

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

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.—The authorities did not restrict freedom of internal travel. Foreign travel by passport holders was common.

Nonresident passport holders usually are issued “overseas Chinese” passports and must seek entry permits for travel to Taiwan. According to the National Security Law (NSL), entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. Holders of nonresident passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987 the authorities have relaxed substantially strictures against travel by residents to the Chinese mainland, and such travel was common. In 2000 relatively tight restrictions on the entry of Chinese from the mainland for national security reasons, which previously had been relaxed to permit cross-strait exchanges, were further relaxed when the LY passed legislation permitting mainland Chinese to visit for business, academic, or tourism purposes. In 2001 Taiwan further relaxed the regulations to allow PRC correspondents to be temporarily posted to Taiwan for up to 1 month per visit. By the end of July, 98 PRC journalists had taken advantage of this change.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status during the year. While the authorities have been reluctant to return to the mainland those who might suffer political persecution, they regularly deported to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally entered the island for economic reasons. There were no reports during the year of forced return of persons to a country where they feared persecution.

Some detention centers for illegal immigrants continued to be overcrowded, and detainees complained about overly long stays at the centers while waiting to be repatriated. Recent expansion projects sought to relieve overcrowded conditions. The Bureau of Entry and Exit faulted mainland Chinese authorities for delays in repatriation. In 2000 the authorities began allowing some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. Also in 2000 the authorities began to repatriate illegal alien mainland Chinese directly from the island of Matsu or allow them to fly back to China via a third country, rather than take them to detention centers in Taiwan.

In 2001 the ship’s master and the chief engineer of the Greek cargo vessel *M/V Amorgos* were prevented from leaving the island while the Environmental Protection Agency negotiated with the shipping company’s agent regarding compensation for damages caused by an oil spill when the ship ran aground off the coast of southern Taiwan. After 8 months, they were allowed to depart the island and given compensation.

The 1999 Entry, Exit, and Immigration Law provides strict sentencing guidelines for alien smuggling. Several cases have been brought before the courts under this law; however, few resulted in convictions.

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

Citizens have the right to change their government peacefully, and citizens exercised this right in practice. In 2000 for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-person race. Generally free and fair popular elections for the LY have taken place four times since 1992.

The Chen administration has made significant progress in its efforts to eliminate corruption and vote buying. In early 2001, the MOJ worked to ensure fair Farmers’ and Fishermen’s Association elections. Investigations of 444 suspected vote-buying cases resulted in the indictment of 43 persons. The MOJ also conducted a concerted campaign against vote buying in the 2001–2002 national and local elections. As of January, the MOJ had investigated 5,794 vote-buying cases and indicted 141 persons.

In 2000 the MOJ also launched a campaign against government corruption. As of May, prosecutors had indicted 12 former and incumbent legislators, 6 former and incumbent city mayors and county magistrates, and 87 local township chiefs, of whom 2 local township chiefs had been convicted. Of the 166 city, county and local officials who were indicted for corruption, 1 council member had been convicted by year’s end. In addition, prosecutors were investigating 3 incumbent legislators, 1 mayor, 1 county magistrate, 19 local township chiefs, and 57 city, county, and township elected representatives at year’s end.

In 2000 the Ministry of Justice Investigation Bureau was ordered to cease political intelligence gathering regarding politicians and political parties, and to concentrate on criminal matters.

The DPP won the largest bloc in the 2001 legislative elections, obtaining 87 of 225 seats. The KMT, which lost the legislative majority for the first time, won 68 seats. The People First Party more than doubled its representation in the LY, winning 46 seats. The newly established Taiwan Solidarity Union, inspired by the pro-Taiwanese ideology of former president Lee Teng-hui, won 13 seats. The New Party won one seat.

The Constitution provides for equal rights for women, and their role in the political sphere is increasing. In 2000 a woman for the first time was elected vice president, and 7 of 40 cabinet officials were women, including the Chairpersons of the Mainland Affairs Council and the Labor Affairs Council. Two of 25 Control Yuan members and 3 of 20 Examination Yuan members were women. A number of women also held important political party positions. Two of the 15 members of the DPP Central Standing Committee were women, as were 8 of the KMT's 31 Central Standing Committee members. Forty-eight members in the 225-member Legislative Yuan were women.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their percentage of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

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

The most active human rights organizations were the Chinese Association of Human Rights and the Taiwan Association for Human Rights. Both organizations operated freely and investigated human rights complaints, many of which came to public attention through the media and statements by lawmakers from all political parties. The authorities also permitted representatives of international human rights organizations to visit and meet with citizens freely. Amnesty International maintained a Taipei office. Women's and children's human rights groups monitored police and judicial performance and campaigned to address abuses.

In his 2000 inaugural address, President Chen declared that Taiwan must include international human rights in its legal code and establish a national human rights commission. In October the Government issued a report entitled "Taiwan: 2002 Human Rights Policy White Paper," with a timetable for an ambitious human rights promotion program, including planned issuance of a National Human Rights Report in March 2003, a program to examine and revise laws likely to be affected by human rights policies, and preparation of a national Human Rights Action Plan in accordance with the Vienna Declaration and Program of Action. In October the Government cosponsored an international symposium on human rights in Taiwan addressing the implementation of international human rights standards, the establishment of a national human rights commission and the role of NGOs in the advancement of human rights. In December President Chen reported that the Government had submitted a draft organic law for the National Human Rights Commission to the Legislative Yuan for approval and that the LY had begun to screen bills for the localization of international human rights codes. In 2001 the Ministry of Education initiated a program of human rights education at all levels of the educational system.

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

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities. While the authorities were committed to protecting these rights, discrimination against some groups continued.

Women.—Violence against women, including domestic violence and rape, remained a serious problem. Domestic violence was especially widespread. The authorities funded domestic violence hot lines, which also handled calls for assistance from victims of sexual assault and child abuse. From January through September, the hot line run by the Domestic Violence Prevention and Control Center under the Ministry of Interior received 55,310 calls. The Ministry of Justice continued to take steps to strengthen the protection of women and children against violence in accordance with the 1999 Domestic Violence and Protection Control Law. The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases were

prosecuted, strong social pressure discouraged abused women from reporting incidents to the police in order to avoid disgracing their families.

Rape also remained a serious problem, and its victims were stigmatized socially. One expert estimated that 7,000 rapes—10 times the number reported to the police—occurred annually. In 1999 the LY passed legislation that permits the prosecution of the crime of rape without requiring the victim to press charges. Under the law, rape trials may not be open to the public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. There were 2,943 cases of rape or sexual assault reported in 2001. Spousal rape is a crime. In 2001 the Ministry of Interior (MOI) adopted a new procedure under which doctors, social workers, police, and prosecutors jointly question victims of sexual abuse in order to reduce the number of times a victim is questioned. From January through November, 1,431 persons were indicted for rape or sexual assault, and 1,143 persons, most indicted in previous years, were convicted.

The law requires all city and county governments to set up domestic violence prevention and control centers. The centers provided victims with protection, shelter, legal counseling, and other services on a 24-hour basis. From January through September, the city and county domestic violence prevention and control centers consulted with a total of 54,180 persons, set up follow-up files on the cases of 14,903 persons, helped obtain 2,429 court protection orders, and assisted in obtaining emergency shelter for 1,161 persons. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. The MOI also provided assistance, such as financial assistance and shelter, to victims of rape or domestic violence. In 1999 the Ministry established a domestic violence prevention committee to implement a comprehensive program for the protection of women and children. The committee, among other things, worked to ensure that the various prevention and control centers were functioning effectively, and that other government agencies, such as the police, handled domestic violence cases appropriately. The committee also worked with NGOs on these issues.

Prostitution, including child prostitution, also was a problem. The authorities were phasing out legalized prostitution. In 1999 the LY banned prostitution, but exempted 23 brothels and 119 prostitutes already registered with the authorities. Under the law, no new houses of prostitution may be registered. There have been reports of a growing trend of young women, often well educated, entering into part-time prostitution. There also were credible reports of a small number of women being trafficked onto the island for purposes of prostitution (*see* Section 6.f.), and reports of a larger number of women who entered for purposes of engaging in prostitution.

Sexual harassment was a problem, but the Government actively addressed the issue. During the year, the authorities reacted quickly to investigate allegations of sexual harassment lodged against a high-ranking government official.

The law prohibits sex discrimination. Many sections of the legal code that discriminated against women have been eliminated. For example, women are no longer required to adopt their husband's last name after marriage, and the citizenship law was amended in 2000 to permit transmission of citizenship through either parent.

In March the 2001 Gender Equality in the Workplace Act went into effect, providing for equal treatment with regard to salaries, promotions, and assignments. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. Women's advocates noted that women were promoted less frequently and worked for lower pay than their male counterparts, and that women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy, despite the fact that previously existing labor laws afforded women some protections against gender-based discrimination in the workplace. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations have set up committees to deal with complaints of sexual discrimination in the workplace.

In 2001 the Ministry of Education initiated a program to promote equal educational opportunities for both sexes and to include units on family life, relations between the sexes, and equal opportunity rights in educational material at all levels.

In 2001 60 women's organizations joined together to form the National Union of Taiwan Women to promote women's rights. Also in 2001, President Chen reiterated his administration's determination to protect teenage girls from commercial sexual exploitation and signed a declaration drafted by the Garden of Hope Foundation to increase public awareness of the need to protect the rights of teenage girls.

Children.—The Constitution includes provisions to protect children's rights, and the authorities were committed to supporting them. Education for children between

6 and 15 years of age is free and compulsory, and this rule was enforced. The percentage of school age children attending primary school was 99.94 percent, and those attending junior high school 99.86 percent. Children also were provided health care under the national health insurance scheme.

Child abuse was a significant problem. In 2001 there were 4,466 cases of child abuse according to MOI statistics. Following the 1999 enactment of the Domestic Violence Control Law, 21 city and county governments established domestic violence protection centers, the goal of which is to protect women, children and senior citizens from violence. Services include a 24-hour hot line, emergency assistance, shelter, medical treatment and examination, counseling for victims, legal assistance, and education and training. Under the law any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification within 24 hours; and the authorities involved must issue an investigation report within 24 hours. Both the MOI's Social Affairs Department and nongovernmental specialists asserted that these requirements were followed. In October the Shihlin District Court found a senior member of a Buddhist academy guilty of sexually harassing novice monks in 2000. The defendant was sentenced to 12 years in prison, and has appealed his case to the Taiwan High Court. Financial subsidies were provided to low-income families with children in day care facilities and to local governments to promote child protection efforts. In 2001 the MOI assisted city and county governments in establishing 38 public daycare facilities and 26 child protection centers. The latter facilities have a total capacity of 938 and housed 528 children at year's end. From July to December, the MOI's pilot program in 3 counties provided assistance to aboriginal children in approximately 120 child abuse cases. In 2001 a hot line was established to accept complaints of child abuse and offer counseling. Courts are authorized to appoint guardians for children who have either lost their parents or whose parents are deemed unfit.

In 1999 the first juvenile court was established in Kaohsiung to handle criminal cases. Previously regular courts handled such cases. The court employed 24 juvenile counselors, and was believed to have been effective in dealing with juvenile criminal cases. There were three juvenile detention centers on the island.

Although no reliable statistics were available, child prostitution was a serious problem, particularly among aboriginal children (*see* Section 6.f.). Most child prostitutes ranged in age from 12 to 17 years. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their "own free will," and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remained obstacles to enforcement. According to well-informed observers, the practice of aboriginal families selling their children into prostitution no longer existed.

According to some reports, brothel owners used violence, drug addiction, and other forms of coercion to prevent child prostitutes from escaping. The law provides for up to 2 years' incarceration for customers of prostitutes under the age of 18. The law also requires the publication of the names of violators in newspapers. In the first 10 months of the year, the names of approximately 100 persons convicted of patronizing child prostitutes were published. Under a plan adopted by the NPA, city and county authorities across the island have established police task forces to strengthen their efforts against child prostitution. From January through November, 1,479 persons were indicted and 1,128 were convicted for violations of the law. During this period, the police rescued 346 child prostitutes. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors, and these laws were enforced in practice (*see* Section 6.f.).

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for various violations. New public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and in practice this requirement was generally met. Violations of the law resulted in fines of US\$1,700 to US\$8,600 (NT\$60,000 to NT\$300,000.) Existing public buildings were to be brought into conformity by 1995; however, as of year's end there did not yet appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities.

According to MOI statistics, there were 790,312 persons with disabilities. One-third of the total were severely disabled and received shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force

respectively. Organizations failing to do so must pay, for each person with disabilities not hired, 50 percent of the basic monthly salary (approximately \$227 (NT\$7,940)) into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Many organizations complained that it was difficult to find qualified workers with disabilities, and they appeared to prefer to pay the fines. Another law requires that, to compete for government contracts, a firm with at least 100 employees must include among its employees a minimum of 2 percent of either persons with disabilities or Aborigines. Both the central and local governments have established committees for the protection of persons with disabilities.

Indigenous Persons.—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians already well established on the island when the first Chinese settlers arrived. According to MOI statistics, there were 429,534 of these Aborigines. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The cabinet-level Council of Aboriginal Affairs was established in 1996 to protect aboriginal rights and interests. Critics noted that its budget was quite small. The Ministry of Education offered some aboriginal language classes in primary schools. The Ministry of Education subsidized university education for Aborigines and worked to preserve aboriginal culture, history, and language through the establishment of Aborigine studies centers. The law requires that, to compete for government contracts, a firm with at least 100 employees must include among its employees a minimum of 2 percent of either persons with disabilities or Aborigines.

Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition they complained that they were prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remained a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aborigine leaders have come to believe that only some form of autonomy can preserve their land rights, which constantly were threatened by Chinese developers who used connections and corruption to gain title to aboriginal land. According to Council of Aboriginal Affairs statistics, only approximately 70 percent of Aborigine children completed elementary school.

The sale of Aborigine children into prostitution by their parents reportedly no longer occurred.

Section 6. Worker Rights

a. The Right of Association.—Although the JY ruled in 1995 that the right of association is protected by the Constitution, legislation implementing this decision had not been passed; teachers, civil servants, and defense industry workers were not permitted to form labor unions. In June the LY passed the Civil Servants Association Law, which allows civil servants to organize but forbids them to strike. On September 28, more than 100,000 teachers from around the island gathered in downtown Taipei to demand their right to form unions.

A number of laws and regulations further limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying certification to new labor unions during the year.

The Labor Union Law requires that labor union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected management-endorsed union slates. During the year there were no reports of political interference in labor union affairs.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are labor union members. However, in practice employers sometimes have dismissed labor union leaders without reasonable cause, or laid them off first during employee cutbacks, and observers pointed out that the law has no specific penalties for violations. According to the National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since the labor movement began to expand after the 1987 lifting of martial law.

Labor unions may form confederations, but in the past no administrative district, including a city, county, or province, was allowed to have competing labor confederations. In 2000 the Government significantly eased restrictions on the right of association, and the Council of Labor Affairs (CLA) recognized six new island-wide labor federations, including the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions), the Chinese Labor Unions Federation, and the National Trade Union Confederation. Nonetheless the percentage of workers who are labor union members has not increased in recent years in the face of a series of factory closure layoffs, the shift from manufacturing to service industries, the small scale and poor organization of most unions, and past prosecution of labor activists by the authorities. As of June, some 2.9 million workers, approximately 29 percent of the 10.0 million-person labor force, belonged to 3,854 registered labor unions.

In 1971 the People's Republic of China replaced Taiwan in the International Labor Organization (ILO). However, in June the president of the China Federation of Labor (CFL), with assistance from the International Confederation of Free Trade Unions (ICFTU), attended the ILO annual meeting in Geneva. The CFL was affiliated with the ICFTU; the new federations were not internationally affiliated.

b. The Right to Organize and Bargain Collectively.—Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. The 282 collective agreements in force in June involved roughly 26 percent of industrial labor unions and covered a relatively small proportion of the total workforce. Employers set wages generally in accordance with market conditions.

The law governing labor disputes recognizes the right of labor unions to strike but imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve “unfair practices.” The law forbids both labor and management from disrupting the “working order” when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year. The Council of Labor Affairs reported that from 1990 to 1999, there were 34 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. There were no strikes during the year, in 2001, or in 2000.

Firms in export processing zones were subject to the same laws regarding treatment of labor unions as other firms and followed normal practices including honoring collective bargaining agreements with their unions.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, there were several cases of forced child prostitution prosecuted by the authorities (*see* Sections 5 and 6.f.).

In 1992 66 women who were forced to work as “comfort women” (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial government) registered with the Taipei Women's Rescue Foundation (TWRFF). In 1999 TWRFF helped nine of those still alive to file a lawsuit in the Tokyo District Court seeking compensation of \$81,300 (10 million Japanese Yen) per person and a formal apology from the Japanese government. On October 15, the Tokyo District Court ruled against the women, who planned to appeal.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus enforced minimum age laws effectively. The Child Welfare Law, Juvenile Welfare Law, and Child and Juvenile Sexual Transaction Prevention Act protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

e. Acceptable Conditions of Work.—The Labor Standards Law addresses rights and obligations of employees and employers, but the law was not well enforced in areas such as overtime work and pay or retirement payments. By the end of 2001, the LSL covered 5.74 million of Taiwan's 6.8 million salaried workers. Those not covered included teachers, doctors, lawyers, civil servants, and domestic workers. The CLA conducted publicity campaigns to increase public awareness of the law and operated telephone hot lines to accept complaints of LSL violations.

The CLA did not increase the minimum monthly wage, which has remained at \$452 (NT\$15,840) since 1998. While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. In 2000 the LY passed legislation to reduce working hours from 48 hours per week to 84 hours per 2-week period. In the public sector, there is a 5-day workweek. According to a CLA survey, 49 percent of private enterprises also have implemented entire or partial 5-day workweeks.

The law provides only minimal standards for working conditions and health and safety precautions; it gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment.

Critics alleged that the CLA did not effectively enforce workplace laws and regulations because it employed too few inspectors. During the year, there were 260 inspectors available for the approximately 270,000 enterprises covered by the Occupational Safety and Health Law. However, with new cross-inspection measures, the number of health inspections increased 54 percent from 40,715 in 2000 to 62,840 in 2001, while the number of safety inspections increased by 35 percent from 39,676 to 53,713. The CLA maintains that it has strengthened its safety checks at workplaces with a greater risk of worker injury and it offered training programs to help workers protect their rights. Since many enterprises were small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws was hard to document but was believed to be minimal in these smaller enterprises.

During the year, there were over 307,000 legal foreign workers, including approximately 122,000 workers from Thailand, 69,000 from the Philippines, and 19,000 from Vietnam. In 2000 the CLA adopted a series of measures to restrict foreign workers in Taiwan's major public construction projects, key manufacturing investment projects, and the manufacturing sector and announced that it intended to reduce the number of foreign workers on the island by 15,000 workers per year.

The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, the CLA in 1998 allowed family maids, including foreign family maids, to be exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover authorities say that in many cases illegal foreign workers, many from Thailand and the Philippines, received board and lodging from their employers, but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In response to deteriorating economic conditions, the Government adopted a proposal by the Economic Development Advisory Conference allowing room and board expenses for foreign workers, beginning with contracts signed in September 2001, to be treated as in-kind payments and deducted from foreign workers' pay.

Illegal foreign workers also were vulnerable to employer exploitation in the form of confiscation of passports (making it difficult to change employers), imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There also were reports that foreign workers often paid high agency fees to obtain jobs. In addition observers reported that conditions in many small and medium-sized factories that employed illegal foreign labor were dangerous, due to old and poorly maintained equipment. Observers alleged that legal foreign workers were sometimes similarly exploited. The CLA urged employers not to mistreat foreign workers, and employers were subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In an effort to reduce broker fees, the CLA revoked permits of agencies charging excessive fees, and local governments inspected agency hiring practices. The CLA also negotiated direct hire agreements with labor sending countries, and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment.

In 2000 the CLA ended the practice of requiring foreign female workers to undergo pregnancy tests. In the past, those who tested positive were subject to immediate deportation. In November the CLA repealed regulations requiring the deportation of foreign laborers who became pregnant and further amended regulations to allow them to switch to jobs with lighter workloads. The CLA has established 20 offices around the island to provide counseling and other services to foreign workers; and it provided financial assistance to city and county governments to conduct inspections of places where foreign workers were employed. It also was attempting to reduce the number of illegal foreign workers.

f. Trafficking in Persons.—The Statute for the Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who forces a child below the age of 18 to engage in sex or sells or pawns such a child by other

means. Provisions in the Criminal Code can also be used to prosecute traffickers in persons above the age of 18. Trafficking in persons was a problem.

The island remained a significant transit point and, to a lesser extent, a destination for trafficked persons. There were reports of organized crime rings trafficking in a small number of women for the purpose of prostitution. The majority of cases involved women from mainland China, Thailand, Cambodia, Vietnam and Indonesia. Criminal gangs in mainland China reportedly used deceptive measures to recruit and procure young women who were then trafficked to Taiwan-based organized crime gangs who arranged sham marriages to enable them to obtain visas to enter Taiwan, and exploited them for purposes of prostitution. Many of the victims were aware that they were to work as prostitutes, but were deceived by the traffickers about what their pay and working and living conditions would be upon arrival. Once in Taiwan, they were kept isolated, their passports were held, and they were threatened with violence if they did not cooperate. Small numbers of young Malaysian women, primarily ethnic Chinese, were trafficked to Taiwan for sexual exploitation. Burmese also were trafficked to Taiwan. The authorities, academic experts, and NGO experts claimed that the number of trafficking victims has decreased significantly in recent years. The authorities reportedly prosecuted eight trafficking cases during 2000.

Taiwan remained a significant transit point for persons from mainland China attempting to travel illegally to the United States and other countries. Some of these illegal migrants became trafficking victims in the destination countries. In 1999 the LY enacted legislation which criminalized alien smuggling (*see* Section 2.d.).

Police were trained in handling trafficking, prostitution, and cases of domestic violence. The Government worked with NGOs to provide counseling and medical assistance to victims as needed. Foreign victims of trafficking were repatriated as quickly as possible.

EAST TIMOR

East Timor became a fully independent republic on May 20, following approximately 2 and a half years under the authority of the U.N. Transitional Administration in East Timor (UNTAET). The country has a parliamentary form of government with its first parliament formed from the 88-member Constituent Assembly chosen in free and fair, U.N-supervised elections in August 2001. The 29-member Cabinet is dominated by the Fretilin Party, which won the majority of Assembly seats. Mari Alkatiri, Fretilin's Secretary General, is Prime Minister and Head of government and Xanana Gusmao, elected in free and fair elections on April 14, is President and Head of State. UNTAET's mandate ended with independence but a successor organization, the U.N. Mission for the Support of East Timor (UNMISSET), was established. Under the Constitution ratified in March "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution"; and Indonesian and UNTAET laws and regulations continue to be in effect. Regulations providing for an independent judiciary generally were respected during the year; however, the independence of the judiciary occasionally has been questioned.

UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force (UN-PKF) and the U.N. Police Forces (UNPOL). In addition to providing interim law enforcement and public security, UNMISSET is assisting in the development of the East Timor Police Service (ETPS), which will assume responsibility for internal law and order. The East Timor Defense Force (ETDF) will gradually take over responsibility for external defense from UN-PKF. The UN-PKF continued to reduce its presence during the year. UNMISSET's mandate is scheduled to be phased out completely by June 2004. The ETPS is responsible to the civilian Minister of Internal Administration, and the ETDF is responsible to the civilian Secretary of State for Defense. Some individual members of the ETPS committed some human rights abuses.

East Timor is an extremely poor country, with two-thirds to three-fourths of the population of 775,000 persons engaged in subsistence agriculture. Per capita gross domestic product was estimated to be approximately \$460. An estimated 70 to 80 percent of the country's infrastructure was damaged severely by the systematic scorched-earth campaign that Indonesian military and militia forces conducted in September 1999, as they withdrew. During the year, reconstruction proceeded slowly. The majority of the population has basic shelter and sufficient food supplies. Low-level commercial activity resumed; much of it served the large foreign presence. The rural agricultural economy has recovered significantly, but the country remained dependent on imported food. Coffee remained the territory's only significant

export, but falling world prices hindered export earnings. In July 2001, the country concluded an agreement with Australia to share revenue from the potentially lucrative Timor Gap oil and gas region, from which significant revenues are predicted to begin in 2004. Property ownership disputes and the lack of a comprehensive commercial code hindered investment and related long-term development. Urban unemployment and wage and price inflation remained significant problems. Most observers believed that East Timor would remain heavily dependent on foreign assistance for the next several years.

Both UNTAET and the new government generally respected the human rights of citizens. The arrival of international forces and withdrawal of Indonesian forces in September 1999 largely brought to an end the decades-long pattern of numerous, serious human rights abuses by Indonesian authorities and Indonesia-backed East Timorese militias; however, many serious problems remained. In 2001 militias based in West Timor, Indonesia, some backed by elements of the Indonesian government, at times crossed into East Timor and threatened, robbed, attacked, and occasionally killed local villagers. There were no such attacks during the year, although there were reports of cross-border infiltration throughout the year. On December 4, two persons were killed in violent rioting in Dili; ETPS personnel were believed responsible for at least one of the killings. There was a problem with prolonged pre-trial detention and the vast majority of the prison population is composed of pre-trial detainees. On occasion the independence of the judiciary was questioned, and judicial system resources were inadequate. There has been no sitting appeals court since November 2001. By year's end, over 222,000 refugees had returned to East Timor from West Timor and other areas of Indonesia, but many others remained in West Timor. It was not clear how many of these persons wished to return but felt unable to do so either because of fear of reprisals from militias in West Timor or because of instances of attacks and harassment of returning refugees suspected of being former militia members. Domestic violence against women was a significant problem, and customary practices discriminate against women. The educational infrastructure, while significantly improved since September 1999, suffered from inadequate facilities, poorly trained teachers, and lacked educational materials. Protestants and Muslims occasionally were harassed. Ethnic-Chinese businessmen faced some extortion and harassment, and non-Portuguese speakers reported discrimination in government hiring. Local leaders sometimes forced suspected militia members returning from West Timor, Indonesia, to engage in compulsory labor. East Timor was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

During the year, significant efforts were made to bring to justice those persons responsible for the most serious abuses committed during 1999. UNMISSET includes a Serious Crimes Investigation Unit (SCIU), which issued 46 indictments against 141 accused perpetrators, 129 of whom are charged with crimes against humanity. A judicial body, the Serious Crimes Panel, tried and convicted 26 of these persons and acquitted 2. The SCIU also issued 12 arrest warrants for Indonesian military officers and submitted these arrest warrants to the Indonesian government. By year's end, the Indonesian government had not responded formally. In Jakarta the Indonesian government's East Timor Ad Hoc Tribunal on Human Rights saw prosecutors present weak cases. During the year, the Tribunal completed 12 of 18 trials and convicted 3 defendants of crimes against humanity—2 East Timorese and 1 Indonesian—while acquitting 12 Indonesian defendants. The Tribunal's performance disappointed international observers.

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 during the year; police killed a protester in clashes in Baucau on November 23 (*see* Section 1.c.). On December 4, during clashes between rioters and security forces in Dili, 2 persons were killed and 15 injured. It had not been established that the dead and injured were shot by security force personnel, but the ETPS personnel were believed to have committed at least one of the killings, and credible sources reported that the security forces used excessive force (*see* Section 2.b.).

In July 2001, UN-PKF forces based in East Timor shot and killed an Indonesian soldier dressed in civilian attire in West Timor after he reportedly fired across the border.

In March 2000, militia members reportedly killed a villager near Maliana. By year's end, this case remained under investigation, and no charges had been filed.

In July 2000, near Suai, approximately eight militia members shot and killed New Zealand U.N. peacekeeper Private Leonard William Manning and mutilated his corpse. In November 2001, the leader of the group, Jacobus Bere, was put on trial in Jakarta, Indonesia, for first- and second-degree murder following a joint government of Indonesia-UNTAET investigation. Indonesian prosecutors also indicted three of the five militia members involved. Yohanes Timo and Gabriel Hale Noni were charged with premeditated murder, a charge carrying the death penalty. Fabianus Ulu faced up to 15 years in jail if convicted on the lesser charge of homicide. On March 7, the Indonesian court sentenced Bere to 6 years' imprisonment and acquitted the other three accused.

In August 2000, militia members killed Nepalese U.N. peacekeeper Private Devi Ram Jaisi and wounded four other persons. By year's end, UNTAET and the Government of Indonesia had been unable to capture the suspects in this incident.

Elements of the Indonesian security forces (TNI) and prointegration (with Indonesia) East Timorese militias, armed and largely supported by the TNI, were responsible for numerous killings in East Timor throughout 1999, especially after the August 1999 consultation vote resulted in an overwhelming majority for independence. Since 2000 UNTAET and the East Timor government have made efforts to bring to justice those persons responsible for the most serious abuses. In 2000 UNTAET established a Serious Crimes Investigation Unit to address the most recent and serious cases (*see* Section 1.e.). In April 2000, UNTAET concluded a memorandum of understanding with the Government of Indonesia regarding legal, judicial, and human rights cooperation. In December 2000, UNTAET filed indictments against persons suspected of committing war crimes and related atrocities in 1999. The Indonesian government (Attorney General's Office) did not take a position or respond formally. Of the 141 persons indicted by UNTAET, 84 reportedly were at large in Indonesia.

During 2000 UNTAET provided considerable assistance to Indonesian authorities investigating the atrocities committed in East Timor during 1999. In Indonesia the Commission for Investigation of Violations of Human Rights in East Timor (KPP-HAM) submitted its report on human rights violations in East Timor to the Indonesian Attorney General's office in January 2000. The report built on an earlier interim report that held Indonesian security forces responsible for the destruction and violence that followed the East Timor consultation vote in August 1999. The KPP-HAM members recommended the investigation of more than 30 persons, including the commander of the security forces General Wiranto, former Indonesian armed forces intelligence chief Zacky Anwar Makarim, and other high-ranking TNI and police officers. The Indonesian Attorney General announced that his office initially would prosecute five major cases arising from the 1999 violence: The April 1999 massacre in Liquica, in which at least 25 persons died; the April 1999 killings at proindependence activist Manuel Carrascalao's home in Dili, in which at least 15 persons died; the September 1999 attack on the compound of the Catholic Diocese in Dili; the September 1999 massacre of at least 3 priests, and 160 other civilians at a church in Suai; and the September 1999 killing of Dutch journalist Sander Thoenes. In September and October 2000, the Indonesian Attorney General's office named a total of 23 suspects in the cases (1 of whom was killed by fellow militia members in September 2000). In February the Government of Indonesia convened the Ad Hoc Human Rights Tribunal for East Timor to try persons who committed atrocities during April and September 1999 in Liquica, Dili, and Suai. On August 14 and 15, the Tribunal handed down its first verdicts, acquitting six of seven defendants. Former Governor Abilio Soares was convicted and given a 3-year prison term. On November 27, one of the most notorious militia leaders, Eurico Guterres, was convicted of "murder and persecution" and given a 10-year sentence. On December 27, the Tribunal convicted Lieutenant Colonel Sujarwo, who had commanded the Dili military district, and sentenced him 5 years. The Indonesian government prosecutors in these cases did not fully use the resources and evidence available to them from the United Nations and elsewhere. The Tribunal's performance disappointed international observers.

During 2000 there were reports that returning refugees alleged to have militia links were killed. In January and February 2000, two men were killed in Ermera district. In April 2000, Gabriel Alves, a suspected militia member, was beaten and kicked to death in Ulmera, Liquica. A suspect was arrested in 2000, but was released pending trial. By year's end, no trial date had been set.

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

There were numerous reports of abductions and disappearances following the flight and forced relocation of more than 250,000 civilians in September 1999. In addition, dozens of prisoners, including political prisoners, previously held in Becora

prison in Dili reportedly were taken to West Timor in September 1999. By the end of 2000, nongovernmental organizations (NGOs) had determined the whereabouts of the vast majority of the former prisoners. Some returned, while others remained in West Timor.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides that all persons undertaking public duties or holding public office shall observe internationally recognized human rights standards, as reflected in the U.N. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and security force and other government and U.N. personnel observed these regulations in practice.

On November 18, in Baucau a police officer and his attacker were both seriously injured and a police pistol was stolen. Subsequently, on November 23, the house of the person who had allegedly stolen the pistol was burned, and this was followed by an attack on Baucau police headquarters. Protesters allegedly bombarded the police station and vehicles with rocks, and one of the protesters was reported to be carrying a firearm. Police responded by firing several hundred rounds, reportedly mainly into the air. One protester was critically injured, apparently by a gunshot wound, and subsequently died. Community residents alleged that ETPS personnel threatened, intimidated, and assaulted them in course of searching for suspects and gathering information. At year's end, UNPOL and a U.N. Human Rights Unit were investigating.

During clashes in Dili between rioters and security forces on December 4, 2 persons were killed and 15 injured; ETPS personnel were believed responsible for at least one of the killings. Credible sources reported that the security forces used excessive force (*see* Section 2.b.).

There were isolated cases of local residents mistreating returning refugees who were suspected of being former militia members or militia sympathizers. In past years, such mistreatment occasionally took the form of interrogation, stoning, beating, and forced labor (*see* Section 6.c.). In 1999 and 2000, local UNTAET and U.N. police officials often permitted irregular security groups to screen returnees to determine if they had been associated with militias or Indonesian intelligence or had committed abuses. This screening usually occurred once the returnees had arrived back in their home areas. Returnees who were suspected of having committed abuses in some instances were beaten during these sessions, at times severely. For example, in early February 2000, an interrogation team beat and stabbed an alleged militia member in Liquica. However, most returning refugees were reintegrated without significant problems (*see* Section 2.d.).

In 1999 TNI-supported militia groups perpetrated numerous acts of rape and sexual abuse against displaced East Timorese women, in addition to the widely reported rapes of women whom one of the militia groups kept as sex slaves in their Dili headquarters (*see* Section 5). In 2000 a Dili court indicted one militia member on a rape charge stemming from the September 1999 violence in Suai; however, the case had not been prosecuted by year's end. An SCIU (*see* Section 1.e.) special team established to address sexual violence continued to investigate numerous other rape cases. Numerous cases of alleged rapes in previous years by Indonesian soldiers and civilian personnel remained unresolved.

Prison conditions generally met international standards. A separate juvenile block at the Becora prison was finished and used to house juvenile prisoners. There were no separate juvenile facilities at the Gleno or Baucau prisons. Two juveniles were incarcerated at Gleno. Female prisoners have segregated housing in Gleno, but shared housing with juveniles in Becora until transferred to Gleno. There were two full-time social workers to deal with juveniles, women, the elderly, and mentally ill inmates.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention, and provide the right to a trial without undue delay.

Pretrial detention is allowed only for crimes carrying a sentence greater than 1 year. In principle a judge must review pretrial detention every 30 days; however, in practice limited resources hindered this review, and many persons remained in pretrial detention longer than stipulated. The maximum pretrial detention period is not to exceed 6 months for suspects who are charged with crimes carrying a sentence of 5 years or less. In the case of a suspect who is charged with a crime carrying a sentence of more than 5 years, a court panel may extend the pretrial detention for an additional 3 months. For crimes with a sentence of over 10 years, a court panel may order additional pretrial detention beyond 9 months. Upon the expiration

of the maximum detention period, a judge may order the release of a detainee. During the year, approximately 25 percent of all detainees were overdue for review of their pretrial detention. At year's end, two-thirds of the total prison population were pretrial detainees. Of the pretrial detainees, three-quarters were charged with murder, manslaughter, rape, or other violent crimes that carried sentences greater than 10 years. The Government's general policy was to keep the prison population as low as possible. Consistent with this approach, many detainees were released on bail upon review; however, charges against them were not dropped, and their legal status was uncertain. Some detainees were in pretrial detention for periods longer than the maximum sentences for the crimes with which they had been charged. The number of pretrial detainees for serious and ordinary crimes had increased from the previous year.

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

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary. The Court Law provides that judges shall perform their duties “independently and impartially” without “improper influence.” UNTAET regulations, still in force, established a Prosecution Law that requires that all public prosecutors discharge their duties impartially. These regulations generally were respected during the year; however, the independence of the judiciary occasionally was questioned. In September 2000, the Dili District Court ordered the arrest of a Japanese reporter for “offending the dignity” of National Council of Resistance President Xanana Gusmao—a crime under the Indonesian Criminal Law Code that the East Timor courts continued to use during 2000, despite Indonesia's revocation of the law. The reporter later was released, and UNTAET subsequently revoked the Indonesian statute used in the case.

The civil law court system includes four district courts and one national Court of Appeal in Dili. In June 2000, UNTAET established a public prosecutor's office. The Ministry of Justice is responsible for administration of the courts and prisons and provides defense representation as well. The Prosecutor General is responsible for initiating indictments and prosecutions. The Government continued to make progress in creating a legal basis for the justice sector, but faced serious challenges in recruiting and training qualified judges, prosecutors, and defense lawyers. The judiciary's shortage of personnel, bureaucratic and managerial inefficiency, failure to appoint a council of magistrates, and a past insistence on Portuguese-language ability for international judges all contributed to the Government's inability to process criminal cases against most detained suspects within a reasonable time (*see* Section 1.d.). Due to the lack of judicial and legal personnel, only two district courts were fully functional. The Appeals Court did not function during the year.

In March 2000, UNTAET established a special Serious Crimes Panel within the Dili District Court to serve as a *de facto* international tribunal to prosecute those Indonesian and pro-Indonesian East Timorese persons responsible for the mass killings in 1999 and other serious human rights abuses. However, insufficient funding and staffing of the UNTAET SCIU limited its ability to investigate the 10 priority incidents related to the 1999 atrocities. In an effort to overcome these difficulties, the SCIU was reorganized in December 2001 and additional resources were allocated. However, insufficient staff and funding continued to slow prosecutions. During the year, there was only one functioning Special Panel to hear serious crime cases. By year's end, the Prosecutor General in Dili had filed 46 indictments against 141 accused militia members for serious crimes, 129 of whom were accused of crimes against humanity.

The Crimes Panel, which consists of two foreign judges and one East Timorese judge, has exclusive and “universal” jurisdiction to adjudicate cases of genocide, war crimes, crimes against humanity, murder, sexual offense, and torture that occurred between January 1 and October 25, 1999. In June 2000, UNTAET created a corresponding Serious Crimes Prosecution Division under the Prosecutor General, which includes an internationally staffed Serious Crimes Investigation and Prosecution Unit. UNTAET adopted international definitions of genocide, war crimes, crimes against humanity, torture, and command responsibility into a criminal code for the Serious Crimes Panel, and in December 2000 filed the first indictments against Indonesian and pro-Indonesia East Timorese suspects. UNTAET requested assistance from the Government of Indonesia in extraditing identified suspects at large in Indonesia; however, the Government of Indonesia refused to extradite suspects to East Timor or to allow UNTAET investigators to question suspects in Indonesia. Nonetheless the Serious Crimes Panel proceeded with its work, and at year's end 24 cases were at various stages in their proceedings before the Panel.

The Constitution makes Portuguese and Tetum the official languages, although only a minority of the population speaks Portuguese. Many laws have been promulgated in Portuguese, and Portuguese was the primary language in which judicial

proceedings were conducted. Many judges, prosecutors, defense counsels, and defendants were unable to read the new laws being promulgated by Parliament. The Government provided Portuguese language lessons for public officials including judges and prosecutors, and regulations provide for interpretation of judicial proceedings into languages understood by the parties. However, translation and interpretation facilities were not able to meet the needs of the judiciary.

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 and government regulations provide for the freedom of speech and press as stipulated in the U.N. International Covenant on Civil and Political Rights, and the Government generally respected these rights in practice.

There are two daily newspapers, two weeklies, and several bulletin newspapers that appear sporadically. Their editorials freely criticize the Government and other political entities.

The Government assumed responsibility for a radio and a television station formerly operated by UNTAET, and in May the Constituent Assembly passed legislation creating a Public Broadcast Service. At year's end, the Service was still being organized. The Government radio service was available throughout the country. Broadcast television was available only in Dili. In addition to the Government-operated station, there were six nongovernment radio stations, three in districts outside Dili. Additionally, small community radio stations were being organized.

While insufficient resources constrained development of print and broadcast media, there are no political or legal impediments to new entries to the media market.

In November UNMISSET issued indictments against two Indonesian army officers for the September 1999 killing of Dutch journalist Sander Thoenes in Dili. A spokesman for the Indonesian Attorney General's office was quoted as saying that Indonesia would not send the two officers to East Timor to stand trial. In September 2000, the U.N. announced it was investigating the October 1975 murders of five Australia-based journalists in East Timor; the investigation continued at year's end.

There were no legal or administrative restrictions on Internet access.

The Government did not restrict academic freedom. The University of East Timor, whose facilities were destroyed in September 1999, reopened in a new location in November 2000. Several private, post secondary, educational institutions opened during the year.

b. Freedom of Peaceful Assembly and Association.—The Constitution provide for the freedoms of assembly and association as stipulated in the U.N. International Covenant on Civil and Political Rights, and the Government generally respected these rights in practice. Many peaceful demonstrations occurred throughout the year. Most centered on complaints over allocation of jobs, salaries, severance pay issues, and admission of students to the university.

On December 4, what began as a student demonstration in Dili degenerated into violence that left 2 persons dead and 15 injured. The police fired warning shots, and there were unconfirmed reports that shots were fired from the crowd. The police were believed to have committed at least one of the killings and wounded those injured. After the shooting, the crowd set fire to several buildings including a house owned by the Prime Minister's family, and a supermarket; an automobile in front of the Dili mosque was burned and many windows in the mosque were broken. At year's end, investigations into the disturbances and the police response were underway. Both U.N. and government officials said that they would provide police additional training in human rights and in appropriate crowd control techniques.

The Constitution recognizes the right to form opposition political parties and the right to be informed regularly and directly on issues of public interest. Although the Government generally respected these rights, opposition parties complained that the ruling Fretilin excluded members of other parties from positions in the executive branch of government including positions which, under the applicable regulations, should have been selected on merit without regard to political affiliation.

c. Freedom of Religion.—The Constitution provides for freedom of religion. More than 90 percent of the population is Roman Catholic, and Protestant churches previously were identified with the Indonesian military and with pro-Indonesia East Timorese. Accusations that Protestant clergymen were linked to pro-Indonesia East

Timorese militias sometimes led to harassment of church members; however, there were no reports of such harassment during the year.

The Muslim community consists of ethnic East Timorese, longtime residents of Arab descent, and ethnic Malay migrants from other parts of Indonesia who have lived in East Timor for many years. The former groups were well integrated into East Timorese society, but the latter group experienced some harassment. On December 4, an automobile in front of the Dili mosque, which was inhabited by ethnic Malay Muslim migrants who initially fled from East Timor during the violent period in September of 1999, was burned and windows in the mosque were broken (see Section 2.b.).

Although some of the participants in the wide-ranging December 4 violence were arrested, there were no arrests in most cases related to attacks on churches or mosques, largely because of insufficient resources (see Sections 1.c. and 1.e.).

For a more detailed discussion see the *2002 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.

During the year, the Indonesian government restricted the freedom of movement of residents of the Oecussi enclave, physically separated from the rest of the country by Indonesian territory. Restored ferry service between Oecussi and Dili and between Atauro Island and Dili provided greater freedom of movement; however, the land route through Indonesia remained difficult due to security concerns and bureaucratic roadblocks.

Violent activities by pro-Indonesian militias in 2000 and 2001 forced thousands of villagers to abandon their homes temporarily.

During the year, the Government worked closely with the U.N. High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) to provide for the repatriation of refugees from West Timor, including provision of transportation, shelter, and food. Almost 225,000 of the approximately 250,000 former residents who fled, or whom pro-Indonesia militia removed forcibly to West Timor and elsewhere in September 1999, returned to the country. During the year, the Government of Indonesia announced that it would end aid to the refugee camps in West Timor and revoke refugee status for the individuals remaining. In practice it did stop providing repatriation assistance but did not revoke refugee status. It was not clear how many of these persons wished to return to East Timor but felt unable to do so either because of fear of reprisals from militias in West Timor or because of instances of attacks and harassment of returning refugees suspected of being former militia members.

At year's end, it was not clear whether the Government had formally acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; Parliament reportedly had given its advice and consent. During the year, the granting of asylee and refugee status took place on a case-by-case basis. On July 28, a small boat with 56 Sri Lankans requested assistance. A UNHCR official persuaded them to disembark temporarily and interviewed them. All voluntarily returned to Sri Lanka. The Government appeared inclined to deal with refugee and asylee requests in accordance with international standards.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. On May 20, Xanana Gusmao was inaugurated as the first President, and, in accordance with the Constitution, the members of the Constituent Assembly were sworn in as the first National Parliament. The 88-member Assembly, elected in August 2001, was charged with writing a constitution, which was completed in March and came into effect with independence. Some observers criticized the provision that saw the Constituent Assembly automatically become the Parliament, and that there is a 5-year gap until the next election.

With independence, UNTAET's mandate expired, and it was succeeded by UNMISSET. UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force and the U.N. Police Forces. The UN-PKF remains responsible for external defense, and UNPOL remains responsible for civil policing in cooperation with the ETPS.

The 29-member Cabinet, consisting of Ministers, Vice Ministers, and Secretaries, is dominated by members of Fretilin, the party that won the majority of seats in the Constituent Assembly.

Under the Constitution ratified in March, "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution"; and Indonesian and UNTAET laws and regulations continue to be in effect.

Both the Government and UNTAET made significant efforts to include women in appointed political bodies. There are 24 women in the 88-seat Assembly. The Minister of Justice, the Minister of Finance, and three vice ministers are 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 generally were cooperative and responsive to their views. There are no restrictions on the right of persons to form NGOs, and numerous NGOs were established over the last 3 years, devoted to a wide variety of issues.

The Government actively promoted investigation of human rights abuses. In October 1999, the U.N. Human Rights Commission appointed the International Commission of Inquiry on East Timor (ICIET), which issued a report in January 2000 that made several recommendations, including the establishment of an international tribunal to prosecute those responsible for the mass abuses associated with the events of 1999. UNTAET facilitated visits to East Timor of members of the KPP-HAM (see Section 1.a.). Within UNMISSET there is a Human Rights Unit and an SCIU to investigate past human rights violations and to bring the perpetrators of past abuses to justice. Nevertheless, resource constraints as well as bureaucratic and organizational difficulties within the judiciary hampered progress (see Section 1.e.). Disatisfaction with Indonesia's Ad Hoc Tribunal on East Timor led to discussion of formation of an international truth and justice commission.

In May 2001, an NGO known as the Judicial System Monitoring Program (JSMP) was established. The JSMP monitored the serious crimes trials, provided legal analysis, and disseminated information regarding the judicial system.

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

Government regulations prohibit all forms of discrimination. Nonetheless violence against women was a problem, as was discrimination against women and ethnic minorities.

Women.—Domestic violence against women was a significant problem. In December 2001, then-chief minister Mari Alkatiri expressed concern over mounting domestic violence against women, stating that "cases of domestic violence are increasing" and that many "consider the beating of women to be a private affair." Reports of domestic violence increased during the year; however, this may indicate more willingness to turn to the police rather than an actual increase in incidence of such violence.

Rape is a punishable offense, as specified by Indonesian law. As of September, 95 cases of rape or attempted rape had been reported to the police, but few of these cases have resulted in prosecutions. Women's groups were concerned that the authorities were encouraging women to resolve rape and domestic violence cases through traditional practices, which usually provide only for compensation to be paid to the victim. In such cases, the perpetrator is not held accountable under criminal laws, and the punishment falls short of international standards. UNTAET attempted to address this issue by establishing a Vulnerable Persons Unit to address cases of violence against women and other vulnerable groups.

On September 12, the Special Panel for Serious Crimes sentenced Francisco Soares, an East Timorese who served in the Indonesian military and as a pro-Indonesian militia leader, to 4 years' imprisonment for raping a woman in Dili in September 1999. This was the only rape conviction by the Serious Crimes Panel.

It was alleged that TNI-backed militias raped numerous women during the September 1999 violence in East Timor and kept many as sex slaves (see Section 1.c.). Kirsty Sword Gusmao, the wife of President Xanana Gusmao, reported to the international press in November 2000 that 33 pregnant East Timorese women returned to East Timor and said that they had been abducted and forced to serve as sex slaves for the TNI in West Timor, Indonesia.

Government regulations prohibit persons from organizing prostitution; however, prostitution itself is not illegal. The Government has deported some alleged prostitutes on the grounds that they violated the terms of their visas.

Customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property. UNTAET regulations implemented the U.N. Convention on the Elimination of All Forms of Discrimination Against Women.

nation of All Forms of Discrimination Against Women and during the year the country ratified the Convention; however, discrimination complaints were not a priority, and no cases were reported. UNTAET created a Gender Affairs Unit, and this unit continued under the Government as the Office for the Promotion of Equality within the Prime Minister's office. The unit provided training to women entering public service and attempted to ensure women have a voice in the new government and civil society structures.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

The East Timorese Women's Forum offered some assistance to women who have been victims of violence and established a women's and children's shelter for victims of domestic violence and incest. East Timor Women against Violence is a human rights NGO that advocates on behalf of women.

Children.—The Constitution makes primary education compulsory and free; however, many schools assessed fees to pay for materials or infrastructure needs. Many families cannot afford these fees, which limited the number of children a family will send to school. UNTAET and international donors rebuilt and replaced the educational infrastructure destroyed by the Indonesian military and pro-Indonesia militias in September 1999, and the majority of children returned to school after having fled their villages during the 1999 violence. Shortages of schools and educational materials remained a problem at year's end. In the past, UNTAET coordinated widespread inoculation programs and provided free medical care in some areas of the country; however, these programs were largely inactive during the year.

Over 2,000 children were separated from their parents during the forced exodus to West Timor in 1999, and the UNHCR stated that approximately 1,500 remained separated from their parents. Of these, 431 were in the country, 635 were in West Timor, 380 were in other parts of Indonesia, and the whereabouts of 18 were unknown. An estimated 170 children were taken from the camps in West Timor in 1999 and 2000 to orphanages in Java. Eight of these children were reunited with their families in 2001, 13 were reunited during the year, and approximately 150 remained in the Java orphanages.

Persons with Disabilities.—Although the Constitution protects the rights of the disabled, the Government has not enacted legislation or otherwise mandated a provision of accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. Nonetheless there were no reports of discrimination against persons with disabilities in employment, in education, or in the provision of other state services. There was only one school for children with disabilities (in Dili) and its capacity is only one-third of pre-1999 enrollment. Difficult access to school in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities.

National/Racial/Ethnic Minorities.—Ethnic Chinese (who make up less than 1 percent of the population) and ethnic-Malay Muslims sometimes have been subjected to harassment. Tensions between different language groups also were a problem. Many non-Portuguese speakers claimed that they were discriminated against in filling political and civil service positions.

Section 6. Worker Rights

a. The Right of Association.—During the year, the Government implemented a Labor Code based on the International Labor Organizations standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills, as well as by the fact that the Government has not yet appointed a person to head the Office of the Registrar of Trade Unions and Employer Organizations. Trade Unions and employer organizations cannot be registered officially. Labor organizations included the Socialist Workers Union, the Trade Union Confederation, Oxfam Workers Union as well as a teachers' union and a nurses' union. Roughly two-thirds to three-quarters of the country's work force is engaged in subsistence agriculture.

There are no restrictions that would prevent unions from forming or joining federations or from affiliating with international bodies.

b. The Right to Organize and Bargain Collectively.—While collective bargaining is permitted, workers in East Timor generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

Dissatisfied workers or disappointed job applicants frequently resorted to strikes, demonstrations, and sometimes destruction of property. Disputes usually centered on demands for higher salaries or severance pay for jobs in which short-term contracts have expired. Many of these disputes were resolved through the arbitration of local NGOs or the Secretariat of Labor and Solidarity.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—Government regulation prohibit forced labor including by children; however, in the past, local leaders required a number of returnees accused of involvement in the post-September 1999 destruction to engage in compulsory labor as a means of punishing them for their alleged offenses (see Section 1.c.). Examples of such compulsory labor included repairing damaged structures and community service in villages. The Government tolerated this practice. More recently the imposition of compulsory labor gave way to a “reception, truth, and reconciliation” process in which returning ex-militia members agreed to perform community service as a form of reparation for offenses they committed.

Forced or bonded labor by children was not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code largely prohibits children under the age of 18 from working; however, there were circumstances under which children between the ages of 15 to 18 can work, and there were even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and numerous children work in the agricultural sector. In practice enforcement of the Labor Code outside of Dili is difficult.

e. Acceptable Conditions of Work.—An UNTAET directive provided for a minimum wage for civil servants of \$65 per month; however, the new Labor Code does not stipulate a minimum wage. Employers used and employees expect a minimum wage of \$85 per month. The Code provides for a maximum workweek and overtime, minimum standards of worker health and safety, days off, and other standard benefits. In practice the Government has not been able to enforce the Code effectively. The Government has not yet established a national labor board, a labor relations board, and a minimum wage board all of which are stipulated in the Code. There are no restrictions on the rights of workers to file complaints and seek redress. The Secretariat for Labor and Solidarity, which is responsible for enforcing labor laws, tried to be responsive to complaints and pressured local businesses to comply with labor standards.

Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

f. Trafficking in Persons.—Applicable law prohibits trafficking in women and children, whether for the purposes of prostitution or for forced labor, and there were no reports of trafficking during the year.

FIJI

Fiji is a constitutional republic with an elected President, Prime Minister and Parliament. Ethnicity remained a dominant factor in the country’s politics, economy, and society. Following free and fair elections in 2001, its political situation improved; however, concerns remained about the composition of the Cabinet. The 1997 Constitution requires that any party receiving more than 10 percent of the seats in Parliament be given cabinet positions. However, when Prime Minister Laisenia Qarase of the Duavata ni Lewenivanua (SDL) party formed a government in late 2001, it excluded the Fiji Labor Party (FLP) led by deposed Prime Minister Mahendra Chaudhry, although the FLP had won substantially more than 10 percent of the parliamentary seats in the 2001 elections. The FLP took legal action against the Government, and in March the Court of Appeal ruled in favor of the FLP; the Government appealed the decision to the Supreme Court. The case was pending at year’s end. In February coup leader George Speight was sentenced to death for his role in the armed takeover of Parliament in May 2000; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group were still awaiting trial at year’s end. The military completed two of four courts martial and convicted over 80 mutineers involved with the coup, including a number of officers. The Constitution provides for an independent judiciary; however, the judiciary at times was subject to political influence.

During the year, civilian authorities generally exercised effective control of an unarmed civilian police force and the small Republic of Fiji Military Forces (RFMF). There were no instances where security forces acted independently of government

authority. There were no reports of human rights abuses by the RFMF. However, there were occasional complaints of human rights abuses by the police.

The population of approximately 845,000 is multiracial and multicultural, with indigenous Fijians making up 51 percent, Indo-Fijians (descendants of immigrants from the Indian subcontinent) 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. Indo-Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and the armed forces. One of the Government's primary goals was an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered severely by industrial disputes and an outmoded infrastructure; however, tourism recovered during the year to approximately the levels it occupied before the 2000 coup. Investment was depressed due to continuing concerns over the resolution of land lease issues and the pending Cabinet composition court case. The country's major trading partners, Australia and New Zealand, lifted sanctions imposed after the 2000 coup. Skilled workers and professionals continued to emigrate in large numbers, reflecting a shortage of economic opportunities.

The Government generally respected the human rights of its citizens; however, its record remained poor in some areas. Constitutional provisions maintain an ethnically based electoral system, and a number of government policies on hiring, education, and land tenure preferences provided protection for indigenous Fijian interests in accordance with that Constitution. The ethnic divide between the governing SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of Indo-Fijians) remained a recognized obstacle to long-term political stability. The Prime Minister increasingly identified himself as the leader of all Fijians rather than of a single ethnic group. Nonetheless, ethnic discrimination remained a serious problem. On several occasions Members of Parliament (M.P.s) made racist remarks against Indo-Fijians. Evictions of Indo-Fijian tenant farmers by indigenous Fijian landowners occurred, often with no government response. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. Human rights advocates and others asserted that the July appointment of Daniel Fatiaki as Chief Justice of the Supreme Court was motivated by the Government's desire to delay the Court's consideration of the case involving the composition of the Cabinet. Fiji was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

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 during the year.

At year's end, the Government had not taken action in the 2001 case of a soldier who fatally shot a farmer cultivating marijuana in the course of a joint military-police drug operation, and no action appeared likely.

The November 2000 mutiny at the Queen Elizabeth Barracks in Suva caused 8 deaths, 3 of them loyalist soldiers, and approximately 24 other military casualties. Five mutineers were killed in the custody of loyalist troops. Many of the mutineers were members of a special forces unit involved with the May 2000 takeover of Parliament. On November 6, 15 members of this unit were convicted of mutiny, and several were also convicted on lesser charges. The mutiny's leader was sentenced to life imprisonment plus 15 years; other defendants received sentences ranging from 18 months to 8 years in prison. Two defendants were still awaiting trial at year's end. In January Amnesty International (AI) expressed concern regarding the deaths in custody of the five mutineers, and alleged efforts by the military to prevent police from interviewing and prosecuting suspects in those deaths. By year's end, no legal or disciplinary action had been taken against soldiers involved in the deaths of the five mutineers.

In August 2000, President Ratu Josefa Iloilo granted immunity from criminal prosecution or civil suits for members of the Disciplined Forces (persons in active or discharged military positions who participated in events while the Emergency Decree was in effect). This announcement, issued under the Emergency Decree, would dismiss any civil or criminal charges brought against a law enforcement officer or soldier in connection with acts related to the May 2000 takeover of Parliament or the November 2000 mutiny.

At year's end, the Government had not taken action against the security officers who killed a prisoner during the prison disorder at Naboro prison in July 2000, and none appeared likely.

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

Following the November 2000 mutiny, a soldier was taken from his home by security forces. His body was discovered a few days later (*see* Section 1.a.). At year's end, no action had been taken in this case, and none was considered likely.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for freedom from torture and cruel, inhumane, degrading, or disproportionately severe treatment or punishment; however, there were some reports of abuses by police. In November three Indo-Fijians complained that they were beaten and subjected to racial slurs and extortion by police officers in civilian clothes.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but the courts seldom invoked this provision. In response to public concern regarding police brutality, the Human Rights Commission conducted training courses for police field investigators, sergeants, and prison officers in 2001.

Corruption in the police force was a problem. Undertrained police officers received only on-the-job instruction, which may have contributed to the problem of corruption. During the year, the police hired a large number of decommissioned military personnel as special constables. Many had criminal records and had allegedly been involved in robberies and other illegal activities. Police and immigration officials faced serious corruption charges relating to the entry of illegal Chinese immigrants into the country. Newspaper articles linked prominent police figures to an organized crime figure from the People's Republic of China (PRC); police were accused of providing protection, forging documents, and destroying key files relating to criminal activity.

During the year, the son of deposed Prime Minister Mahendra Chaudhry filed suit against the 2000 coup leaders and several government institutions, including the army, seeking damages for abuses allegedly suffered while he was held hostage during the May 2000 armed invasion of Parliament. He indicated that he had been assaulted on several occasions and subjected to severe physical and mental cruelty.

Prison conditions did not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, remained poor. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services including food and sanitation. There were 883 prisoners in 18 prisons countrywide; the combined capacity for all prisons was 1,002 persons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were separated from convicted prisoners. The Fiji Human Rights Commission delivered a report to the Government regarding their concerns on conditions for inmates in solitary confinement.

The Government maintained a separate detention center on Nukulau Island outside of Suva for convicted May 2000 coup leader George Speight, and for two of his supporters who at year's end were still awaiting trial for treason. Detainees were granted some freedom of movement, including recreation, but facility access remained tightly controlled. Family members and a few other visitors were permitted to visit; however, the International Committee for the Red Cross (ICRC) was denied access. The police continued to investigate Speight, his supporters, and those who financed the attempted takeover of Parliament in May 2000. At year's end, all but two of the others arrested in connection with the events of May 2000 had been convicted of lesser charges or released.

By year's end, no action had been taken against prison officials involved in the death of 1 inmate and injuries to 15 others at the Naboro prison in 2000 (*see* Section 1.a.).

Aside from the special regime for prisoners on Nukulau Island, the Government permitted visits to prisons by church groups, family members, and the Fiji Red Cross.

d. Arbitrary Arrest, Detention, or Exile.—The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without "undue delay." This requirement normally is taken to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds of their arrest; nonetheless, incommunicado and arbitrary detention continued to occur on occasion. In November three Indo-Fijians alleged that they were beaten by police while attempting to report a theft (*see* Section 1.c.).

Family members and international nongovernmental organizations (NGOs) questioned the lengthy detentions without charge of persons allegedly involved in the November 2000 mutiny (*see* Section 1.a.).

The Constitution prohibits forced exile, and the Government did not practice it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political influence.

Controversial Chief Justice Timoci Tuivaga retired in July and the Government appointed Daniel Fatiaki, a High Court judge, to replace him. Fatiaki was reportedly one of the judges who advised the President to abolish the 1997 Constitution and issue emergency decrees, and the media questioned the suitability of this appointment. A domestic human rights group contended that the Government's motivation in appointing Fatiaki was to delay a hearing on the Supreme Court case on the composition of the Cabinet (*see* Section 3). The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Expatriate judges are used in key cases. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by pro bono services from private attorneys. The right of appeal existed but was hampered by delays in the judicial appeals process. Bail was granted freely. The courts had a significant backlog of cases, with processing slowed further by a shortage of prosecutors. Some defendants faced lengthy pretrial detention. In October the Parliament passed a new bail law, which allows persons in pretrial detention for longer than 2 years to await their trials at home under conditions set by the court.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women could be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly. A new Family Law Bill provoked widespread debate during the year. Its provisions included giving illegitimate children the same rights as legitimate children, establishment of "no fault" divorce, and the establishment of a family court. At year's end, the bill was undergoing public hearings.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Government generally respected the privacy of the home. However, the Home Affairs Ministry, as well as the police and the armed forces, have the power and capability to search persons and property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. Police checkpoints remained common; military checkpoints were not used during the year. The Home Affairs Ministry conducted surveillance of persons whom it believed represented a security threat.

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, the Government retained controls instituted in July 2000 restricting the right to meet and speak out on human rights and democracy. Civil society groups were required to file a petition regarding proposed meetings: petitions were treated on a case-by-case basis, and several prominent events have been denied permits. These controls are reviewed every 21 days.

The Media Council's Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media coverage, including invasions of privacy, and there were no complaints regarding government pressure on or interference with the media.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens could and did speak out regarding the country's political situation and against the Government. Letters on editorial pages and editorials that ran in the three English-language dailies frequently contained political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibited actions that were likely to incite racial antagonisms.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the Press Correction Act. Under these acts, all newspapers had to be registered with the Government before they could publish. The acts gave the Minister of Information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the Minister's view, a false or distorted article was published. Should a newspaper refuse to publish the Minister's correction, it could be sued in court and, if found guilty, fined approximately \$500 (FJ\$1,125). Individuals in such cases could be fined, imprisoned for 6 months, or both. These acts would authorize the Government to arrest any person who published "malicious" material. This would include anything the Government considered false information that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The country's television news production was owned and operated by Fiji One, one of only two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the other 49 percent was owned by private individuals and interests. In October the Prime Minister stated publicly that the market was too small for more than one television station; however, a privately owned Christian station opened early in the year. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Under the Television Act, the Government is allowed to influence programming content. The Government considered legislation requiring Fijian-culture content programming; however, there was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One and the Fiji Post and Fiji Sun newspapers raised questions as to the complete independence of the press. However, these and other media outlets frequently criticized the Government during the year regarding implementation of its affirmative action policies, ministerial competence, alleged scandals, and racist remarks by M.P.s. Muted criticism of the traditional chiefly system has also appeared, with wide coverage of a PriceWaterhouse report on the system.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and established a media code of ethics.

The Government did not control or limit Internet access.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers in their work to preclude contract or work permit problems.

b. Freedom of Peaceful Assembly and Association.—The 1997 Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. In practice, most applications for the required meeting permits were denied.

During the Asia Caribbean Pacific (ACP) meeting held in the country in July, the Government refused permits to nongovernmental organizations (NGOs), including the prodemocracy and human rights group Citizens Constitutional Forum (CCF), for the purpose of staging peaceful protests regarding unsettled political issues in the country. The Prime Minister indicated that such protests were foreign to the country and that they would undermine the success of the ACP meeting. Only two permits for protest demonstrations have been granted since the events of May 2000. The first was authorized in November, to a government-supported group contesting the election of a Labor Party candidate as mayor of Lautoka. The second authorized permit was granted to the CCF for a demonstration in December.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Opposition parties operated without government interference. Political organizations operated and issued public statements.

c. Freedom of Religion.—The 1997 Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious groups were not required to register. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. However, junior Muslim civil servants in the Revenue and Customs Authority were ordered to shave off their beards, on the grounds that beards were not neat and gave an unprofessional image to the organization. Some of these employees requested a reversal of the order, but it remained in effect at year's end. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political issue. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This statement received public support from several M.P.s. The Church has displayed strong nationalist sympathies; former Methodist Church General Secretary Tomasi Kanilagi was appointed a senator in 2001. During the year, Senator Kanilagi made several remarks perceived to be racially biased. Those parties dominated by Indo-Fijians did not support the establishment of a Christian state and insisted that church and state should remain separate.

Religious leaders in the minority Muslim population continued to request the establishment of separate Islamic courts for their community; however, the issue was not prominent during the year. A small Hindu temple suffered minor vandalism during the year; the Government and others condemned the act.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security, and access to Nukulau Island, site of a maximum-security detention center for persons charged with treason, was restricted during the year.

Citizens are free to emigrate. The majority of emigrants have been Indo-Fijians, although many ethnic Fijians have left the country as well. The Government does not restrict the return of citizens. Occasional detentions at the airport occurred, but the courts have ordered redress where warranted.

An internally displaced persons camp near Lautoka was closed; it had housed approximately 200 Indo-Fijians threatened by serious violence after the May 2000 coup. Residents returned home or resettled in Lautoka proper.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In the past, the Government has been reluctant to grant first asylum without assurances that the asylum seeker would be moved to a third country.

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

The 1997 Constitutional amendments reduced the ethnically based factors that previously had abridged the right of citizens to change their government. Under its provisions, the Prime Minister and the President can be of any race. It established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats were established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 were allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part Caucasians and East Asians), and 1 to the Rotumans (an ethnically distinct Polynesian group). These allotments were roughly proportional to the current ethnic composition of the country's population. The amended Constitution also contained an alternate voting system for elections to the lower house to replace the first-past-the-post system of the previous constitution. The Senate remained an appointed body, in which the President appoints 32 members, the Great Council of Chiefs nominates 14 members, the Prime Minister nominates 9, the opposition leader nominates 8, and the Council of Rotuma nominates 1 member. Several persons prominently and publicly involved in the 2000 coup were among the Prime Minister's Senate nominees.

In May 2000 the country's first Indo-Fijian Prime Minister, Mahendra Chaudhry, was taken hostage, along with other members of Parliament. Interim civilian au-

thorities, backed by the military, became a caretaker administration pending elections held between August 25 and September 1, 2001. Observers noted that the election process was largely free and fair and reflected the will of the voters, despite some technical problems with polling and ballot counting. Several court challenges based on these irregularities were heard during the year, resulting in the FPL gaining two seats in Parliament. Other challenges were pending at year's end.

Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament; Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party which receives more than 10 percent of the seats in Parliament be offered inclusion in the Cabinet, the Qarase government excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; due to the appointment of a new Chief Justice in July and to dilatory tactics by the Government, the case was not expected to be heard before mid-2003.

In February George Speight, leader of the May 2000 coup, was found guilty of treason and sentenced to death; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group pled not guilty to treason and still were awaiting trial at year's end. The remaining persons charged in the case were found guilty on lesser charges or were released. The police continued to investigate Speight, his supporters, and those who financed the takeover of Parliament in May 2000.

In addition to individuals charged with treason, the police have investigated prominent citizens who allegedly were involved in the takeover of Parliament. The reluctance of witnesses to provide statements reportedly has hampered investigations. During the year, there were renewed calls for action against persons implicated but not charged in the May 2000 coup. The Fiji Law Society called for the arraignment of the current Deputy Speaker of Parliament and former rebel attorney general, Ratu Rakuita Vakalalabure, on treason charges. On December 16, the FLP called for an indictment on treason charges of Vice President Jope Seniloli, who had served as the president of the rebel government. Encouraged by the successful prosecution of some of the military members responsible for the November 2000 mutiny, the public called for additional trials for those implicated in a separate, abortive mutiny conspiracy in December.

In the 2001 elections, 30 ethnic Fijian women and 1 Indo-Fijian woman ran for election to Parliament; 5 women were elected to the 71-seat House of Representatives. Two women were appointed to the 32-member Senate. After the election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers) and another was appointed to fill a vacancy in Parliament. Women also played important roles in the chiefly system and could be chiefs in their own right. The wife of former President Ratu Mara is one of the three highest-ranking chiefs.

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 generally cooperative and responsive to their views.

The CCF challenged the validity of the interim administration in court in 2001 but was deregistered as a nonprofit organization in early February 2001. The interim administration asserted that the CCF had not complied with the standards for nonprofit organizations set in the Charitable Trust Act. The CCF then reorganized as a nonprofit and refiled its case, with a March 2001 judgment rendered in favor of the CCF.

The constitutionally mandated Human Rights Commission (HRC) was operational, with its normal staffing pattern in place. (It essentially had ceased operating from mid-May to mid-September 2000.) During the year, it appeared to be impartial and independent.

The HRC has received approximately 700 requests for assistance since it began operation in 1999. Most involved alleged abuse by police and prison officers. Although it had a backlog, the commission investigated most of the claims, as well as allegations against the military involved in the November 2000 mutiny. The HRC's work was hampered by the Constitutional Redress Rules, which stipulated that the HRC and others had to file human rights cases in the High Court within 30 days of receiving the complaint. The HRC continued to host a weekly radio program to educate citizens about their rights under the 1997 Constitution.

There were also several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices

in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

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

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the "paramouncy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens.

Women.—Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent of women had been abused in some way. An active women's rights movement addressed the problem of domestic violence. Police have adopted a "no-drop" rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest were often dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties was sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women's rights movement pressed for serious punishment for rape. Sentences varied widely but were generally lenient. In April a 28-year-old man convicted of raping his 15-year-old sister was sentenced to 5 years in prison, the maximum penalty a magistrate was permitted to impose. Later the same month, a magistrate told a farmer charged with three counts of rape that women should not be raped even if they were "mentally unstable." The defendant in this case claimed full rehabilitation after undergoing a so-called religious deliverance session of counseling and prayer; the judge found him guilty but suspended the sentence. Women's groups continued to urge that all rape cases be heard in the High Court, where heavier sentences were available. However, by law an accused rapist retains the right to choose between the High Court and magistrates' courts. Only one case in the last 6 years has been sent to the High Court. Marital rape is not a crime, but is included in pending legislation on sexual offenses.

In addition to the rise in domestic violence, in previous years there have been a number of deaths of Indo-Fijian women that appeared to be bride burnings. (Bride burning is an attack on a wife by members of the groom's family dissatisfied with dowry payments. These attacks are often staged as kitchen accidents or suicides and result in the fatal burning of a victim.) Police investigations concluded that the victims had committed suicide, burning themselves so severely as to cause death. However, the women's rights community asserted that these deaths were bride burnings. There were no confirmed reports of such deaths during the year.

Prostitution is illegal; however, it was a growing problem, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women's crisis centers funded by foreign governments, which offer counseling and assistance to women in cases of domestic violence, rape, and other problems such as child support. The NGO Fem'link Pacific distributed information at the grassroots level and encouraged community-based dialog. In 2001 the Ministry of Women began a Gender Awareness Program to educate soldiers and police officers about women's issues.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic communal property rights.

Women had full rights of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women were generally paid less than men.

Children.—Although hampered by resource constraints, the Government devoted 19 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children. During the year, in response to a case brought by the Human Rights Commission, the High Court ruled that corporal punishment in schools was illegal. Before the Court's decision, there were several reports of corporal punishment in schools early in the year.

In October human rights groups criticized Minister of Education Ro Teimuna Kepa for her public endorsement of corporal punishment as an effective means of discipline in schools.

In 2001 the Government launched an education policy designed to narrow the gap in academic achievement between indigenous and Indo-Fijian students. As part of this policy, the Government allocated more resources for schools run by indigenous citizens and for improved training of indigenous Fijian teachers. During the year, a former Indo-Fijian education minister characterized the policy as discriminatory, alleging that the Government was holding back funds for Indo-Fijian-run schools while allocating special funds to indigenous schools for textbooks and other resources.

Societal changes have undermined traditional village and extended family-based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Homeless children were often seen on the street working as shoeshine boys or involved in prostitution. Children worked on the streets, in homes as domestics, and in auto repair shops. The Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. The legal system was inadequate to protect the rights of children, since children's testimony was largely inadmissible unless corroborated by an adult.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

Persons with Disabilities.—The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted greater attention to the needs of persons with disabilities.

Persons with mental disabilities were largely separated from society and were normally supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

National/Racial/Ethnic Minorities.—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. While 1997 amendments to the Constitution noted that “the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population,” it also specified the “paramouncy of Fijian interests” as a protective principle (see Section 5). George Speight, leader of the Parliament takeover in May 2000, professed to be acting on behalf of ethnic Fijians in his attempt to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3).

In July human rights groups strongly criticized Minister of Women, Culture and Social Welfare Asenaca Caucau for comparing Indo-Fijians to “wild grass taking up space” in the country. Despite pressure, Caucau refused to apologize, and the Prime Minister failed to discipline Caucau for the remark. Senators appointed by the Prime Minister have made numerous racial slurs directed against Indo-Fijians.

During the year, the SDL government worked to ensure the political supremacy of ethnic Fijians. During the year, approximately one-fourth of valid complaints to the HRC dealt with racial and ethnic equality issues.

Land tenure remained a highly sensitive issue. Ethnic Fijians communally held over 80 percent of land, the Government held another 8 percent, and the remaining land was freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers were Indo-Fijians, who leased land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. A number of agricultural landlord and tenant agreement leases have expired, and many more will expire in the next few years. Racial tensions and grievances over low rents for agricultural lands resulted in several highly publicized illegal evictions of Indo-Fijians and reoccupations of land by native Fijian landowners. There were also several cases of Fijian landowners extorting so-called goodwill payments from their Indo-Fijian tenants. Almost none of these violations were prosecuted. The appointment of a respected moderate as head of the Native Land Trust Board during the year assuaged ethnic tension over land issues somewhat.

The Government pressed strongly for changes in the existing Agricultural Land Tenure Agreement (ALTA) to accommodate landowner concerns; however, lacking sufficient support to amend the ALTA, Parliament took no action on the matter during the year.

During the year, the Government implemented a new Rural Housing Assistance Scheme that, unlike the previous housing assistance plan, limited benefits to indigenous communities.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, that allegedly were connected to Chinese organized crime. A special police unit, the Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

Section 6. Worker Rights

a. The Right of Association.—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. However, the law permitted restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 55 percent of the wage-earning workforce was unionized.

All unions must register with, but are not controlled by, the Government. The only central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. In August some unions broke away from the FTUC and formed a new labor group, the Fiji Island Council of Trade Unions. While certain unions remained ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Unions can affiliate internationally; the FTUC is affiliated with the International Confederation of Free Trade Unions and the International Labor Organization (ILO).

In December the Government, the FTUC, and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respect the fundamental principles and rights contained in eight core ILO conventions.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. The Government has the power to order recalcitrant employers to recognize unions, and has done so. Union recognition occurs when a fixed percentage of workers sign membership cards; no ballots are held to determine representation. Key sectors of the economy, including sugar and tourism, were heavily unionized. However, there were no laws to protect workers who organized unions in a factory. While the law encouraged unionization, union organizers' jobs were not protected. Since employers reserved the right to fire union organizers, some workers were afraid to unionize. Thus unions were effective bargaining tools for older, more established industries, such as sugar and mining, but less effective for newer industries, such as the garment industry. Wage negotiations were generally conducted at individual companies rather than on an industry-wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct secret strike ballots without government supervision. In order to carry out a legal strike, organizers must give the employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, the starting date of the strike, and location of the strike. This information gives the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. There were 10 industrial disputes during the year, including a strike by Air Pacific workers in July following a refusal by Airports Fiji Limited to recognize the Fiji Public Service Association despite a High Court decision. Most disputes were settled by referral to a Permanent Arbitrator. Both employers and unions made unreasonable requests that prolonged labor disputes. During a September "Summit on Quality" by the Fiji National Training Council, Labor Minister Kenneth Zinck stated that militant unions made it difficult to improve the country's productivity. Union officials operated without interference during the year.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating prac-

tices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Constitution specifically prohibits forced or bonded labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs have alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours. In November there were media reports of PRC women subjected to bonded labor at a garment factory.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement of these laws was lax. Children under the age of 12 could not be employed in any capacity. Children under age 15 could be employed only outside of school hours in family enterprises, and not in the industrial sector. Young persons between the ages of 15 and 17 could be employed in certain occupations not involving heavy machinery, with specified hours and rest breaks. In practice enforcement of these regulations by the Ministry of Labor was generally ineffective. There were only two inspectors at the Ministry of Labor, who conducted regular annual workplace inspections, and no investigators to follow up claims or reports of violations. During the year, migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and in prostitution.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. The law does not define the worst forms of child labor. The laws implementing and enforcing child labor regulations were insufficient; there were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

e. Acceptable Conditions of Work.—There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry for Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, yet many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. By law employees have the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so. The ILO maintained an office in Suva.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnaping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents; the police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking. Police have received unsubstantiated reports of the use of forced labor from the PRC in the garment factories in Western Viti Levu, the country's largest island. However, law enforcement has made no arrests and has not investigated the reports. There were media reports during the year of PRC women forced to work as bonded laborers in a garment factory.

A 2001 police report reported increases in the number of street children engaged in prostitution; child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo-Fijian communities. There were no confirmed reports that children were trafficked to or from the country for this or any other purpose.

The Government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

INDONESIA

Indonesia is a republic. The country has a presidential system with three branches of government. The President is the Head of State and serves a 5-year term for a maximum of two terms. In July 2001, Vice President Megawati Soekarnoputri succeeded President Abdurrahman Wahid after he was impeached. The Cabinet consists of 30 Ministers. The People's Consultative Assembly (MPR) is the supreme legislative body and has the power to amend the Constitution. The MPR includes the entire 500 member House of Representatives (DPR), which enacted legislation and appointed regional members. The Government continued to make progress in its transition to a more pluralistic and representative democracy during the year. Since 1999 the MPR has adopted four major constitutional amendments. The Third Amendment was passed in 2001, and the Fourth Amendment, which was passed during the year, provide for direct election of the President and Vice President; create a new legislative body to be made up of regional representatives; and abolish all appointed seats in the legislature, including those for the military (TNI) and the police, known together as the security forces. Some implementing legislation pertaining to these two amendments still was pending at year's end. The amendments established the executive as a separate branch of the Government answerable to the country's citizens rather than to the MPR. During the year, a major decentralization program continued to empower district governments. The Constitution provides for an independent judiciary; however, in practice the courts remained subordinate to the executive.

The TNI is responsible for external defense and the police are responsible for internal security. However, in practice, the division of responsibilities continued to be unclear, with the military playing an overlapping role in internal security matters, particularly in conflict areas such as Aceh, the Moluccas, Central Sulawesi, and Papua (formerly known as Irian Jaya). A civilian defense minister supervises the military, but in practice only exercises limited control over military policy and operations. The TNI continued to wield significant political influence and occupied 38 appointed seats in the DPR. Police and soldiers occasionally clashed, sometimes resulting in the deaths of security force members as well as civilians. Members of the security forces, particularly the Army's Special Forces (Kopassus) and the Police Mobile Brigade (Brimob), committed many serious human rights violations, including extrajudicial killings, torture, rape, and arbitrary detention.

During the year, the economy, which increasingly was market-driven, grew from 3 percent to 3.5 percent; the Government stabilized the country's currency, the rupiah, and reduced annual inflation to 10 percent. A more stable currency encouraged trade, while lower inflation boosted consumption. Government statistics, however, reported 8 million persons unemployed and another 30 million persons underemployed out of a total population of approximately 230 million persons. Per capita gross domestic product (GDP) was \$688 in 2001. Large disparities in the distribution of wealth and political power contributed to social tensions and continued to create demands for greater regional autonomy.

The Government's human rights record remained poor, and it continued to commit serious abuses. Soldiers and police murdered, tortured, raped, beat, and arbitrarily detained both civilians and members of separatist movements. These abuses were most apparent in Aceh Province, on the northwest tip of Sumatra, where members of an ongoing separatist movement killed at least 898 persons, both combatants and non-combatants, during the year. Human rights violations in Aceh were frequent and severe during the year. On December 9, in Geneva, the Government and the separatist Free Aceh Movement (GAM) signed a Framework Agreement on Cessation of Hostilities. Security force members also committed severe abuses in other conflict zones such as Papua, the Moluccas, and Central Sulawesi, but at reduced levels compared with the previous year. In Papua members of the TNI and the Brimob committed assaults, rapes, and supported militias, which raised fears of interreligious conflict. During the year, the Government detained and named as suspects seven soldiers for the killing of Papuan pro-independence leader Theys Hiyo Eluay. The Government also arrested seven men, including GAM member Tengku Don, in connection with the killings of prominent Acehnese.

Retired and active duty military officers who were known to have committed serious human rights violations occupied or were promoted to senior positions in both the Government and the TNI. By year's end, the East Timor Ad Hoc Tribunal on Human Rights had found only one member of the security forces—Army Lt. Col. Soedjarwo—guilty of crimes against humanity. Soedjarwo was convicted and sentenced to 5 years in prison for failing to prevent attacks by anti-independence militiamen against the Dili residence and office of Archbishop Carlos Belo in September 1999, which killed at least 13 civilians (*see* Section 1.e.). During the year, the tri-

bunal completed 14 out of 18 trials and convicted only 3 defendants—Soedjarwo, former East Timor Governor Abilio Soares, who was sentenced to 3 years in prison, and fellow ethnic East Timorese Eurico Guterres, former leader of the Aitarak militia, who was sentenced to 10 years in prison. All three remained free pending appeals at year's end. The tribunal's performance reinforced the impression that impunity would continue for soldiers and police who committed human rights abuses.

Terrorists, civilians, and armed groups also committed serious human rights abuses. On October 12, two bombs exploded in the Bali tourist enclave of Kuta, killing 186 and injuring 328 persons. The Government subsequently issued a regulation that expanded the Government's power to detain and prosecute suspected terrorists. A government investigation resulted in the arrest of 15 suspects in the Bali attack. On August 31, in Papua, unidentified gunmen killed 3 persons, including 2 foreigners, and injured 12 others when they ambushed a civilian convoy near the Freeport mine. In resource rich Aceh, GAM rebels killed, tortured, raped, beat, and illegally detained civilians and members of the security forces.

The eastern part of the country experienced widespread abuses, particularly in the Moluccas and in Central Sulawesi, where ongoing conflicts between Muslims and Christians resulted in violence, segregation, and displacement. The number of serious abuses there, however, declined sharply from the previous year. During the year, conflicts in the Provinces of Maluku and North Maluku killed an estimated 75 persons and prevented at least 300,000 displaced persons from returning home. In Central Sulawesi, violence resulted in the deaths of dozens of persons and kept approximately 70,000 displaced persons from returning home. In Kalimantan occasional killings occurred during clashes between indigenous Dayaks and ethnic Madurese migrants, although the overall level of violence fell sharply from the previous year.

Despite the reduced death toll in most conflict zones, the Government largely failed to deter social, interethnic, and interreligious violence. Mob vigilante action and religious groups purporting to uphold public morality continued to dispense "street justice." Meanwhile, extremist groups increasingly limited freedom of expression by intimidating or attacking news organizations whose content they found objectionable. The DPR passed a restrictive Broadcasting Bill, which alarmed journalists and activists who called it a major threat to press freedom. During the year, the Government strengthened its legal framework to protect children by passing the Child Protection Act and other related forms of legislation; however, child labor and sexual abuse remained major problems, and implementation of the law remained weak. The Government continued to allow new trade unions to form and to operate, but it frequently failed to enforce labor standards or address violations of worker rights. Trafficking, particularly for prostitution, remained a significant problem. Indonesia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The security forces continued to employ harsh measures against rebels and civilians in separatist zones where most politically motivated extrajudicial killings occurred. The security forces also committed numerous extrajudicial killings that were not politically motivated. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses.

In Aceh, where separatist GAM rebels remained active, military and police personnel committed many extrajudicial killings and used excessive force against non-combatants as well as combatants; at least 898 persons were killed during the year. This figure included civilians, rebels, and security force members, with civilians accounting for most of the fatalities. However, security forces and rebels gave conflicting information on victims' identities, making it difficult to determine the breakdown of civilian, rebel, and security force deaths. Many of the killings appeared to be executions. The Government and the GAM accused each other of killing captured combatants, and there was evidence to support such claims. Press reports undercounted the number of casualties, and some deaths never appeared in the newspapers. Police rarely investigated extrajudicial killings and almost never publicized such investigations.

On June 7, on Kayee Ciret Mountain in Aceh, TNI soldiers shot and killed two farmers and wounded five others in a raid on a hut in an area suspected as a hide-out for GAM rebels. The attack occurred at dawn, while the farmers slept. On August 3, in the north Aceh village of Kandang, six gunmen stormed into a number

of houses and shot and killed three local women. The GAM accused the Brimob of carrying out the attack because relatives of the victims had links to the GAM. The security forces rejected this allegation, but the NGO Central Information for Aceh Referendum (SIRA) reported that a group of Brimob visited the village on the night in question. Village witnesses identified the gunmen as police and recognized the group's leader, Syarifuddin, a sergeant feared for his alleged brutality. On December 1, in Banda Aceh, a group of unidentified men kidnaped a 26-year-old human rights activist of the Coalition for West Aceh Students Movement (Kagempar). Three days later, villagers found his mutilated body face-down in the water underneath a bridge. Reliable sources said the young man's skull had been penetrated repeatedly with a screwdriver.

Police in Aceh did not announce the results of any investigations into extrajudicial killings carried out by the security forces in previous years. In addition, the Government released soldiers suspected of involvement in the December 2000 slaying of three NGO workers in North Aceh because the suspects already had served the maximum period of detention before trial. During the year, credible sources in North Aceh spotted civilian suspects in the same case who had disappeared from police custody in 2001.

Numerous killings that occurred in Aceh during the year could not be clearly attributed to either the security forces or the GAM rebels. For instance, on March 16, unidentified assailants shot and killed six persons in the town of Lombaro Angan, Aceh Besar district, after 30 police were ambushed while searching for GAM rebels. Local residents said the victims all were politically inactive farmers who were killed while working in a rice field. GAM spokesman Ayah Sofyan later indicated that one of the six persons killed was a GAM member. On September 4, in the village of Gumpueng Tiro, Pidie regency, unidentified persons stopped a public minivan, abducted two high school girls, took them to a nearby forest, and fatally shot them. According to the local press, unidentified gunmen also shot and killed 14 teachers during the year; it was unclear who was responsible for killing schoolteachers in the province.

Investigation continued into the August 2001 massacre of 31 persons at a palm oil plantation run by PT Bumi Flora in Idi Rayeuk, East Aceh. The National Commission on Human Rights (KOMNASHAM) formed an investigation team (KPP HAM), whose members visited the site in July. The team examined evidence, spoke with local residents and met with officials. However, the team did not announce the results of the investigation. Human Rights Watch (HRW) released a report containing the text of interviews with witnesses to the slaughter and noted that "all of the witnesses believed that the Indonesian Army was responsible for the killings."

During the year, GAM members killed many police, soldiers, civil servants, politicians, and other Aceh residents. Although many Acehnese feared and resented the security forces because of their involvement in human rights abuses, local support for the GAM declined during the year, according to neutral Aceh-based observers. The GAM alienated large segments of Acehnese society through a campaign of extortion and kidnaping for profit. On January 31, in Lhokseumawe, suspected GAM members shot and killed Dr. Murdan, as he headed to work at a hospital in the community of Cut Meutia. The killing had a ripple effect, as it discouraged paramedics from providing services to that area. On March 6, at a coffee plantation in the central Aceh town of Linge, GAM rebels apprehended, questioned, and killed Sarifuji, an ethnic Javanese. The GAM subsequently claimed responsibility. The GAM acknowledged that on April 9, its forces shot and killed two soldiers as they traveled by motorbike near the north Aceh town of Kuala Meuraksa. The soldiers' two rifles were captured in the raid, which the GAM acknowledged carrying out. During the year, police made progress in investigating some killings allegedly committed by the GAM. However, the overall amount of progress disappointed NGOs and legal experts. GAM leaders accused the security forces of executing captured rebels, without benefit of a trial. On June 26, Aceh's police chief announced the arrest of seven men, including GAM rebel Tengku Don, in connection with the killings of prominent Acehnese. The police accused Tengku Don of involvement in the September 6, 2001 killing of Dayan Dawood, rector of Banda Aceh's Syiah Kuala University, who was shot after offering to mediate between the GAM and the Government. Tengku Don allegedly possessed one of the pistols used in the killing, and there were indications that the attack was criminally motivated. In August a court convicted five GAM separatists of carrying out an arson attack in Takengon, Central Aceh. The lead conspirator received a 16-year term, while the others, who did not take part in setting the blaze, were sentenced to 10 months in jail. Police did not publicize any other investigations into killings allegedly committed by the rebels in Aceh.

The Government did not announce the results of its investigation into the 2001 killings of Aceh provincial legislator Zaini Sulaiman and prominent politician Teungku Johan. The Government also did not announce any results from its alleged investigations into the deaths of Sukardi, Sulaiman Ahmad, Jafar Siddiq Hamzah, Tengku Safwan Idris, or NGO activist Nashiruddin Daud, all killed in 2000.

In Papua, where separatist sentiment remained strong and a low-intensity conflict continued between the TNI and armed rebels of the Free Papua Movement (OPM), there were no verified cases of politically motivated killings by the security forces during the year; however, many such killings were alleged. There also were deaths that many indigenous Papuans found suspicious. On January 22, in Bonggo, Papua, Kopassus troops shot and killed Leisina Yaneiba, a clerk at a logging company. She had intervened in an altercation between Kopassus guards and a former employee, Martinus Maware, whom the TNI alleged was an OPM rebel (*see* Section 1.b.). On June 21, in the Papuan city of Wamena, Dani tribal chief Yafet Yelemaken died following a trip to Bali, where he had met a police acquaintance; friends concluded that the policeman poisoned Yelemaken during a visit to his hotel room. Despite widespread media coverage, no physical or factual evidence supported this theory. In August on the Papuan island of Biak, NGOs, religious groups, and Adat (traditional) councils accused the military of killing at least three Papuans. Hospital records indicated, however, that two of the persons in question drowned at sea and the third died in a road accident. On August 31, unidentified assailants killed three persons, including two foreigners, and wounded 12 others in an attack close to a large gold and copper mine near Timika, in Papua. The victims were teachers on a recreational outing. Several people dressed in military fatigues reportedly stopped the teachers' convoy in a heavy fog on the Tembagapura-Timika road and fired at the vehicles at close range. The Government quickly alleged that OPM had carried out the attack; the group denied responsibility. During the course of the initial police investigation, senior police officials were quoted in the press about indications that soldiers were involved in the attack. The initial police probe and subsequent military follow-up investigations were followed at year's end by a joint police-military investigation. In addition, the Government agreed to incorporate assistance from the United States Federal Bureau of Investigation.

On June 9, police arrested highland leader Benny Wenda in connection with a December 2000 attack in the northeastern Papuan community of Abepura, which resulted in the deaths of two police officers and one security guard. On October 26, Wenda escaped from prison and was on the run at year's end.

The Government made progress in its investigation into the November 2001 killing of Papuan pro-independence leader Theys Hiyo Eluay, who was found dead in his car outside the provincial capital, Jayapura. Based on a February 5 presidential decree, the Government set up a National Investigation Committee (KPN) made up of government and civil society members to probe the killing. The team traveled to Papua on February 25, and on March 19, the military announced that soldiers had been declared suspects in the case. The KPN delivered its findings to President Megawati on April 29, classifying the killing as an ordinary crime, not a gross human rights violation. The two Papuan KPN members and other Papuan groups rejected this finding, and urged KOMNASHAM to investigate it as a state crime. The Government initially detained nine Kopassus members in connection with the killing and investigated three additional suspects. At year's end, seven soldiers remained suspects, but none of them had been tried.

Other government investigations in Papua made little progress. Police made no perceptible headway in their probe of the 2001 disappearances and suspected killings of Willem Onde, leader of the Papua Liberation Front Army (TPNP), and his friend, Johannes Tumeng. Bodies believed to be theirs and bearing evidence of gunshot wounds were found floating in the Kumundu River with their hands bound. The Government did not report any progress in its investigation into the alleged police killings in 2001 of 12 civilians in the northwest Papua city of Wasior. NGOs claimed the Brimob carried out the killings in revenge of a June 2001 attack on a police post that left 5 police officers dead. Unknown persons returned three of the six weapons seized during that attack following negotiations between police and community leaders. Negotiations for the return of the remaining weapons continued at year's end. In a related case, the Government announced no progress in its probe into the earlier alleged police killings of six Papuan civilians in Wasior in May 2001. The six were apparently returning home from a celebration when they were killed.

In the western Java Province of Banten, on March 23, seven members of the Presidential Guard reportedly kidnaped and then killed Endang Hidayat, village chief of Binuangun, in Lebak regency. Evidence suggested that the guardsmen killed Endang because he had informed police that one of the guards had purchased stolen motorcycles.

Occasional clashes between the police and military resulted in civilian deaths as well as fatalities among the security forces. Chronically underfunded soldiers and police clashed periodically over control of criminal enterprises, including drugs, gambling, illegal logging, and prostitution. In September in the north Sumatran town of Binjai, an armed confrontation between soldiers and police left seven police, one soldier and three civilians dead, and at least four civilians injured. The dispute reportedly began when police arrested a soldier for selling the drug ecstasy. On October 2, Army Chief of Staff Ryamizard Ryacudu dishonorably discharged 20 soldiers who were involved in the dispute. On December 18, a military tribunal sentenced 9 of those soldiers to between 5 months and 30 months in prison.

Police and soldiers clashed 23 times during the year, a decrease of at least 35 percent from the same period a year earlier. During the year in Entiekong, West Kalimantan, a shootout between police and soldiers caused an unknown number of casualties. The clash reportedly occurred when police tried to close a TNI protected gambling operation. On August 12, in the West Java village of Cicurug, Bogor Regency, a brawl between police and soldiers left one policeman dead and three injured. The clash reportedly occurred after police tried to rescue an alleged pick-pocket who was being beaten by troops.

Police frequently used deadly force to apprehend suspects. On September 25 in Makassar, South Sulawesi, police were criticized for fatally shooting Iwan, a suspected gang member, who was in their custody. Police claimed they shot him when he tried to escape; however, an autopsy showed he was shot five times at close range. The Legal Aid Society (LBH) condemned the killing. Reliable statistics on the use of deadly force by police were not available. Senior police officials said they punished officers who used excessive force, but such punishments were not made public. On December 31, the Jakarta police chief said his office fired or suspended 107 officers during the year for misconduct, but he did not identify the types of misconduct. The police did not announce the results of any probe of excessive force from previous years.

The Government followed up on widespread killings in East Timor in 1999 by holding trials under the East Timor Ad Hoc Tribunal on Human Rights; however, the Government failed to prosecute the cases effectively (*see* Section 1.e.).

Of the six former East Timorese militia members who were convicted of killing three UNHCR workers in December 2001 in Atambua, West Timor, two were freed on their own recognizance, according to a reliable source who spotted them during the year. The law allows for appeals of Supreme Court decisions, but the six had not filed an appeal by year's end.

On March 7, the Central Jakarta Criminal Court sentenced former East Timor militiaman Jacobus Bere to 6 years in prison for the 2000 killing of New Zealand U.N. peacekeeper Leonard Manning. Prosecutors had sought a 12-year term. The presiding judge offered no explanation for the light sentence, and the prosecution vowed to appeal but had not done so by year's end. On March 20, the court acquitted three of Bere's accomplices.

During the year, there was no progress in the high profile Semanggi and Trisakti cases. In May 1998, four students at Jakarta's Trisakti University were shot dead, and a number of police officers were implicated. Six months later, also in Jakarta, at least nine demonstrators were shot dead at the Semanggi interchange. In 2002 efforts by KOMNASHAM to move the cases forward met with tremendous resistance from the military, police, Attorney General's office, and DPR. The security forces and many lawmakers maintained that the incidents were criminal and did not constitute major human rights abuses. The Attorney General's office twice returned case dossiers to KOMNASHAM, stating they were incomplete.

In the eastern Provinces of Maluku, North Maluku, and Central Sulawesi, ongoing communal conflicts between Christians and Muslims continued, but at a much lower level than in previous years. Nevertheless, civilians and sectarian civilian militias committed scores of extrajudicial killings. The reduced death toll in those areas resulted mainly from the heavy deployment of security forces and, to a lesser extent, from government-brokered peace agreements between the two sides.

In January 1999, intense sectarian fighting erupted in Maluku and North Maluku, where the population was roughly evenly divided between Christians and Muslims. The fighting followed years of simmering political, economic and territorial tension, and, according to some observers, recent provocation by outsiders. The catalyst most often cited was a dispute between a Christian bus driver and a Muslim passenger. The dispute degenerated into a street brawl and 2 months of rioting, leaving hundreds of persons dead in the Maluku capital, Ambon. The city fragmented into a number of guarded religious enclaves patrolled by militias. The military inserted an elite force, but by 2000 and 2001, virtually no Moluccan island had been spared from the interreligious conflict. In May 2000, thousands of members of

the Java-based Islamic extremist group Laskar Jihad (LJ) arrived in the Moluccas to fight alongside fellow Muslims, escalating the violence to a new level. Scholars said LJ polarized many citizens along religious lines and reversed a conflict in which the Christians previously had had the upper hand. By the end of 2001, inter-religious fighting in the Moluccas had killed thousands of persons and displaced hundreds of thousands.

On February 11 and 12, the Moluccan Christian and Muslim communities reached an agreement to work for peace. A major insertion of security forces bolstered the Government-brokered accord, known as Malino II. Violence subsided quickly and a fragile peace emerged, bringing some stability. On April 28, however, a gang of masked men entered the Christian Ambonese village of Soya and killed at least 12 residents. The attack came hours after LJ's commander, Ja'far Umar Thalib, delivered an incendiary speech, saying there would be no reconciliation with Christians, and that Muslims must prepare for combat. The Government arrested Thalib on May 4 and put him on trial on August 15 for inciting religious violence, insulting the Government, and humiliating the President. On December 19, prosecutors requested that judges sentence Thalib to 1 year in jail, a sentence that some human rights activists rejected as too light. The trial was ongoing at year's end. On October 15, LJ closed its headquarters, and Thalib and other LJ officials later confirmed that the group had been dissolved. Hundreds of former members subsequently left Ambon. On May 25, unidentified attackers in two speedboats opened fire on the passenger ferry Oyo Star off Haruku island and killed five Christians. At year's end, the shaky peace remained in place, but violence in the Moluccas had killed approximately 75 persons and prevented at least 300,000 displaced persons from returning home during the year.

Historically, Central Sulawesi has shared certain similarities with the Moluccas, including an evenly divided population of Christians and Muslims and political and economic tensions. In April 2000, in the city of Poso, communal violence quickly escalated. Mobs killed numerous persons and destroyed vehicles and homes. LJ leveled entire villages, some of them Christian and some of which were home to Hindu migrants from Bali. Muslim and Christian religious leaders were accused of incitement. On September 10, police arrested Christian leader Rinaldy Damanik after they found firearms and ammunition in a vehicle in which he was travelling. Observers said Protestant and Muslim groups overreacted to violent incidents, with the effect that reciprocal attacks became exponentially more lethal. By the end of 2001, interreligious violence in the province had killed approximately 2,000 persons and displaced more than 100,000 persons.

In December 2001, the Government's deployment of 4,000 elite soldiers and police helped dissipate the violence in Central Sulawesi in the wake of the Malino I peace agreement between the province's Christian and Muslim communities. Special police units that kept LJ fighters in check helped to reduce the bloodshed. During the year, amid a heavy security force presence, peaceful conditions prompted many internally displaced persons (IDPs) to return to their homes in the province. Residents removed many barricades, and the local economy revived. However, on June 5, a bomb exploded aboard a crowded passenger bus, killing five persons, including a Protestant minister. The Government responded by inserting additional security forces, which reinstated a fragile peace that held for the rest of the year. During the year, violence in Central Sulawesi killed dozens of persons and prevented at least 113,000 IDPs from returning home, mostly in the Poso area.

In Kalimantan ethnic tensions continued, mainly between indigenous Dayaks and ethnic Madurese settlers. However, the two groups largely avoided bloodshed, unlike in 2001 when Dayaks killed hundreds of Madurese. However, some killings occurred, including the May 26 decapitation of an elderly Madurese man in the Kapuas district of Central Kalimantan (*see* Section 5). In late July, at least three Madurese were beheaded in the province, but police concluded that those killings were motivated criminally. In August the Norwegian Refugee Council (NRC) reported that approximately 41,000 persons in West Kalimantan were displaced. Virtually all were Madurese, most of whom were driven out of the city of Sambas in 1999 or 2000 and fled to Pontianak, capital of West Kalimantan. The Government relocated many to resettlement sites outside of Pontianak. Madurese groups, including the Madurese Students Association, criticized the Government for relocating Madurese IDPs to new sites, instead of escorting them back to the land they legally owned and ensuring their safety. The Government did not announce any progress in its investigation into the 2001 killings of ethnic Madurese.

Bombs exploded in or near the cities of Ambon, Banda Aceh, Bandung, Denpasar, Jakarta, Kuta, Manado, Medan, Palu and Poso, among others. On August 1, in Jakarta, a car bomb exploded, wounding the Philippine Ambassador and killing an Embassy guard and a woman who happened to be passing by the area. By year's

end, it was still unclear who had carried out the attack, and investigators had not made any arrests. On September 23, in Jakarta, a grenade exploded inside a car as the occupants passed near a residence owned by a foreign embassy, killing the man handling the grenade and injuring the driver and another man, who both fled. The initial police statement indicated that this was a failed attack against a foreign diplomatic residence. Police subsequently captured three suspects. A government investigation continued at year's end. On October 12, two powerful bombs exploded in an entertainment district of Kuta, Bali, killing at least 186 persons, many of them foreign tourists. The bombings also injured 328 persons and destroyed 53 buildings. According to a senior police official, the incident was the most lethal terrorist attack in the country's history. Investigators subsequently arrested 15 suspects, at least 3 of whom reportedly acknowledged ties to Jemaah Islamiyah (JI), a terrorist group linked with al-Qa'ida. The investigation continued at year's end.

The Government made some progress in pursuing justice for previous bombings. On July 24, the Jakarta High Court handed a 20-year sentence to Malaysian citizen Taufik bin Abdul Halim for the August 2001 bombing of the city's Atrium shopping complex, which seriously injured six persons. Abdul Halim was carrying the bomb when it exploded prematurely. At year's end, the Supreme Court was reviewing his case. On July 18, the Supreme Court extended the prison term of 1 of 4 men convicted in the September 2000 bombing of the Jakarta Stock Exchange, which killed 15 persons. The court rejected the appeal by Tengku Ismuhadi Jafar and changed his 20-year sentence to life imprisonment. On October 19, the Government announced the arrest of alleged JI leader Abu Bakar Ba'asyir in connection with the 38 bombs that exploded across the archipelago on Christmas Eve 2000, which killed 19 persons and injured at least 120 others. The investigation continued at year's end.

Mobs carried out vigilante justice on many occasions, but reliable nationwide statistics were not available. Incidents of theft or perceived theft triggered many such incidents. On June 14, in the north Jakarta community of Tanjung Priok, pedicab drivers beat and severely injured two municipal guards. On June 20, in the West Java city of Tangerang, a mob burned to death a man who had allegedly stolen a television and a VCD player from a house. The man's fingers were removed, making a positive identification of the body more difficult. On August 26, hundreds of residents of the West Java town of Majalengka attacked and killed two plainclothes policemen suspected of stealing motorbikes. The victims were investigating reports of motorbike theft. On September 9, in the same city, a mob fatally assaulted a local resident after he attacked a motorcycle taxi driver and tried to steal the vehicle.

b. Disappearance.—According to the Committee for Missing Persons and Victims of Violence (Kontras), large numbers of persons who disappeared over the past 20 years, mainly in conflict areas, remained unaccounted for at year's end. In addition, hundreds of new disappearances were reported. Many of the disappearances occurred in Aceh, where according to the Aceh branch of Kontras, approximately 224 persons disappeared during the year.

At least three other disappearances took place in Papua. Some disappearances were motivated politically, while in other cases persons were kidnaped for ransom. Human rights organizations accused police and soldiers in Aceh of involvement in many of the disappearances; however, GAM also kidnaped many civilians for ransom. In many cases, little or no information was available regarding a victim's sudden disappearance. On January 28, in the village of Kuala, West Aceh, three adults and one infant disappeared while enroute to a plantation where the adults worked. On February 13, the village chief of Lhok Leubu, Pidie regency disappeared while returning from a shopping trip to a neighboring town. The Government did not take significant action to prevent the security forces from kidnaping civilians.

GAM rebels kidnaped and subsequently freed many people during the year. On June 30, suspected GAM rebels hijacked the Pelangi Frontier, a supply ship operating off the northern coast of Aceh, and took nine crewmen hostage. They released the crew a week later, with a statement that the release was based on confirmation that the crew was not associated with the military. Credible sources said that no ransom was paid. Also in June, the security forces accused the GAM of kidnaping nine athletes who were returning to the Acehese town of Sigli from a sports competition in the city of Medan. According to a credible witness, armed rebels stopped the athletes' vehicle and released the driver and his assistant, but detained the athletes. In July they were released and no ransom was paid. The GAM denied responsibility and stated that the TNI had fabricated the story. In January in Peureulak, East Aceh, the GAM kidnaped and detained for 4 months nine high school students who were accused of spying for Brimob. The kidnappings came after soldiers located and killed three GAM rebels. One detainee alleged she had been raped. The Govern-

ment did not investigate this allegation during the year and failed to announce any progress in investigations into other GAM-linked disappearances during the year.

The Government did not take significant action to prevent security force members from carrying out kidnappings. According to a credible human rights activist, police and soldiers in Aceh frequently and illegally detained citizens. The activist said dozens were held at any given time. It was unclear whether any such detainees died in custody during the year.

A number of ethnic Papuans disappeared during the year. On February 21, Martinus Maware, a former logging company employee and suspected OPM member, disappeared while under heavy guard at a military hospital, where he was being treated after soldiers guarding the company shot him in the leg during a dispute. On March 2, in the Central Java city of Salatiga, two men on a motorcycle kidnaped Mathius Rumbapuk, one of four students convicted of subversion for a December 2000 demonstration in front of a foreign embassy. Rumbapuk's friends alleged that the kidnapers were plainclothes policemen. There were no developments in the case of missing Papuan Hubertus Wresman, who was kidnaped from his parents' home by Kopassus troops in June 2001 according to Amnesty International (AI) and Wresman's relatives. The Institute for Human Rights Study and Advocacy (ELSHAM) reported that Wresman participated in an attack on a military post that killed four soldiers several months before he disappeared.

The Government made slight progress in its investigation into the July 1996 attack by hundreds of progovernment civilians and soldiers on the Jakarta headquarters of what was then the Indonesian Democratic Party (PDI); 23 persons disappeared and 5 persons died in the attack. In September Jakarta prosecutors said they had received three police dossiers on suspects, who finally were being placed on trial. Prosecutors returned two other dossiers to the police, which they described as incomplete. One named General Sutiyoso, Jakarta's military commander in 1996 and current Governor, as a suspect.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession. In practice, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse to produce confessions and as a form of punishment. Police often resorted to physical abuse, even in minor incidents.

During the year, the security forces committed numerous acts of torture in Aceh. According to the Aceh branch of Kontras, 1,472 persons were tortured in the province during the year. On May 6, the military released Acehese Rizki Muhammad, after more than 1 week of detention, during which soldiers allegedly clubbed and burned him with molten plastic. Kontras stated that on May 19, soldiers in the north Aceh village of Alue Dua visited the home of farmer Nurdin Doni, a suspected GAM member. When they learned he was not home, they broke his wife's feet and forced the couple's three children, aged 8 to 14, to stand in a fish pond for 3 hours. The Government did not hold anyone responsible, nor did it launch an investigation into the case. On May 24, a joint military/police squad questioned M. Thaleb, in the village of Meunasah Blouk, Blang Mangat subdistrict. The troops accused Thaleb of being a GAM member and tortured him, peeling some of the skin off his face and causing injuries to his lips and teeth. On June 6, in the north Aceh village of Jawa-Banda Sakti, three Brimob policemen entered the home of Syahrul Gunawan and inflicted severe injuries to his head, eyes, nose, and cheeks.

Police in Papua occasionally also tortured detainees, and in rare cases, their injuries resulted in death. On July 31, according to ELSHAM, Yanuaris Usi died in police custody as a result of torture.

Rapes, some punitive, occurred frequently in conflict zones. Human rights advocates blamed many of the rapes on soldiers and police. Statistics were unavailable, but credible sources provided a number of accounts that involved both soldiers and police. Kontras stated that in April, for an unknown reason, police arrested a 17-year-old girl at her home in the Acehese village of Ulee Blang. They forcibly intoxicated her with alcohol then raped her. An interfaith organization operating in Poso, Central Sulawesi, reported that high rates of depression among female IDPs because many had been raped and impregnated by Brimob members.

There were no reports during the year that East Timorese women were held against their will as sex slaves in West Timor, as had been alleged in previous years.

During the year, there was no progress in the Government's probe into the May 1998 civil unrest in Jakarta and other cities, which included attacks against Sino-Indonesian women. However, in December, KOMNASHAM set up a team to investigate the incident.

Occasionally Brimob personnel used arson as a form of punishment. On October 9, an Aceh police official said 40 police officers, some from Brimob, were questioned for allegedly burning down 80 shops and homes. None were prosecuted. Witnesses said police started the fires after GAM members killed two policemen. The GAM burned numerous rural schools and other government buildings during the year. Credible sources stated that GAM was implicated in the June 14 and 15 torching of seven schools, four of which were located in the city of Lhokseumawe.

During the year, Islamic extremists attacked a number of nightclubs, ostensibly to punish them for tolerating or promoting vice. The Islam Defenders Front (FPI) in Jakarta carried out many such attacks, during which prostitutes sometimes were assaulted. On March 7, the eve of the Islamic New Year, hundreds of FPI members attacked a pool hall in South Jakarta after approaching bars and discotheques in Central Jakarta and demanding that they close out of respect for the holiday. On June 26, approximately 200 FPI members smashed beer bottles, signs and windows in the popular Jaksa street area of Jakarta, in full view of police. On October 4, 400 FPI members attacked a billiard hall and discotheque in West Jakarta, angered that they were open on a Muslim holiday. Following those attacks, however, police arrested 13 FPI members and charged 8 of them with disturbing the peace. Community and religious leaders praised these arrests. On October 16, police also arrested FPI Chairman Habib Rizieq in connection with cases of vandalism and violence going back to 2000.

Prison conditions were harsh, with 12 inmates typically sharing a 2-meter by 4-meter cell. Guards regularly extorted money and mistreated inmates. The wealthy or privileged had access to better treatment in prison. In July Hutomo "Tommy Suharto" Mandala Putra started serving a 15-year sentence at Batu prison on the island of Nusakambangan, off of Java's south coast. Tempo magazine reported that his cell, unlike most, had a bathroom of its own and no bars on the windows. Prison authorities housed female inmates separately from men, but in similar conditions. Juveniles were not separated from adults. There was no official restriction against prison visits by human rights monitors. In practice, prison officials and guards rarely provided access, although the International Committee of the Red Cross (ICRC) visited convicted prisoners on occasion.

d. Arbitrary Arrest, Detention, or Exile.—The Criminal Procedures Code contains provisions against arbitrary arrest and detention, but lacks adequate enforcement mechanisms, and authorities routinely violated it. The code provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest (except if, for example, a suspect is caught in the act of committing a crime). The law allows investigators to issue warrants, but, at times, authorities made arrests without warrants. No reliable statistics exist on how many arbitrary arrests and detentions took place during the year.

A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained. However, it was virtually impossible for detainees to invoke this procedure or to receive compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The Criminal Procedures Code also limits periods of pretrial detention and specifies when the courts must approve extensions, usually after 60 days. The courts generally respected these limits. The authorities routinely approved extensions of periods of detention.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail. The authorities frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations. It was unclear whether any person died while in custody during the year.

On October 18, the Government issued two decrees on terrorism that allow it to use evidence from wiretaps, video recordings, and other surveillance previously inadmissible in court to fight terrorism (*see* Section 1.f.). The first decree loosened restrictions on evidence to prosecute terrorists; allowed up to 7 days of detention based solely on intelligence reports; and provided the police with authority to hold suspects for whom there was stronger evidence for 6 months without the authority of prosecutors or judges. The second decree stipulates that the first decree can be applied retroactively to detain suspects who were involved in the October 12 bombings. The country's largest Islamic organizations and parties across the political spectrum publicly supported the decrees. Some human rights NGOs raised concerns that the decrees could facilitate human rights abuses, but prominent human rights lawyers judged the safeguards were better than those in other parts of the Criminal Code.

In Aceh security forces routinely employed arbitrary arrest and detention without trial. On July 16, in Banda Aceh, local police took seven young members of the Acehese Women's Democratic Organization (ORPAD) into custody following a rally in which they expressed antigovernment views. The police released six of the seven women a day later, but continued to hold Raihana Diani, who helped organize the rally, through the end of the year. The authorities charged her with insulting the President, a violation of Articles 134 and 137 of the Criminal Code. On December 23, prosecutors demanded a sentence of 8 months. At year's end, Diani still was awaiting sentencing. On July 31, in Papua, Yanuarius Usi allegedly died in police custody as a result of mistreatment (*see* Section 1.c.). On September 26, police in Jakarta arrested and briefly detained anticorruption activist Azas Tigor Nainggolan. Tigor, Chairman of the Jakarta Residents Forum (FAKTA), allegedly slandered Jakarta Governor Sutiyoso by claiming that he had bribed city councilors.

On September 11, in southern Aceh, the TNI detained two foreign women in an area off limits to foreigners. The soldiers denied them Consular access and, according to the two women, punched and sexually harassed them. The TNI subsequently turned the two over to police, who transferred them to Banda Aceh, where they were charged with violating the terms of their tourist visas. On December 30, a court convicted them for violating the terms of their tourist visas, sentencing one to 4 months in prison and the other to 5 months.

On April 17, police in Jakarta released imprisoned Acehese student leader Fasial Saifuddin, pending appeal of his 1-year sentence for "spreading hatred toward the state." Saifuddin, of the NGO SIRA, had demonstrated in front of the United Nations (U.N.) building in Jakarta; he had served approximately 6 months of his sentence. In November 2001, police in Banda Aceh released from detention student leader Kautsar Mohammed, who was held on the same charge as Saifuddin.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial.—The Constitution provides for judicial independence. However, in practice, the judiciary remained subordinate to the Executive and was often influenced by the military, business interests, and politicians outside of the legal system. The law requires that the Justice Ministry gradually transfer administrative and financial control over the judiciary to the Supreme Court by 2004. However, judges were civil servants employed by the executive branch, which controlled their assignments, pay, and promotion. Low salaries encouraged corruption, and judges were subject to pressure from governmental authorities, which often influenced the outcome of cases.

Under the Supreme Court is a quadripartite judiciary of general, religious, military, and administrative courts. The law provides for the right of appeal, sequentially, from a district court to a High Court to the Supreme Court. The Supreme Court does not consider factual aspects of a case, but rather the lower court's application of the law. The judicial branch was theoretically equal to the executive and legislative branches and had the right of judicial review over laws passed by the DPR, as well as government regulations and presidential, ministerial, and gubernatorial decrees.

At the district court level, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Judges rarely reversed initial judgments in the appeals process, although they lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

The law presumes that defendants are innocent until proven guilty and permits bail. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. Prosecutors were reluctant to plea bargain with defendants or witnesses, or to grant witnesses immunity from prosecution. As a result, many witnesses were unwilling to testify, particularly against government officials. The courts often allowed forced confessions and limited the presentation of defense evidence. Defendants did not have the right to remain silent and some were compelled to testify against themselves.

The Criminal Procedures Code gives defendants the right to an attorney from the time of arrest, but not during the prearrest investigative period, which may involve prolonged detention. Persons summoned to appear as witnesses in investigations do not have the right to legal assistance. The law requires counsel to be appointed in capital punishment cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, but in practice authorities persuaded many defendants not to hire an attorney. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure

a fair trial. Widespread corruption continued throughout the legal system. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases.

A military justice system exists and during the course of the year, members of the armed forces were prosecuted, generally for common crimes.

Four district courts exist to adjudicate gross human rights violations. The law provides for each to have five members, including three noncareer human rights judges, who are appointed to 5-year terms. Verdicts may be appealed to the standing High Court and Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights. The law stipulates the powers of the Attorney General, who is the sole investigating and prosecuting authority in cases of gross human rights violations, and who is empowered to appoint ad hoc investigators and prosecutors. The law also empowers the Attorney General (as well as the courts) to detain suspects or defendants for multiple fixed periods in cases of gross human rights violations. However, the law requires the Human Rights Court to approve the extension of any detention of suspected human rights violators. For gross human rights violations that occurred before the enactment of the law, the law allows the President, with the recommendation of the DPR, to create an ad hoc bench within one of the human rights courts to hear cases associated with a particular offense.

On March 14, the Ad Hoc Human Rights Tribunal for East Timor convened in Jakarta after the Government failed to investigate instances of gross human rights abuses within the timeframes stipulated by the Human Rights Tribunal Law. According to a broad interpretation of this law, the Attorney General should have commenced prosecution no later than February 23, 2001, or a maximum of 310 days after the formation of his special investigative team on April 19, 2000. A stricter reading of the statute would have moved forward the deadline for prosecution by approximately 3 months, or 310 days after KOMNASHAM provided the results of its inquiry into the East Timor atrocities on January 31, 2000. The DPR did not recommend the tribunal's establishment until March 2001; the presidential decree authorizing its establishment was withheld until late the following month, and the Government deferred selection of noncareer tribunal jurists until mid-January. The Government's failure to meet statutory deadlines in preparing cases for the tribunal represented a major procedural violation that could provide grounds to overturn any convictions on appeal.

In his April 2001 decree creating the tribunal, former President Wahid limited the tribunal's jurisdiction over East Timor atrocities to those that occurred after the August 30, 1999 referendum. In August 2001, President Megawati allowed the tribunal to also include selected incidents that occurred in East Timor during April 1999, thus retroactively applying the country's human rights statutes to East Timor cases for the first time. However, President Megawati's decree limited the tribunal's jurisdiction to only those atrocities that occurred during April 1999 and September 1999 in 3 locations: Liquica, Dili, and Suai. The time and geographic restrictions placed on the tribunal's jurisdiction complicated prosecutors' ability to demonstrate that the atrocities in East Timor throughout 1999 were gross human rights abuses, defined as a systematic and widespread pattern of abuse by security force officers and their militia proxies. Legal experts said that in order to win a conviction in the tribunal, it was crucial to prove that such a pattern of abuse occurred. Pursuant to the August 2001 presidential decree, prosecutors brought charges against only 18 of the individuals implicated in East Timor atrocities by the January 2000 KOMNASHAM inquiry report.

The East Timor Ad Hoc Human Rights Tribunal convened its first trial in March and concluded 14 of 18 trials during the year. Only one member of the security forces was found guilty in connection with 1999 violence in the former Indonesian territory. The court convicted Army Lt. Col. Soedjarwo of crimes against humanity for failing to prevent pro-Jakarta militiamen from attacking the Dili seaside home and office of Archbishop Belo, where a number of civilians had taken refuge, and at least 13 persons were killed. Soedjarwo was sentenced to 5 years in jail. The tribunal also convicted two other persons, both civilians. Former East Timor Governor Abilio Soares was sentenced to 3 years, and former Aitarak militia leader Eurico Guterres—like Soares an ethnic East Timorese—received a 10-year sentence. Tribunal law mandates a 10-year minimum term of imprisonment. All three persons convicted remained free at year's end, pending their appeals. Most of the 18 persons indicted were low- and mid-level officers and officials. All were charged as responsible parties to the 1999 massacres at Liquica Church (April 6) and at Manuel Carrascalao's home in Dili (April 17), as well as those at the Dili Diocese (September 5), and at Archbishop Belo's home and the Suai Church (September 6).

In all of the trials, prosecutors presented weak cases that failed to prove the defendants' involvement in gross human rights abuses. Prosecutors did not fully use the resources or evidence available to them from the U.N. and elsewhere in documenting the atrocities in East Timor, and called few East Timorese witnesses. Most of their remaining witnesses were themselves defendants in other cases in the tribunal's docket. In some cases, judges harassed witnesses and/or disregarded their testimony, which highlighted concern over the overall fairness of the judicial process. In addition, the regular presence in the gallery of substantial numbers of uniformed military personnel and their East Timorese supporters intimidated witnesses. In one case, judges failed to authorize an interpreter's participation in the trial, with the effect that a witness was unable to testify in her native language, Tetum. Consequently, the witness was compelled to testify in rudimentary Indonesian, which resulted in heckling by soldiers present in the courtroom, which the judges made no attempt to control. U.N. Human Rights Chief Mary Robinson said the results of the trials were "not satisfying in terms of international human rights standards."

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. Nevertheless, security officials occasionally broke into homes and offices. The authorities generally did not monitor private communications but they occasionally spied on individuals and their residences, and listened in on telephone calls. There were reports that the Government occasionally infringed upon privacy rights of migrant workers returning from abroad, particularly women. Corrupt officials sometimes subjected the migrants to arbitrary strip searches, expropriated valuables, ordered currency conversions at below-market rates, and extracted bribes at special lanes set aside at airports for returning workers.

On January 8, President Megawati signed the Law on Overcoming Dangerous Situations, which provides the military broad powers in a declared state of emergency, such as limiting land, air and sea traffic, and ordering people to relocate. However, the Government did not implement the law during the year (*see* Section 2.d.). On May 23, in Maluku Province, after attempts to formally impose martial law met widespread opposition, Coordinating Minister for Political and Security Affairs Susilo Bambang Yudhoyono announced that an Army General would lead both the military and the police in the province. Kontras and other NGOs criticized the move, arguing that restructuring the command system amounted to imposition of martial law.

Human rights activists increasingly viewed the national identity card (KTP) system as a form of government interference in the privacy of citizens. The KTPs, which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's secular tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the Government—Islam, Protestantism, Catholicism, Hinduism and Buddhism—had little or no trouble obtaining accurate identification cards during the year; however, members of minority religions, frequently were denied a card, or denied one that accurately reflected their faith (*see* Section 2.c.).

In many parts of the archipelago, particularly in Kalimantan and Papua, indigenous persons believed that the Government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. During the year, the program moved 103,218 households from overpopulated areas to more isolated and less developed areas. The Government sent 21,617 households to Central Kalimantan, making that province the top destination.

The Government used its authority, and at times intimidation, to appropriate land for development projects, particularly in areas claimed by indigenous people, and often without fair compensation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and for freedom of the press, and the Government generally respected these rights in practice; however, various forms of censorship continued to threaten press freedom.

Journalists, human rights activists, and others expressed alarm over the DPR's November 28 passage of a Broadcasting Bill, which would establish an Indonesian Broadcasting Commission (KPI) of questionable independence. Critics said the law would limit foreign-produced news and require broadcasters to make unspecified "corrections" if there were protests over news content. The law's supporters said it would promote local broadcasting after decades of Jakarta-centric news and bring order to the industry. The bill was sufficiently vague to be interpreted in any num-

ber of ways. For this reason, and because lawmakers and the Government put off a crucial decision on whether the KPI would have the sole right to issue broadcasting licenses, it was not immediately clear whether the law would seriously undermine press freedom.

During the year, police used violence and intimidation against journalists. The Alliance of Indonesian Journalists (AJI) stated that from April 2001 through April of this year, 118 journalists were assaulted or threatened. In Aceh GAM rebels frequently intimidated journalists and occasionally used violence against them. In May in the city of Banda Aceh, a car belonging to the Bureau Chief of the Medan newspaper Waspada was burned. This came one week after the paper rejected a demand to print all GAM statements in their entirety. On at least three occasions during the year, suspected GAM supporters stopped a vehicle distributing copies of Waspada and then burned all of the copies. On June 26, in the East Java town of Gedangan, police beat Kompas journalist Wisnu Dewabrata while he was covering a labor dispute. They also seized his camera and press card. On July 10, in the northern Aceh town of Bireun, police entered the bureau of the newspaper Serambi Indonesia and attacked two journalists after the paper published a front-page article that quoted a rebel spokesman. On August 3, in Jakarta, at the annual session of the MPR, a member of the presidential security detail kicked and punched radio reporter Rizky Hasibuan.

During the year, journalists showed greater willingness to speak out against police violence. On July 15, in the East Java city of Surabaya, approximately 50 news workers demonstrated against acts of violence and intimidation against journalists. In July in Jakarta, free press advocates announced a two pronged strategy to protect journalists: Litigating cases of police violence with help from the Association of Legal Aid and Human Rights Organization (PBHI), and urging KOMNASHAM to set up a permanent body to protect journalists.

Foreign journalists based in the country accused the Government of interfering with their work. For instance, the Government declined to renew the work visa of Sydney Morning Herald reporter Lindsay Murdoch. The head of the Foreign Correspondents Club of Jakarta, Atika Shubert, said the Government did not announce why it would not renew the visa, but that some government officials cited Murdoch's scrutiny of the military as a reason.

In June prosecutors in Jakarta closed their investigation into the 1999 slaying in East Timor of Dutch journalist Sander Thoenes. A government spokesman said there was not enough evidence to prosecute, although several eyewitnesses reportedly identified a TNI soldier as the alleged killer.

The law mandates that all television stations, including regional ones, operate from Jakarta. Radio stations also faced restrictions. In June police arrested the director of a regional television station, the Jawa Pos' JTV, and shut down the station for trying to operate from a location other than Jakarta. Police threatened to demolish the station's antenna if it dared transmit again. One radio station claimed it spent a sum equivalent to 2-years' budget on bribes without being any closer to obtaining a broadcast license.

During the year, private citizens increasingly took censorship matters into their own hands. Religious extremists, political hard-liners, student activists, and paid criminals raided news offices in response to news coverage. In some of these raids, they beat journalists and destroyed office equipment. On January 2, 300 members of the youth wing of the ruling PDI-P Party reportedly occupied the Jawa Pos office after the newspaper ran an article that criticized President Megawati.

In August the extremist Indonesian Mujahidin Council (MMI) intimidated a Jakarta-based TV network, SCTV, into pulling a public service announcement promoting tolerance among Muslims. The MMI objected to the spot's assertion that "Islam is varied," calling it blasphemy. Also during the year, an Islamic group extracted a "fine" from the newspaper Republika following the publication of an editorial by a moderate Muslim scholar. In Yogyakarta a Molotov cocktail was thrown at the office of the People's Sovereignty newspaper after its editor said he was not afraid of zealots.

In November a group of Islamic leaders issued a death "fatwa" against Islamic scholar Ulil Abshar Abdalla for writing a Kompas newspaper article that asserted, among other things, that it was not essential for Muslims to wear Islamic dress and that all religions were "different pathways to God." The group, based in Bandung, later retreated from the threat, stating it merely had noted what could happen to those who insulted Islam.

Despite numerous incidents of violence and intimidation of the press, there were some positive developments. Media watch groups, including the AJI and the Institute of Free Flow of Information, increasingly were active. Labor unions at news organizations were more assertive in defending journalists' rights. The dramatic pro-

liferation of publications and news programs resulted in healthy competition and an increase in aggressive reporting. The Government stopped restricting the import of Chinese language publications and music (*see* Section 5). In addition, other foreign magazines and books no longer faced official censorship.

A government-supervised Film Censorship Institute continued to censor imported movies, mainly for pornography. By law Communist teachings cannot be disseminated or developed, and on at least one occasion in October, the Government publicly discussed banning a book because it contained Marxist content.

The law provides for academic freedom, and there were no significant constraints on the activities of scholars. The Government did not restrict or censor course content or curricula, and open discussions, often featuring harsh criticism of the Government, took place at universities.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in certain areas. The law generally does not require permits for public social, cultural or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy required police notification (*see* Section 6.a.). The law requires that persons planning to hold a demonstration notify police 3 days in advance and appoint someone accountable for every 100 demonstrators.

During the year, many rallies turned violent due to overzealous demonstrators, police, or counter-demonstrators. Some observers believed police exercised greater restraint than in previous years, but others noted that police beat protestors and fired tear gas on a number of occasions. On July 1, in Jakarta, police injured dozens of university students and four journalists in a demonstration in front of the DPR compound. On September 11, Jakarta police fired rubber bullets and water cannons, injuring demonstrators taking part in a massive rally against the reelection of Governor Sutiyoso. At the same rally, unknown persons handed out food containing cyanide, which poisoned, but did not kill, 30 persons.

On many occasions, police stood by as counter demonstrators attacked demonstrators. On May 20, in the Central Java city of Semarang, two persons were injured at a rally held by the Democratic Front for Poverty Eradication (FDPRM) when dozens of persons, who claimed to be members of the ruling PDI-P, attacked the demonstrators. Journalists reported that police did not intervene.

During the year, the Government arrested protestors deemed to have insulted publicly the country's leaders, which is a crime in the country. On June 24, police in Jakarta arrested activists Muzakkir and Nanang Mamija for stepping on pictures of the President and Vice President in a rally in front of the State Palace. Police detained them on a charge of premeditated slander of the President. On October 24, the Central Jakarta District Court sentenced them to 1 year in prison. On June 25, Minister of Manpower Jacob Nuwa Wea warned demonstrators not to deface, kick, or burn pictures of the President and Vice President, or he would "hunt them down." On July 16, in Banda Aceh, police arrested seven young women for displaying defaced pictures of the President and Vice President during a street protest (*see* Section 1.d.). In August police in Medan detained and questioned demonstrators who painted an "X" on photos of the President and Vice President.

The Constitution provides for freedom of association; however, the Government restricted the exercise of this right. Although the Papua Special Autonomy Law permits the flying of a flag symbolizing Papua's cultural identity, the police prohibited the flying of the Papuan Morning Star flag during the year. The police claimed the design of the Papuan flag allowed by law had yet to be negotiated by the Government, and that until that time, it remained banned. However, the Morning Star flag did fly at some public gatherings during the year, and there were no reported incidents of police using excessive force to remove such flags.

In Aceh Province, security forces continued to enforce a ban on the flying of the Acehnese flag. On May 6, in Banda Aceh, a university student carried an Acehnese flag during a peaceful student demonstration that called for a ceasefire. Police took the students into custody, beat him, burned him repeatedly with cigarettes, and struck him with the flag pole. Police officials later said he was "given counseling" at the police station, but this account was contradicted by the injuries visible on the student's body.

Maluku Sovereignty Front (FKM) leader Alex Manuputty, who faced treason charges in 2001 for hoisting the flag of the separatist South Maluku Republic (RMS), returned to court during the year on subversion charges. Police detained Manuputty in Jakarta from March until December 28, when they released him but required him to check in regularly and attend his trial. On December 19, prosecutors demanded a 5-year prison sentence. The trial was ongoing at year's end.

c. Freedom of Religion.—Article 29 of the Constitution declares that the state is based upon belief in one god, and that the state provides for every resident to adhere to their respective religion and to perform their religious duties in accordance with their religion and faith. The Government generally respected these provisions, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the Government, but only with the Ministry of Home Affairs, and only as social organizations. By stipulating that the country is based on belief in one God, the Government does not recognize atheism. The Government denied members of some faiths equal treatment in areas such as civil registration. There was no change in the status of religious freedom during the year. The Human Rights Law allows conversions between faiths, but converts to minority religions sometimes felt reluctant to publicize their conversions because they feared some degree of discrimination.

The civil registration system frustrated many members of minority religions. Civil Registry officials refused to register the marriages of Animists, Confucians, members of the Baha'i faith and others because they did not belong to one of the five officially recognized faiths. Hindus, whose religion was recognized officially, often had to travel far to register their marriages, because in many rural areas the local government could not or would not perform the registration.

Persons whose religion was not one of the five officially recognized faiths, or persons of Chinese descent, had difficulty in obtaining a KTP, which was necessary to register marriages, divorces, and births (*see* Section 1.f.). Men and women of different religions had trouble marrying and officially registering their marriages, and first had to find a religious official willing to perform a marriage ceremony; few were willing. Such couples also were required to register the union with the Government, which resulted in persons converting—sometimes superficially—to be married. Others traveled overseas, where they wed and then registered the marriage at an Indonesian Embassy.

Many of the religious groups that suffered discrimination in marriage registration also faced difficulties in registering their children's births. The MATAKIN, a Confucian advocacy group, stated that births of Confucians were recorded at the Civil Registry as out of wedlock, which caused shame or embarrassment.

During the year, several NGOs, including the Indonesia Anti-Discrimination Movement (GANDI), urged the Government to omit the category of religion from KTPs.

Foreign missionaries who obtained visas were allowed to work relatively unimpeded.

Police and soldiers occasionally tolerated illegal actions against religious groups by private parties.

Islamic law (Shari'a) was a source of significant debate during the year. Some small Islamist groups and political parties called for the national adoption of Shari'a by adding a sentence—the Jakarta Charter—to the Constitution, stating that there was an obligation for Muslims to practice Shari'a. Mainstream Muslims, Christians, Buddhists, Hindus, and others all spoke out against the threat that they claimed Shari'a would pose to the country's tradition of religious tolerance. In August the MPR rejected a motion to adopt the Jakarta Charter across the country. Limited efforts to apply Shari'a on regional and local levels met with mixed results. On January 1, the Government announced that the Muslim-majority Province of Aceh was permitted to implement Shari'a, as long as national law was not violated. However, by year's end the provincial legislature had not passed the necessary legislation to implement Shari'a. In other Islamic strongholds, attempts by local legislators and religious leaders to implement Shari'a had little result, in part because they lacked Aceh's legislative prerogatives and faced organized political opposition. Local governments introduced stricter Islamic legal practices in Cianjur and Garut, in West Java; Makassar, in South Sulawesi; and in Gorontalo, formerly part of North Sulawesi.

Churches continued to come under attack during the year, but such incidents were much less frequent than in previous years. According to the Indonesian Christian Communication Forum, attackers destroyed or forcibly closed 20 churches, many of them in Aceh. On September 29, in the South Sulawesi city of Makassar, unidentified residents demolished a Pentecostal church, citing the absence of a building permit.

There were fewer attacks on mosques, but some did occur. On July 14, in the predominantly Catholic town of Maumere, in Flores, thousands of persons attacked a mosque. It was unclear why local residents directed their anger at the mosque. Some residents concluded that outside elements purposely provoked communal unrest. From September 10–13, in the East Lombok town of Selong, thousands of or-

thodox Muslims attacked a mosque belonging to the nonorthodox Ahmadiyah community. Mobs burned the mosque and a number of houses and shops, and 340 residents fled.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution allows the Government to prevent persons from entering or leaving the country, and the Government restricted freedom of movement. The revised Law on Overcoming Dangerous Situations gives the military broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; order persons to relocate; order house arrests; and prohibit migration into and out of an area. In practice the Government did not use these powers.

During the year, the Government prevented 214 persons from leaving the country and 4,243 persons from entering the country. Some of those barred from leaving were delinquent taxpayers, while others were involved in legal disputes.

Although the law does not provide for the granting of asylum or refugee status, the Government cooperated with the United Nations High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta. During the year, the UNHCR resettled 474 refugees to third countries. At year's end, there were 236 U.N.-recognized refugees still living in the country, many from Iraq, Afghanistan, and Iran.

The above figures did not include East Timorese refugees, who the UNHCR stated numbered approximately 30,000 at year's end. Most of these remaining refugees resided in makeshift camps in the West Timor regencies of Atambua and Kupang. During the year, tens of thousands of East Timorese refugees were repatriated to their homeland, bringing the number who had returned from (Indonesian) West Timor since 1999 to more than 220,000 persons. The Government and UNHCR stated that at year's end, the remaining East Timorese in West Timor would no longer be considered refugees.

As of June, the World Food Program estimated the number of IDPs in the country at 1,413,708. In July the Norwegian Refugee Council (NRC) put the figure at 1,300,000. Other sources provided lower estimates. The NRC reported that most IDPs resided in the Moluccas, Sulawesi, Java, North Sumatra, West Kalimantan, Papua, and Aceh. Some NGOs partially blamed internal displacement on transmigration programs aimed at reducing demographic disparities between different parts of the country. The relocation of large groups of persons, particularly from Java, to under-populated areas led to ethnic imbalances, land disputes, and tensions that were difficult to contain. Separatist struggles underpinned the displacement in Aceh and Papua, while in Central Sulawesi and the Moluccas, inter-religious violence caused displacement.

During the year, tens of thousands of Indonesian workers who were forced to leave Malaysia following its crackdown against undocumented workers were provided with shelters by the Government on Nunukan Island, East Kalimantan. The shelters developed into squalid camps and diseases spread by unsanitary conditions killed at least 70 persons. Government aid was slow to reach the displaced workers on Nunukan. However, it did arrive, and large number of persons eventually left the island several months after the influx began.

In August World Vision reported that there were 2,000 IDP households on the island of Madura, virtually all of whom had fled Central Kalimantan following ethnic clashes in February 2001.

The Government restricted freedom of movement through a system of "travel letters," which were required for travel within Maluku, Aceh, and Papua. Enforcement was inconsistent. In parts of Papua, officials required a travel letter for a resident to walk from one village to another. Some residents complained that the system promoted police graft, while others, including NGO activists, said the system ensured that police always were informed of their activities.

The Government briefly sought to restrict rural migrants from settling in the overcrowded capital city area, but the effort yielded little result. In April the Governor of Maluku Province banned foreigners from visiting to prevent outside provocateurs from aggravating the sectarian conflict there; however, he made a number of exceptions to accommodate foreign aid workers. In July in North Maluku, for the same reason, authorities reportedly declared the province closed to outsiders whose identities were "ambiguous." The Government continued to attempt to ban foreigners from traveling to areas with secessionist conflicts like Aceh and Papua, and also to Central Sulawesi.

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

The Constitution provides for general elections every 5 years. In August the MPR amended the Constitution to introduce direct elections for the President and Vice President beginning in 2004. It also stripped the military and police of uncontested seats in the DPR after the 2004 general elections. During the year, the police and the military continued to hold 38 unelected seats jointly in the DPR and 10 percent of the seats in provincial and district parliaments ostensibly as compensation for not having the right to vote in elections.

DPR members automatically were members of the MPR, which also included 130 regional representatives who were elected by provincial legislatures, and 65 appointed representatives from functional and societal groups.

Domestic and international observers monitored the last elections in June 1999, and generally considered them to be open, fair, and free. Following the 1999 elections, the MPR, in a transparent manner, elected Abdurrahman Wahid as President and Megawati Soekarnoputri as Vice President. In July 2001, the MPR convened an "Extraordinary Session" to require President Abdurrahman Wahid, who was President at the time, to account for his performance. Wahid refused to appear, claiming the charges were politically motivated, and instead issued a directive to "freeze" the MPR, the DPR, the Golkar Party, and to hold new elections. This exceeded his authority under the Constitution, and the military and police refused to enforce these measures. On July 23, 2001, the MPR canceled Wahid's mandate, and Vice President Megawati replaced Wahid as President as provided by law.

During the year, the legislative branch asserted its constitutional prerogatives, including its right to review government proposed legislation, to question and challenge the President and members of the Cabinet, and to provide a forum for public debate and presentation of grievances. However, cumbersome procedures and a lack of staff expertise hampered the DPR's ability to enact legislation. At year's end, there was a significant backlog of pending legislation concerning important political and economic issues.

The MPR has the right to amend the Constitution and issue decrees, functions that it undertook in the first of its newly instituted "Annual Sessions" held in August 2000. A key demand of the reform movement was an overhaul of the 1945 Constitution, which was perceived to have fostered the development of past authoritarian regimes. In the First Amendment of the Constitution, the 1999 MPR passed curbs on executive power, including a limit of two 5-year terms for the President and Vice President. At the same time, the MPR empowered an ad-hoc working committee to consider further amendments and to draft MPR decrees. This effort resulted in the adoption of the Second Amendment to the Constitution during the annual session in August 2000. The Second Amendment included many important changes, including provisions for protections of human rights modeled closely on the U.N. Universal Declaration of Human Rights, regional autonomy, and further separation of powers. During its November 2001 session, the MPR amended the 1945 Constitution to provide, among other changes, for direct presidential and vice-presidential elections, a bicameral legislature with a regional representative's chamber, and a constitutional court with the power of judicial review of legislation.

In August the MPR approved the Fourth Constitutional Amendment, which specifies that candidates for President and Vice President are to run together on a single ticket. It provides for a second round of direct voting if no one candidate gets a majority of votes cast, as well as at least 20 percent of the vote in half of the provinces. The MPR retained the authority to amend the Constitution but was no longer empowered to establish the broad guidelines of state policy. The 1999–2002 amendments, if fully implemented, would make the President and the Vice President directly accountable to constituents.

All adult citizens were eligible to vote, except active duty members of the armed forces, persons in prison convicted of crimes punishable by over 5-years' incarceration, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party (PKI) may not run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as President, the highest political position in the country (see Section 5). However, women accounted for only 2 of the 30 Cabinet Ministers and 45 of the 500 DPR members, while 7 of the 40 Supreme Court Justices were women. In August and September, women's activists, female legislators, and the Minister of Women's Empowerment called for 30 percent of legislative seats to be set aside for women to address this imbalance. On December 23, in her Women's Day Speech, President Megawati stated her opposition to the proposed quota. The

DPR rejected the quota proposal included in the political party law that would have required parties to put forward women for 30 percent of available elective offices.

In Papua, as part of the province's Special Autonomy status, 30 percent of seats in the proposed Papuan People's Council were slated for women. The council, however, had not been formed yet, and Papua's provincial legislature did not pass implementing regulations in support of the Special Autonomy Program by year's end.

There were no legal restrictions on the role of minorities in politics. Javanese and Sundanese held many key positions, including all but one of the civilian Cabinet level posts for political and security affairs. Java and Madura accounted for approximately 60 percent of the Cabinet, which corresponded to their percentage of the population.

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

Domestic NGOs were subject to monitoring, abuse, and interference by the Government; however, they remained active in advocating improvements to the Government's human rights performance. Many NGOs, particularly those in Papua, accused the security forces of sabotaging their activities, and stated that this prevented exposure of many human rights violations. During the year, organized groups attacked members or offices of a number of NGOs and related organizations, including ELS HAM, Humanika, KOMNASHAM, Kontras, PBHI, and the Urban Poor Coalition (UPC).

On March 13, between 300 and 500 members of the military-backed Solidarity Group for Families of Victims of Bloody Cawang (SWAKARSA) raided the Jakarta office of Kontras, injured two staffers, destroyed office equipment, and stole documents. The attack came a day after members of a militia-organized group, Forum Ekspone 1998, visited the office and demanded to know why Kontras had taken part in a recent demonstration outside the home of former Armed Forces Commander Wiranto. Human rights activists alleged the military instigated the attack. On March 28, hundreds of unidentified persons attacked UPC members at the Jakarta office of KOMNASHAM. The attackers clubbed women and children, and one held a knife to the throat of UPC's coordinator, Wardah Hafidz. Fifteen UPC members needed medical attention. Some of the attackers said they belonged to the Betawi Brotherhood Forum (FBR), but it was unclear whether they were in fact members.

On May 26, in Banda Aceh, a fire destroyed dozens of mostly wooden homes, many of them rented by human rights activists. Hundreds of security force members, particularly Brimob, appeared quickly on the scene, and some activists voiced suspicions regarding their sudden appearance.

On September 27, TNI Chief Endriartono Sutarto said the military planned to sue the Papua-based NGO ELS HAM for "libel against our good name." After the NGO told reporters that Kopassus troops were implicated in the August 31 ambush near Timika that killed three persons, ELS HAM also alleged that security force intelligence agents had threatened to kill members of its staff. On October 12, unknown persons ransacked ELS HAM's Jakarta office and stole computer disks.

On December 28, in Papua, near the border with Papua New Guinea, a group of unidentified gunmen fired on a vehicle carrying several family members of Johannes Bonay, Executive Director of ELS HAM. At least three occupants were wounded. A TNI commander reportedly blamed the attack on OPM, but a rebel official reportedly denied that the group would attack fellow Papuans. Also in December, the Government rejected a Council on Foreign Relations visit to Papua, after objecting to its focus on pro-independence groups and human rights activists, which the Government viewed as support for Papuan separatist efforts. In the aftermath of the Bali bombings, the Government also reportedly believed that the proposed visit presented security risks.

Early in the year, lawyers linked to the military took over the Indonesian Legal Aid Institute Foundation (YLBHI), parent organization of the Legal Aid Foundation (LBH). By year's end, LBH offices in Medan, Padang, Lampung, Palembang, and elsewhere were near financial collapse.

A police investigation into the alleged August 2000 kidnaping of four members of a Bandung, West Java-based NGO, the Agrarian Reform Council (KPA), concluded that the "kidnaping" was staged by KPA itself in an attempt to discredit the security forces. Kontras, which assisted KPA legally, discontinued its involvement in the case.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard foreign NGOs with suspicion, particularly those operating in conflict areas. Several NGOs, including Peace Brigades Inter-

national (PBI), reported an increase in government monitoring of foreigners in conflict areas. Some domestic NGOs expressed concern about possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights issues, including the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and KOMNASHAM. Some activists complained that the division of government responsibilities was unclear and hindered progress in safeguarding human rights.

On July 8, the DPR announced the selection of 23 KOMNASHAM members, 5 of whom were members of the previous panel. Some activists said obstructionists within KOMNASHAM systematically weakened the Commission by suppressing probes and arranging for human rights cases to be transferred to the police. The law provides KOMNASHAM statutory authority to write legislation and allows for a membership of 35. However, the DPR selected only 23 persons. It was unclear how, or whether, the remaining 12 seats would be filled. Critics faulted the legislators for passing over a number of outspoken human rights campaigners. The law also provides KOMNASHAM with subpoena powers. Disputes that were settled by written agreement through the Commission were enforceable legally in court. The law does not give KOMNASHAM the power to enforce its recommendations, however, and in July one former member reported that the Government ignored over 80 percent of the panel's recommendations.

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

The Constitution does not explicitly forbid discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. In practice, however, the Government failed to defend these rights adequately, and the basic rights of women and children were frequently abused. The Government did little to defend the rights of persons with disabilities.

Women.—Violence against women remained poorly documented, and NGOs estimated that only 15 percent of domestic violence incidents were reported. On July 17, the Minister of Women's Empowerment said the number of domestic violence incidents had increased 29 percent from the previous year. The NGO Mitra Perempuan reported 111 cases of domestic violence in Jakarta and its suburbs during the first half of the year. In September Jakarta's biggest hospital, Cipto Mangunkusumo, admitted 72 women injured in domestic violence. It was unknown how many spouses were prosecuted for domestic violence due to the fact that police refused to provide relevant information. The UPC studied the problem of domestic violence and concluded that domestic violence was more common than before the 1997–98 financial crisis. Two types of crisis centers were available to women in distress: government-run centers in hospitals and NGO centers operated in the community.

Rape is an offense punishable by 4 to 12 years in jail, and the Government jailed perpetrators for rape and attempted rape. Comprehensive statistics were unavailable, but in the month of September alone, Cipto Mangunkusumo admitted 56 women and 96 girls who were raped and 106 girls who were assaulted sexually. Women's rights activists speculated that these figures were lower than actual occurrences of rape because the social stigma associated with rape resulted in the under-reporting of rape. The law does not treat rape by a spouse as a crime, and requires penile penetration to constitute rape. A women's activist in Aceh said that on several occasions during the year, soldiers used bottles and other foreign objects to violate local women; however, legally this was not considered rape, and no one had been held accountable by year's end.

Rapes committed by members of the security forces were most numerous in Aceh and other conflict zones (see Section 1.c.). In the Papuan provincial capital of Jayapura, human rights activists said at least 82 documented crimes against women and children were committed during the year, including 8 rapes by soldiers or police. A senior police official in Jayapura, however, denied that any of his officers had committed rape. At some police stations the burden of rape was placed on the victims, with posters that exhorted women not to wear revealing clothing lest they be raped.

During the year, some Acehnese women turned down marriage proposals by security force members, only to have their parents threatened. Women who did become engaged to security force members sometimes became targets for GAM rebels.

Women made some progress during the year in promoting awareness of crimes against women. In July in Jayapura, Papua, LBH held an interactive program over national radio, during which rape was discussed. A police representative took part in the dialog.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country. The NGO Population Council Indonesia carried out an 18-month study of the nature and scope of FGM, mainly in West Java and on the island of Madura. Researchers found that although FGM was prevalent in those areas, the preliminary findings suggested minimal short-term pain, suffering, and complications. Two types of people performed the procedure: midwives and local traditional practitioners. Researchers said the midwives' procedure involved the tearing, cutting or piercing of part of the genitals, but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said they customarily removed tissue, but the extent of this removal remained unclear. Likewise, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic, and involved softly touching a young girl with a metal blade, or at worst, nicking her.

During the year there were reports that in some areas of the country, parents encouraged their daughters to work as prostitutes in large urban areas. Trafficking in women and young girls was a serious problem (see Section 6.f.).

Sexual harassment was not a crime, but "indecent behavior" was illegal. The law reportedly only covers physical abuse and requires two witnesses.

The Guidelines of State Policy, legal statutes adopted by the MPR, explicitly state that women have the same rights, obligations, and opportunities as men. However, the guidelines also state that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family.

Divorce was a legal option open to both men and women. Muslims who sought a divorce generally had to turn to the Islam-based family court system. Non-Muslims obtained divorce through the national court system. Women often faced a heavier evidentiary burden than men, especially in the family court system. Many divorcees received no alimony, as there was no system to enforce alimony payments. The Citizenship Law states that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers were considered foreigners, and required visas to remain in the country until 18, at which age they could apply for citizenship. These children were prohibited from attending public schools, and many were forced to attend private international schools. In cases in which a citizen mother lived abroad with her foreign husband, a break-up sometimes caused severe child custody problems. The children of foreign women married to Indonesian men also faced difficulties. A foreign woman married to a citizen could obtain Indonesian citizenship after 1 year, if she desired.

In Papua, as part of the province's Special Autonomy status, 30 percent of seats in the proposed Papuan People's Council were slated for women. The Council, however, had not been formed yet, and Papua's provincial legislature did not pass implementing regulations in support of the Special Autonomy Program by year's end.

In Aceh there was no compelling evidence to suggest that women's rights were undermined when the province gained authority to implement Shari'a during the year. However, in January police in Banda Aceh stopped a number of women who were riding on motorbikes and not wearing headscarves. If the woman was a Muslim, the police gave her a headscarf, but did not force her to wear it. This practice did not last long. Women's rights activists reportedly succeeded in halting a plan to create a scarf compulsory zone elsewhere in Banda Aceh.

Women suffered disproportionately from poor health and illiteracy. According to UNICEF, the illiteracy rate among women was 18 percent, compared to 8 percent among men.

A number of regulations that discriminate against women remained in place during the year. At a May 22 forum in Jakarta on the role of the military, an activist criticized the TNI's longstanding practice of requiring female applicants to the military academy to prove they were virgins; males were not asked to meet this requirement.

Although some women had a high degree of economic and social freedom, most remained at the lower end of the socioeconomic scale. The Government stated that 38 percent of civil servants were women, but that only 14 percent of these women held positions of authority. Despite laws that provide women with 3 months of maternity leave, employers sometimes replaced pregnant women while they were on leave from their jobs.

In manufacturing, employers traditionally steered female workers toward lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the Government's Central Statistics Bureau, in May 2002, the unemployment rate for men was

higher than that for women. If a husband and wife both work for a government agency, the couple's head-of-household allowance is given to the husband. There were reports that female university graduates received an average salary that was 25 percent less than their male counterparts.

The Indonesian Women's Association for Justice facilitated public awareness programs in Jakarta to educate young women regarding the dangers of trafficking. The NGO Mitra Perempuan operated a hotline to record abuse cases and help abused women. There were many other NGOs that addressed women's issues, including Yayasan Humi Inana and the International Catholic Migration Commission (ICMC).

Children.—The Government stated its commitment to children's rights, education, and welfare, but devoted insufficient resources to fulfill that commitment. Poverty put education out of the reach for many children. Child labor and sexual abuse were serious problems during the year (see Sections 6.d. and 6.f.). Among girls aged 7 to 12, 7 percent, or 923,000, did not attend school. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. Hairiah, a noted rights activist in West Kalimantan, said many parents could not afford to educate all of their children, and concentrated their resources on their sons.

The Government estimated the number of prostitutes under the age of 18 at 49,500, but the actual number may have been much higher. At the country's biggest red light district, in Surabaya, 40 percent of the prostitutes were under the age of 18. Malnutrition was a growing problem, and more than 70,000 children lived on the streets (see Sections 6.d. and 6.f.).

The Government made some progress in protecting children during the year. On August 13, the President approved a National Action Plan on the Elimination of the Worst Forms of Child Labor. The plan consisted of 5-, 10- and 20-year goals that included raising awareness, policy development, and intervention to eliminate the worst forms of child labor (see Section 6.d.). On September 23, the DPR passed the National Child Protection Act, which addresses economic and sexual exploitation, including child prostitution, trafficking in children, and the involvement of children in the narcotics trade. The legislation also covers adoption, guardianship, and custody, and requires parents who wish to adopt to practice the same religion as the child. The Ministry of Women's Empowerment, responsible for children's issues, opened up the bill to NGO input. On August 16, President Megawati announced the upcoming education budget, which was \$1.46 billion (13.6 trillion rupiah), or less than 4 percent of total government spending. Education experts welcomed the 15 percent increase over the previous year's allocation; however, legislators and officials of the Ministry of National Education stated they would seek a significant additional increase. In August the MPR amended the Constitution to stipulate that a minimum of 20 percent of total state and regional budgets would be allocated to education.

By law children are required to attend 6 years of elementary school and 3 years of junior high school. In practice, however, the Government did not enforce these requirements. According to UNICEF, 96 percent of children aged 7 to 12 were enrolled in school; among children aged 13 to 15, 79 percent were enrolled in school; and among children aged 16 to 18, 49 percent were enrolled in school.

The monthly fees for public schools varied from province to province, and were based on average incomes. During the year, some parents found it more difficult to afford the \$1.20 (10,650 rupiah) to \$5.00 (44,374 rupiah) monthly fee that most public elementary schools charged. It was unclear how many children were forced to leave school during the year to help support their families. Conflicts disrupted the education of many children during the year.

In Maluku and North Maluku, interreligious violence displaced 452,000 persons, many of them children. Some children attended classes in makeshift classrooms at IDP camps. In August in the Maluku capital of Ambon, UNICEF introduced its "school in a box" system to help compensate for the destruction of 118 schools. Muslim-controlled areas reported a severe shortage of teachers, as a majority of teachers in the Moluccas were Christian, and many of them fled to Christian controlled areas when the violence escalated. In Central Sulawesi, bombings near schools disrupted education and displaced many of the children. The provincial capital of Palu suffered a number of such bombings, including two on September 19, which injured three persons. Clashes among student groups also drew increased scrutiny during the year.

The country's infant mortality rate remained high. According to the Indonesian Child Welfare Foundation, there were 38 deaths for every 1,000 newborns during year. Some NGOs attributed the problem to poor service at public health centers. The World Health Organization stated that prenatal care in the country was poor.

Malnutrition remained a serious problem, particularly among younger children. In 2001 UNICEF stated that 31 percent of the country's children under the age of five were moderately or severely underweight. This figure represented an increase from 26 percent recorded in 1999.

On July 29, Aris Merdeka Sirait, the Head of the National Committee for Child Protection (KOMNAS PA), called attention to the plight of child domestic workers. He estimated the child servant population at 1.8 million, based on 2000 data, and said such children faced sexual harassment and physical abuse by employers, due mainly to the absence of any legal protection (*see* Section 6.d.).

In December a study by Family Health International (FHI) estimated the number of street children nationwide at 70,872. This was based on data provided by the Government and a network of NGOs that cooperate with Save the Children. Other sources provided higher estimates. East Java, Jakarta, West Java, North Sumatra, and South Sulawesi Provinces have the largest street children populations (*see* Section 6.f.).

Child abuse is not prohibited specifically by law; however, there were no reliable sources on violence within families. Governmental efforts to combat child abuse have been slow and ineffective due to cultural sensitivities and a lack of monitoring mechanisms and verification.

Accusations of trafficking surrounded some East Timorese children who were in West Timor waiting to be reunited with their families. The UNHCR stated that as of early October, approximately 540 East Timorese children were still in West Timor. Many of the trafficking accusations focused on the Java-based Hati Foundation run by Octavio Soares, nephew of the last Governor of Indonesian East Timor. On July 4, Jesuit Relief Services (JRS) Indonesia reportedly complained to authorities that the Hati Foundation was obstructing its attempts to reunite East Timorese children with their families, which the Hati Foundation denied. HRW reported that requests for reunification of the children by the parents, UNHCR, and the IRC were met with hostile resistance by Soares. Other accusations centered on the Lemorai Foundation run by Hasan Basri (*see* Sections 2.d and 6.f.).

Child prostitution was pervasive during the year. NGO estimates of the number of child sex workers in the country ranged from 40,000 to 300,000. Although some teenage girls entered the sex trade knowingly, many were forced or tricked into the practice. At times law enforcement officials treated child sex workers as perpetrators of crime, rather than victims. The NGOs stated that fewer than 10 percent of child prostitutes were rehabilitated successfully. Women's rights activists and religious groups accused government officials, including police and soldiers, of operating or protecting brothels that employed underage prostitutes. During the year, there were reports that corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade (*see* Section 6.f.).

Sexual exploitation of boys was a major problem in Bali, according to NGOs active there. On July 24, in the city of Denpasar, 37 local NGOs discussed the problem and urged the Government to deport foreign pedophiles. Activists also described the island of Batam as a center for child sexual abuse. On July 17, the Minister of Women's Empowerment identified Medan and other parts of Sumatra as trouble spots for child sexual abuse (*see* Section 6.f.).

Trafficking of children was a problem (*see* Section 6.f.).

There was no separate criminal justice system for juveniles. Ordinary courts handled juvenile crime, and juveniles often were imprisoned with adult offenders. The KOMNAS PA stated that more courts were starting to involve social workers in children's trials to safeguard children's rights. At year's end, the Government still had not implemented a Juvenile Justice Law, which was approved in 1997 to establish a special court system and criminal code to handle juvenile cases.

A number of NGOs promoted children's rights. The National Commission for the Protection of Children's Rights (KOMNAS ANAK) campaigned for legislation to protect children. Save The Children worked with street children, while the Institute for Advocacy of Children (Lembaga Advokasi Anak Indonesia) struggled to end child exploitation on fishing platforms.

Persons with Disabilities.—The law mandates access to buildings for persons with disabilities; however, the Government generally did not enforce these provisions. The Disability Law requires companies that employ over 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the Government did not enforce the law or pressure any company to comply, and persons with disabilities faced considerable discrimination. The law also mandates accessibility to public facilities for persons with disabilities; however, extremely few buildings and virtually no public transportation facilities provided such accessibility. Recent statistics on the disabled population were not available. In 1999 the U.N. estimated that 5.43 percent of the population (about 10 million persons) was disabled, while the

Government put the number at 3 percent (6 million persons). The Government groups persons with disabilities into four categories: the blind, deaf, mentally disabled, and physically disabled. The Constitution requires the Government to provide them with care; however, "care" was not defined, and the provision of education to disabled children was never inferred from the requirement.

On May 20, hundreds of supporters of an advocacy group, the Forum of Struggle for the Disabled (Forpadi), rallied in the West Java city of Bandung; they accused government institutions and state universities of failing to provide facilities for the disabled. In October a workshop in Jakarta focused on political empowerment of the disabled. Members of the Indonesian Blind People's Association (Pertuni) and the Indonesian Disabled Association (PPCI), among others, called for revisions to the election bill to protect the rights of the disabled. Some called on the Government to provide ballot papers in braille. Facilities such as wheelchair ramps existed mainly in the larger cities, including Jakarta and Yogyakarta. On July 1, eight blind applicants to the University of Indonesia took the entrance examination in Jakarta; it was unclear whether any had been accepted at year's end. However, the Indonesian Union of the Blind (PERTUNI) stated there were a number of blind students studying during the year at public universities, including Jakarta State University.

The law theoretically provides children with disabilities the right to an education and rehabilitative treatment. However, many young persons with disabilities encountered difficulties in receiving an education and rehabilitative treatment; some resorted to begging for a living. According to a UNICEF report in 2000, there were approximately 2 million children with disabilities between 10 and 14 years of age.

NGOs were the primary providers of education for disabled children. There were 1,084 schools for persons with disabilities; 680 were private and 404 were government operated. Of the Government schools, 165 were "integrated," serving both regular and special education students. The Government also ran three national schools for those with visual, hearing, and mental disabilities.

Indigenous Persons.—The Government views all citizens as "indigenous," with the notable exception of ethnic Chinese; however, it recognizes the existence of several "isolated communities" and their right to participate fully in political and social life. The Government estimated the number of persons in isolated communities at 1.5 million. This included such groups as the Dayaks of Kalimantan, families living as sea nomads near Riau Province and South Sulawesi Province, and indigenous groups in Papua, where the Government in July revised the official count of tribes from 250 to 312.

Previous improvements in the legal framework, such as the Government's acknowledgement of traditional land rights, did not translate into significant improvements for indigenous people, who remained subject to widespread discrimination during the year. Representatives of indigenous communities complained that religious courts continued to deny the legal status of indigenous belief systems. NGOs stated that mining and logging activities frequently violated the rights of indigenous people, and that many violations resulted from the Government denying indigenous people their ownership of ancestral land, as well as the erosion of their traditional social structure.

Exploitation of rainforest resources contributed to the erosion of traditional land rights, particularly in Papua and Kalimantan. The Government failed to stop domestic and multinational companies from encroaching on indigenous people's land, often in collusion with the local military and police. On May 16, the Head of Papua's Social Welfare Office said excessive logging was pushing at least 51 isolated tribes living in eastern parts of the province to near extinction. Logging companies drove the tribes to mountainous areas around the Mamberamo River. On April 22, in Central Sulawesi, more than 100 indigenous people protested plans by a subsidiary of a multinational mining company to open a gold mine on land traditionally inhabited by the Poboya people, in the Kambuno mountains. In July the Government accused copper and gold mine operator PT Freeport of polluting two Papuan rivers that served as a water source for thousands of indigenous people near the towns of Tembagapura and Timika.

In Southeast Sulawesi, the Moronene people continued their decades-old struggle to secure government recognition of their claim to ancestral land in what is now the Rawa Aopa Watumohai National Park. On May 1, the Brimob raided the villages of Hukaea and Laea, detained 11 residents, and relocated 147 others. The Moronene, however, soon returned to their villages. Plans to permanently relocate them were hindered by the fact that the land set aside for them already was occupied by other civilians.

In Papua tension continued between indigenous Papuans and migrants from other provinces. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers said indigenous Papuans treated

them with resentment and suspicion. During the year, many indigenous Papuans expressed alarm over the influx of migrants who were displaced by violence in the Moluccas and Central Sulawesi. Some indigenous people also expressed concern about the increasing presence of L.J., the Java based Islamic extremist group, fearing that its members would team up with nationalist militiamen to fight proindependence Papuans under the banner of protecting Muslims and the country's unity.

On January 1, the Papua Special Autonomy Law took effect, formally giving the province the right of self-governance, except in the fields of foreign affairs, defense, some monetary matters and judicial appeals. Under the law, only indigenous Papuans can be elected as Governor and Vice Governor, or as members of the planned Papua People's Assembly or the existing regional legislature, the Papuan Provincial Legislative Council (DPRD). Although the central government considered the law generous, many Papuans were skeptical of any arrangement that kept their homeland a part of the country. Many Papuans continued to complain they were treated as second-class citizens in their own land and that they were forced to follow a foreign culture. By year's end, the DPRD had not passed most of the law's implementing regulations, and the effect of special autonomy was unclear.

Human rights activists stated that the Government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation of natural resources on which many indigenous persons relied. Some human rights activists said the Government used transmigration as a political tool to increase the number of nonindigenous persons in certain areas, in part to preclude secessionist movements. In some areas, such as parts of Sulawesi, the Moluccas, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were hostile. In December in Papua, an OPM unit attacked a migrant settlement and raised the separatist flag until TNI reinforcements arrived. Indigenous groups in various parts of the country said they received less government support than transmigrants, and transmigrants claimed that in some cases they were moved to areas with undesirable land, or where the land's ownership was in dispute.

Tensions continued in West and Central Kalimantan between indigenous Dayaks and Madurese migrants over land issues, economic opportunity, and cultural differences (see Section 1.a.). The Madurese community in Kalimantan developed around an earlier group of government-sponsored transmigrants, although the majority of Madurese in the area migrated spontaneously. In West Kalimantan, an estimated 30,000 Madurese were unable to return home during the year. On May 26, the decapitation of a 65-year-old Madurese man prompted the exodus of dozens of ethnic Madurese families from the Kapuas district of Central Kalimantan. It was unclear who was responsible for the killing. The People's Congress of Central Kalimantan advised the Madurese who had fled to wait between 5 and 25 years before returning.

Members of the Betawi ethnic group, which is indigenous to Jakarta, clashed on several occasions with ethnic Madurese during the year. In one such clash on July 15, fighting in the city's Cakung district left three persons with stab wounds and a number of homes destroyed.

National/Racial/Ethnic Minorities.—The Government officially promotes racial and ethnic tolerance.

Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. During the year, there were instances of discrimination and harassment. In July in the East Java regency of Garut, an ethnic Chinese businessman reportedly borrowed money from a number of persons, including police and soldiers, but when he was unable to repay his debts, regency officials summoned representatives of the Chinese community and informed them that the community would have to cover the debts. Central government officials later demanded an explanation from the regency officials, and a Chinese community organization, Paguyuban Marga Tionghoa, lodged a complaint.

To obtain a passport, business license, or credit card, or to enroll a child in school, a Chinese-Indonesian must first show a Republic of Indonesia Citizenship Certificate (SBKRI), a document not required of non-Chinese-Indonesians. This requirement provided an extortion opportunity for the many bureaucratic institutions involved in the issuance process. In May a controversy surfaced after a Chinese-Indonesian badminton champion was unable to obtain an SBKRI, which he needed to travel to China to compete. Only the President's personal intervention enabled him to obtain the SBKRI and to participate in the competition.

The Indonesia Anti-Discrimination Movement (GANDI) and other advocacy groups urged the Government to repeal dozens of laws that discriminate against Chinese-Indonesians, including one which prevents mixed-religion marriages.

Chinese language books and music were freely available, and Chinese songs often were heard on radio and TV (*see* Section 2.a.).

During the year, some Chinese-Indonesians complained that the Government had not done enough to investigate the 1998 violence against Chinese-Indonesians and their businesses.

Indigenous Papuans complained that they were underrepresented in the civil service of that province and that government officials discriminated against them. Others expressed fear that the Brimob forces aimed to eradicate indigenous Papuans; however, there were no reports during the year of politically motivated killings.

In Kalimantan, indigenous Dayaks faced discrimination in obtaining civil service jobs and generally were worse off economically than transmigrants. Ethnic Madurese transmigrants, who had clashed frequently with Dayaks in the province, complained that they were driven off of their land and that the Government seemed uninterested in their plight.

Section 6. Worker Rights

a. The Right of Association.—The Labor Union Act provides broad rights of association for workers. The law stipulates that 10 or more workers have the right to form a union. Union membership must be open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Government records, rather than approves, the formation of the union and provides it with a registration number. In addition, the law provides that union dues must finance union activities, but does not indicate how dues should be collected or whether management has a role in collecting dues.

Employers criticized the provision which permits 10 workers to form a union, claiming that it encouraged the creation of too many unions, which complicated collective bargaining and increased the possibility of strikes. A regulation requires that police be notified of all meetings of five or more persons of all organizations outside offices or normal work sites. The regulation applies to union meetings. The police periodically showed up uninvited at labor seminars and union meetings, which often had an intimidating effect.

Under the law and registration regulations, more than 60 union federations notified the Ministry of Manpower and Transmigration of their existence. In addition, thousands of workplace-level units registered with the Ministry, although some unions complained of difficulty in registering.

During the year, the Government presented two important labor bills to the DPR: the Manpower Development and Protection Act and the Labor Disputes Act. Unions and employers criticized aspects of each bill. Some provisions did not appear to be in accordance with international labor standards, including bureaucratic conditions for legal strike actions and requirements for employers to pay workers who strike legally. In September the DPR delayed consideration of the bills. Meanwhile, the chamber repealed the Suharto-era Labor Act of 1997. The failure to pass new labor legislation to replace outdated and inadequate laws left the industrial relations environment in a state of uncertainty.

Although government regulations prohibited employers from discriminating against or harassing employees because of union membership, there were credible reports of employer retribution against union organizers, including dismissals, that was not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized.

In 2000 the Indonesian Prosperity Trade Union (SBSI) documented 135 cases in which companies violated workers' right to organize by intimidating, punishing, or firing SBSI members because of their affiliation with the union or because they attempted to organize SBSI units within their factories.

In May the management of wood products company PT Taiwi Sidangali in Ternate, North Maluku, fired union leaders and reportedly organized local officials to threaten workers and their families to stop attempts to establish a union branch. Uniformed army members reportedly beat the union officials when the latter attempted to speak with the employer about the intimidation, according to the Solidarity Center and the union. Police then jailed the union organizers. In September the International Federation of Building and Wood Workers (IFBWW) launched an international appeal for Muhammed Opu, who was convicted in August for anti-

social acts by the Tarakan District Court and sentenced to 6 months in prison. By the end of the year, several other union members also awaited trial for the same alleged antisocial acts.

The Confederation of All Indonesian Trade Unions (KSPSI), formed by the Government-directed merger of labor organizations in 1973, is the oldest trade union organization and remained the largest confederation. The leader of KSPSI concurrently served as Manpower Minister. Some employers and some unions questioned whether the dual role created a conflict of interest, for example, in the drafting of the new labor laws.

The law allows the Government to petition the courts to dissolve a union if its basis conflicts with the state ideology of Pancasila or the Constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the State and are sentenced to at least 5 years in prison. Once a union is dissolved, its leaders and members may not form another union for at least 3 years.

The law does not address the adjudication of jurisdictional disputes among multiple unions in a workplace, and existing laws and regulations do not provide clear guidance on how jurisdictional disputes should be handled. Such ambiguity occasionally led to clashes between unions.

The law recognizes civil servants' freedom of association and right to organize. Employees of several ministries announced that they would form their own employee associations, and union organizations began to seek members. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered some resistance from enterprise management, and the legal basis for registering unions in SOE's remained unclear. The Government no longer required teachers to belong to the Teachers' Association (PGRI), which previously served as a mechanism for government control over teachers, and some teachers carried out demonstrations and strikes. Teachers may join other unions or form their own union.

During the year, there were several cases in which workers damaged property and were not arrested. On September 24, several thousand labor demonstrators protested draft labor legislation and destroyed the gates to the DPR. In addition, there were disputes, which sometimes became violent, among different unions represented in the same company. Groups claiming to represent labor also at times resorted to violence. For example, in September thousands of teachers in Bandar Lampung, who tried to enter the office of the mayor, clashed with security forces.

The law stipulates that unions may affiliate and cooperate with international trade unions and organizations. The KSPSI maintained international contacts and was an affiliate of the Association of Southeast Asian Nations Trade Union Council. SBSI was affiliated with the World Confederation of Labor and some international trade union secretariats. Other unions maintained contacts and affiliations with international labor federations.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining and the Manpower Ministry promoted it within the context of Pancasila. The law allows for workers' organizations that register with the Government to conclude legally binding agreements with employers and exercise other trade union functions. In companies without unions, the Government discouraged workers from utilizing non-Government outside assistance, such as during consultations with employers over company regulations. Instead, the Manpower Ministry preferred that workers seek its assistance and stated that its role was to protect workers. However, there were credible reports that for many companies, consultations were perfunctory at best and usually only occurred with management-selected workers. There also were credible reports to the contrary from foreign companies. According to government statistics, approximately 80 percent of the factory-level KSPSI units had collective bargaining agreements. The degree to which these agreements were negotiated freely between unions and management, without government interference, varied. By regulation, negotiations must be concluded within 30 days or be submitted to the Manpower Ministry for mediation and conciliation or arbitration. Most negotiations were concluded within the 30-day period. According to regulations, agreements are for 2 years and can be extended for 1 year.

According to NGOs involved in labor issues, the provision of collective bargaining agreements in practice rarely went beyond the legal minimum standards established by the Government, and the agreements often were presented to worker representatives for signature rather than negotiation.

All organized workers except civil servants have the legal right to strike. State enterprise employees rarely exercised this right, but private sector strikes were common. Before a strike can legally occur in the private sector, the law requires intensive mediation by the Manpower Ministry and prior notice of the intent to strike,

but no approval is required. In practice, workers and employers rarely followed dispute settlement procedures. Workers rarely gave formal notice of the intent to strike because Manpower Ministry procedures were slow and had little credibility among workers. Sudden strikes usually resulted from longstanding grievances, attempts by employers to prevent the formation of union branches, or denial of legally mandated benefits or rights.

Strikes frequently occurred during the year across a wide range of industries. From January to October, the Manpower Ministry recorded 194 strikes involving 84,555 workers. In addition, there was an increase in worker demonstrations and strikes regarding severance pay, particularly in Jakarta, West Java and East Java, related to an increase in company closures during the year.

In July in Jakarta, teachers from Al Alzhar, an elite private school, went on strike to demand higher pay. The school subsequently fired 53 striking teachers. The two sides finally decided to take the matter to court. On October 18, in the city of Tangerang, Banten Province, hundreds of workers at a Korean-owned factory detained the manager and his family for 5 days to demand that the company pay legally required severance packages. The workers released the family when the Korean manager agreed to their demands. According to a November 2001 ILO report, management at the Shangri-La Hotel violated worker rights when it dismissed 580 members of the Independent Worker's Union (SPMS) for striking in December 2000. The ILO report criticized the Government's overnight detention of 20 SPMS members for occupying the hotel lobby during the strike, and characterized the detention as "an obstacle to the exercise of trade union rights." The ILO called on the Government to require the hotel to rehire the fired workers. In March the Jakarta Administrative Court reversed the decision of the local labor dispute resolution committee and ruled that the Jakarta Shangri-La Hotel must rehire 79 workers who did not sign severance agreements. Approximately 500 other workers reportedly signed severance agreements only after they were pressured by the hotel. The hotel stated it would appeal the decision. On December 19, the Supreme Court ruled in favor of the hotel's appeal, invalidating the order to rehire the workers. In January according to the AFL-CIO's Solidarity Center, authorities in the Central Java City of Semarang imprisoned six activists from the National Front for Indonesian Workers' Struggle (FNPBI) on criminal charges of "unpleasant acts" after they led a strike for workers' legal rights in October 2001 at PT Wira Petro Plastindo. According to the Solidarity Center, the activists remained in jail for 6 months before they were released.

Labor activists alleged that factory managers in several locations employed Pancasila Youth, a group with reported links to Brimob, to intimidate and assault trade union members. In January, according to the FNPBI, Pancasila Youth members intimidated workers and beat an FNPBI activist at a latex factory in Sunggal, North Sumatra. According to FNPBI, no one was held accountable for the beating by year's end.

In September a protest in Bandung against pending labor legislation resulted in the arrest of 32 labor activists and demonstrators. According to NGOs, authorities released 27 of the demonstrators after charging them with misdemeanors. Authorities also released the remaining five, but charged them with more serious offenses. Their trials were ongoing at year's end. In May the Mojokerto District Court in East Java sentenced three labor activists to 1 year in jail for antisocial acts, following their efforts to organize a strike for meal and transportation allowances. The Manpower Minister publicly criticized the court's decision. On January 14, in Tangerang, the District Court convicted and released the Deputy Chief of the Karya Utama labor union, Hamdani bin Ijin from prison after sentencing him to time served for stealing a pair of reject sandals produced by the factory at which he formerly worked. Many other workers also wore the reject sandals, a common practice at the factory, but they were not arrested. Many viewed the conviction as politically motivated, constituting an attempt to punish Hamdani for his labor activism. Also in January, a Jakarta district court found labor activists Sofyan Bedot and Surjito innocent of charges of "antisocial behavior." According to the Solidarity Center, the two men argued with managers from footwear company PT Dwi Naga Sakti Abadi for an increase in the workers' daily meal allowance. After the demands were made, the company reportedly fired 35 union members, citing efficiency measures.

Regional and national labor dispute resolution committees adjudicated charges of antiunion discrimination, and their decisions could be appealed to the State Administrative Court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes requiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to KOMNASHAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually

took the form of monetary awards, but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

Since 1996 unions affiliated with the KSPSI had been able to collect union dues directly through payroll deductions (the "checkoff" system), rather than having the Manpower Ministry collect dues and transfer them to the KSPSI. Implementation of this system remained uneven. Unions other than the KSPSI alleged difficulties in having companies set up a check-off system for their members.

The police and military continued to be involved in labor matters, although a shift away from open intervention and demonstrations of force by uniformed troops to less visible measures continued.

There were seven export processing zones (EPZs) in the country. Batam Island, near Singapore, was the largest. Labor law applies in EPZs, although nongovernmental observers believed there was an antiunion tradition in EPZs, and that practical enforcement of labor laws was weaker in these zones. The Indonesian Metalworkers' Union (SPMI) reported to the Solidarity Center that electronics manufacturers in Batam frequently fired workers or encouraged resignations of workers who attempted to form unions. The Solidarity Center also reported that garment companies in Jakarta's two EPZs employed thugs to intimidate and assault union organizers. According to information from the ILO, in recent years unions had more success in organizing plants and negotiating with companies in the Batam EPZ.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced labor, and the Government generally enforced this prohibition. The law and regulations forbid bonded labor by children. The Government, however, was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic servitude, and other exploitative situations, including fishing platforms. NGO estimates of the number of child prostitutes ranged from 40,000 to 300,000, reflecting the difficulty of determining precise statistics. An ILO study indicated that in cases of child prostitution in West Java, parents and other family members commonly were complicit in forcing children to perform this type of work.

The ILO estimated that along the North Sumatra coast approximately 500 children worked on wooden fishing platforms under inhumane conditions. This represented a decrease from previous years. Children working on platforms remained in near-isolation for up to 4 months, without access to sanitary facilities or schooling. The platform workers typically worked 12 to 14 hours per day and carried out hazardous duties which were made even more dangerous by the fact that most children on the platforms could not swim and risked falling into the sea on a daily basis as well as being injured by net-lifting equipment. In 1999 the Government stopped issuing permits to build new platforms. The ILO and NGOs, in coordination with the Government, took steps that helped reduce this problem.

Migrant workers made up a substantial portion of the workforce and received limited protection from the Government. According to press reports and research by the Solidarity Center, recruiters frequently held migrant workers in holding centers (PJKI) for months at a time before sending them abroad. During their stay at holding centers, migrant workers normally did not receive pay and recruiters often did not allow them to leave the centers. In some instances, workers were forced to pay recruiters for the cost of their forced stay, owing large debts to the recruiters.

During the year, the Manpower Ministry revoked the licenses of 40 labor export companies for abuse of migrant workers and other violations. In December police and Manpower officials freed women who had been held forcibly in a migrant worker center near Jakarta (*see* Section 6.f).

A Home Affairs Ministry decree requires that migrant workers sign an agreement not to disclose difficulties encountered abroad, and, in practice, the Government restricted the ability of migrant workers to speak about abuses they faced overseas.

Forced labor and debt bondage was an issue in the informal sector. Private employers, within the country and abroad, at times forced household help to work without pay, for extremely low wages, or in situations of debt bondage. NGOs and the press reported cases of employers locking domestic workers within homes and physically and sexually abusing them.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children from working in hazardous sectors including mining, skin diving, construction, prostitution, and offshore fishing platforms, but the Government did not enforce these laws effectively. Child labor was a serious problem in the country. Government regulations and practice acknowledged that some children must work for socioeconomic reasons. The law prohibits children under 15 from working more than 4 hours per day. Nevertheless, an estimated 6 to 8 million children exceeded

this daily limit, by working in street vending, mining, construction, and prostitution. There was little government enforcement of the legal requirement that job seekers between the ages of 13 to 15 years first obtain the consent of the Government and a labor association before they begin to work.

During the year, the Government made efforts to strengthen the legal basis for the protection of children from the worst forms of child labor. On September 23, the National Assembly passed the National Child Protection Act. The law specifically addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade. The law provides criminal penalties and jail terms for persons who violate children's rights (*see* Section 5).

The National Action Committee to Eliminate the Worst Forms of Child Labor drafted a National Action Plan, approved by presidential decree in August. The Action Plan establishes a target to eradicate the worst forms of child labor over a 20-year period, and specifies activities for government support. In addition, the Government approved National Action Plans on trafficking of women and children, and on the commercial sexual exploitation of children. On December 23, President Megawati signed the plans. Enforcement of child labor laws remained ineffective during the year.

Despite legislative and regulatory measures, most children who worked, including domestic work, did so in unregulated environments. The ILO sponsored training of labor inspectors on child labor matters under the International Program on the Elimination of Child Labor (IPEC). According to the ILO, labor inspectors in Bandung, West Java, identified and removed some child workers from hazardous conditions in a shoe manufacturing shop during the year.

There were limited social programs to prevent exploitative child labor, conducted with international assistance.

The country's laws and regulations adhere and make reference to the standards set out in ILO Convention 102 on child labor.

More children worked in the informal, rather than the formal, sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Some employers hired children because they were easier than adults to manage, and less likely to organize or make demands on employers. Children working in factories usually worked the same number of hours as adults. Children also worked in the rattan and wood furniture industries, the garment industry, the footwear industry, food processing, toy-making, and in small mining operations.

Many girls aged between 14 and 16 worked as live-in domestic servants. On July 29, the head of the National Committee for Child Protection said that in 2000 an estimated 1.8 million children worked as servants, up from 1.5 million in 1999. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

Forced or bonded labor by children occurred in some instances. A declining number of children worked for months at a time on isolated fishing platforms in North Sumatra (*see* Section 6.c.).

e. Acceptable Conditions of Work.—According to regulations, provincial and district authorities, not the Government, establish minimum wage levels, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. Local districts set district minimum wages using the provincial minimum wage levels as references. Minimum wages rose significantly in recent years, and on average increased 28 percent from 2001 to 2002. Jakarta had the highest minimum monthly wage at \$67 (591,266 rupiah), while East Java had the lowest at \$28 (245,000 rupiah). Despite recent increases, minimum wage levels in all but three provinces remained below the levels required to provide the Government-determined minimum living standards for a single person, which also varied by province. On average across all provinces, the minimum wage represented 86 percent of the minimum living need. In practice the minimum wage often acted as a market wage, rather than a starting point for salary negotiations. The setting of minimum wage levels often led to protests from workers and employers. Employers complained that workers' productivity gains did not match increases in minimum wages, reduced the price competitiveness of products, and resulted in job losses.

Government enforcement of minimum-wage regulations, along with other labor regulations, remained inadequate, particularly at smaller companies and in the informal sector. In practice official minimum-wage levels applied only to the formal sector, which accounted for just 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits, such as social security. Persons who work at more modern facilities often received health benefits, meal privileges, and transportation.

According to the Solidarity Center, unions reported numerous incidents in which companies reduced benefits when minimum wage levels increased, in violation of government regulations. For example, in February, 850 garment workers in the West Java city of Tangerang launched a strike against manufacturer PT Hyun Indonesia because of its reported intention to stop providing transportation and meal allowances to workers, following minimum wage increases. The company then suspended the legally required minimum wage increase.

The law establishes 7 or 8 hour workdays, with one 30-minute rest period for every 4 hours of work. The law also requires one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and two times the hourly rate for additional overtime. Regulations allowed employers to deviate from the normal work hours upon request to the Manpower Minister, and with the consent of the employee. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common and often resulted in strikes and employee protests. The Manpower Ministry continued to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. According to the state-sponsored worker insurance agency JAMSOSTEK, the number of work-related accidents increased over the past 3 years, from 82,456 in 1999 to 108,774 in 2001. An official of the National Health and Safety Council, which was tasked with supervising the implementation of health and safety systems in almost 170,000 firms, told the press that they did not "have enough personnel to cover all enterprises," and urged companies to be self-compliant. In most of the country's larger registered companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Some foreign buyers also promoted worker health and safety improvements within the operation of their local suppliers. The limited number of qualified labor inspectors, corruption in the inspection system, and the low level of employee appreciation for health and safety practices severely hampered the enforcement of health and safety standards. During the year, there were numerous allegations of corruption on the part of inspectors. Workers are obligated to report hazardous working conditions. Employers are forbidden by law from retaliating against those who do report, but the law was not enforced effectively. As a result, workers who removed themselves from hazardous working conditions risked losing their job.

f. Trafficking in Persons.—The country does not have legislation that exclusively addresses trafficking in persons, and persons were trafficked to, from, and within the country during the year for the purposes of prostitution, forced labor, and debt bondage.

During the year, the Government approved a National Action Plan to counter trafficking of women and children. It includes provisions for traffickers to be punished severely, and identifies specific roles for the Government at both the national and local levels. In September the Government also passed a Child Protection Act, which specifically prohibits economic and sexual exploitation of children. This act specifies criminal penalties and jail terms for persons who violate children's rights, including trafficking in persons. The Government also supported programs at two universities, in East and West Java, to develop specific anti-trafficking legislation. In addition, the Government reinvigorated a public education effort on trafficking, which included placing programming with TV and radio outlets. It also started the process of ratifying remaining U.N. protocols related to trafficking and transnational organized crime. The Government formed a team to draft a new trafficking bill.

Although the Criminal Code lacked a legal definition of trafficking in persons, two organizations, the Solidarity Center and the ICMC, identified articles of law that could be applied in cases of trafficking and related offenses. The Penal Code prohibits trade in women and male minors and provides for sanctions of up to 6 years in prison. The law is silent on girls, and judges rarely sentenced traffickers to more than 3 years in prison. Although related laws that deal with crimes against decency were used against traffickers, arrests were rare, and successful prosecutions were rarer. On June 27, in the Sumatran city of Bandar Lampung, a court convicted a 53-year-old trafficker of kidnaping a 14-year-old girl earlier in the year. The woman had promised the victim a restaurant job but instead sent the girl to a brothel.

The Government did not compile statistics on the number of persons trafficked, and reliable figures were not available. The Indonesian Women's Coalition for Justice and Democracy estimated that as many as 400,000 women and children were trafficked from the country during the year. Another domestic NGO estimated that 20 percent of the country's estimated 5 million migrant laborers were trafficked each year. The majority worked as maids, construction, or plantation workers. Prostitution was widespread and was the driving force behind trafficking in persons. Although the Government generally interpreted "crimes against decency/morality" as applicable to prostitution, the latter is not specifically mentioned in the Penal Code. Official statistics were not available, but NGOs estimated that as of 2001, there were as many as 1.3 million prostitutes in the country. The prevalence of fraudulent national identity cards contributed to the trafficking problem.

The Government's 2001 "Working Paper on the Efforts Against Commercial Sexual Exploitation of Children in Indonesia" acknowledged that there have been reports of commercial sexual exploitation of children in two-thirds of the country's 30 provinces. "Back Street" children provided sex and entertainment services in some neighborhoods, urban parks, and cemeteries. More than 70,000 children lived on the streets.

On August 28, in Indramayu, police arrested three suspected child traffickers. The men were holding three girls, aged 14 and 15, who allegedly were being sent to work at a brothel in Riau province. In October in Indramayu, West Java, police apprehended a man and a woman who allegedly were attempting to smuggle seven women to Losari, near the city of Cirebon. The woman reportedly had opened a brothel. During the year, many poor, ethnic Chinese women from Kalimantan married men from Taiwan, sparking accusations of trafficking, but in a majority of cases these claims were unfounded. However, there were credible reports of underage girls, as young as 14 or 15, who obtained fake passports, married Taiwanese men, and moved to Taiwan. There also were unconfirmed reports of some Kalimantan women who were forced into prostitution in Taiwan. Chinese-Indonesian women and teenage girls, between the ages of 14 and 20, from the Singkawang area of West Kalimantan were recruited as mail order brides for grooms in Taiwan, Hong Kong, and Singapore. During the year, there were cases in which parents accepted advances of future salaries from employment brokers in exchange for their daughters. The child was required to repay the employment brokers at a later stage. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGOs cited credible evidence that between July and September on Nunukan, off East Kalimantan, women migrant workers who had fled Malaysia following a crackdown there against illegal workers became targets of traffickers (see Section 2.d).

Many trafficking victims became vulnerable to trafficking during the process of becoming migrant workers. Although the Government licensed "official" recruiting agents, many unauthorized recruiting agents operated freely throughout the country. These illegal agents often charged exorbitant fees and recruited workers to work illegally overseas (see Section 6.c.).

On December 27, government officials near Jakarta freed 259 women forcibly held at a migrant worker "training center." Many of the female recruits had remained at the company's small site for 6 months and had accumulated thousands of dollars in debt while the company failed to come through with the promised employment. Unable to pay their debts, the women became prisoners within the company's locked and guarded compound.

During the year, there were credible reports that East Timorese children, who were waiting in West Timor to be reunited with their families, were trafficked. Trafficking accusations focused on the Java-based Hati Foundation (see Section 5).

In September 2001, the ILO published a preliminary study of trafficking trends in Jakarta, Batam, Medan, and Bali, that found that many girls were forced into prostitution after the failure of marriages they had entered into when they were as young as 10- to 14-years-old. There was no obvious violation of the law because their paperwork identified them as adults due to the fact they were once married.

In many cases, traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, typically at island resorts. After the new recruits arrived, they learned they had been recruited as prostitutes. During the year, it became apparent that some women were trafficked overseas under the guise of cultural performers. In August two Balinese dancers told police that they were hired as dancers to work in Japan, but after their arrival in Tokyo, they were put to work as hostesses. On August 19, Bali's Governor Dewa Made Beratha ordered an investigation. During the year, Indonesian women were trafficked to Malaysia, Singapore, Japan, Saudi

Arabia, United Arab Emirates, Australia, and other destinations. On December 29, 98 Indonesian women returned home from Saudi Arabia and 37 returned from Malaysia after reportedly fleeing abusive situations in those countries. The Government organized and financed their return, along with that of over 100 other abused female migrant workers throughout the year.

In July in the city of Tawau, in the Malaysian state of Sabah, the Indonesian Consul, Makdum Tahir, helped to free at least 10 young Indonesian women forced to work as prostitutes at hotels in the city. The women, who allegedly were trafficked, ranged in age from 16 to 20 years.

Police did not receive specific training with regard to trafficking. The basic 3-month course that all police officers received did not include training on counter-trafficking in persons. Trafficking falls under the purview of the Department of Serious Crimes and Vice. However, coordination within the police force, and between the police and other interested departments on trafficking in persons, was at a rudimentary stage and very weak. NGOs alleged there was, within society and government, considerable reluctance to acknowledge that prostitution was a major industry. Credible sources said many police and soldiers were involved in trafficking young girls and even setting up and protecting brothels. These sources said that even when police were not involved directly, they received payments from traffickers, brothel owners, and organized crime. There was speculation that non-corrupt police were afraid to intervene because of threats from organized crime. Apart from police and soldiers, government officials allegedly were involved in trafficking, according to these sources. Some were involved in the production of false documents, which facilitated trafficking. A researcher at Atma Jaya University stated that law enforcement officials tended to view child prostitutes as criminals, not victims.

Domestic NGOs led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included Bandungwangi, the Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI), Legal Aid for Women (LBH-Apik), Women's Aid and Protection Group (DERAP), and Women's Coalition (Koalisi Perempuan).

JAPAN

Japan is a parliamentary democracy based on the 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The Liberal Democratic Party (LDP), the Conservative Party, and the Komeito party formed the Government in July 2000; it is headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The self-defense forces are responsible for external security and have limited domestic security responsibilities. The well-organized and disciplined police force was effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127 million residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Officials sometimes were dismissed for such abuse but seldom were tried, convicted, and imprisoned. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of societal discrimination, some of it severe and longstanding. According to Ministry of Justice figures, the Legal Affairs Bureau Offices and civil liberties volunteers dealt with 391,685 human rights-related complaints during 2001. Also during 2001, the Regional Legal Affairs Bureaus and the District Legal Affairs Bureaus received reports of 17,979 suspected human rights violations. However, staffing constraints and limited legal powers kept the administrative system for combating human rights violations weak, and many of these cases were ultimately resolved in the courts.

In 2001 the Justice Ministry's Council for Human Rights Promotion submitted recommendations for stronger governmental measures to address human rights abuses, including the establishment of a human rights commission that would provide relief to victims of human rights violations committed by public authorities and

members of the media through arbitration and administrative guidance. The report also recommended that the proposed body be granted investigative powers. During the year, the Justice Ministry submitted legislation to this effect. At year's end, the legislation was under debate in the Diet.

Japan was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 October 25, Democratic Party of Japan Lower House Member Koki Ishii was killed outside his home; however, there were no indications that the killing was politically motivated.

b. Disappearance.—There were no reports of politically motivated disappearances. The country was riveted, however, by the September admission by Democratic People's Republic of Korea (DPRK) leader Kim Jong Il that the DPRK had kidnaped at least 13 Japanese citizens during the 1970s and taken them to North Korea. The DPRK allowed five surviving victims to visit Japan in October. They have remained in the country since that time. The DPRK alleged that the remaining eight are deceased. There was speculation, not officially confirmed by the Government, that the DPRK had abducted many more citizens over the years.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for freedom from torture and cruel, inhuman, or degrading treatment or punishment, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. Unlike in 2000, there were no allegations of beatings of detainees by employees of private security companies that operated immigration detention facilities at Narita International Airport. The 2000 revision of the National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in this system remained low, and allegations that the police and the public safety commissions remained lax in investigating charges of police misconduct persisted.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self-incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

About 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government pointed out that the high percentage of confessions, like the high conviction rate, was reflective of a higher standard of evidence needed to bring about indictment in the judicial system.

Physical restraints, such as leather belts with attached leather manacles, continued to be used as a form of punishment, and some prisoners were forced to eat and relieve themselves unassisted while wearing these restraints. Ministry of Justice officials stated that restraints were used inside prisons only when prisoners had been violent and posed a threat to themselves and others, or when there was concern that a prisoner might attempt to escape. During the year, however, five Nagoya Prison guards were arrested for abusing a prisoner by using the leather restraining device to inflict serious internal injuries. In December two of the same guards, as well as a separate third guard, were arrested in connection with the death of a 49-year-old prisoner in May. This death was also allegedly the result of abuse with the leather restraining device.

Prison conditions met international standards; however, the National Police Agency and Ministry of Justice reported that some prisons and detention facilities were overcrowded during the year (*see* Section 1.d.). Prisons in most areas of the country were not heated, and prisoners were given only minimal additional clothing to pro-

protect themselves against cold weather. There have been cases of frostbite among the prison population in recent years. In 2001 the Ministry of Justice requested funding for a 3-year plan to install heaters in prison buildings nationwide. Individual cells are to remain unheated. Prisoners were not allowed to purchase or receive supplementary food. They were discouraged strongly from complaining about conditions. Prisoners faced severe restrictions on the quantity of their incoming and outgoing correspondence. The authorities read letters to and from prisoners, and some letters were censored, or, with a court order, confiscated. All visits with convicted prisoners were monitored; however, those prisoners whose cases were pending were allowed private access to their legal representatives. Prison officials claimed that the "no complaining" policy was designed to keep family members from worrying about their relatives. For the same reason, the Justice Ministry usually did not inform a condemned inmate's family prior to the person's execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact, and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

According to year-end Ministry of Justice data, normal prison facilities were filled to 103 percent of capacity in 2001. Nongovernmental organization (NGO) and press sources indicated that this overcrowding was a contributing factor in the 6,373 reported violent incidents in prisons in 2001, a 1.6 fold increase in incidents since 1996.

In the past, the Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. Wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days in which the prisoner is made to sit (for foreigners) or kneel (for citizens) motionless in the middle of an empty cell.

Women and juveniles were housed in separate facilities from men; at times during the year, some women's detention facilities also were operating over stated capacity. Pretrial detainees were held separately from convicted prisoners (*see* Section 1.d.).

Conditions in immigration detention facilities met most international standards.

The Government restricted access to prisons by human rights groups.

d. Arbitrary Arrest, Detention, or Exile.—Constitutional provisions for freedom from arbitrary arrest or imprisonment generally were respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists to detain the accused. Under the law, a suspect may be held in detention at either a regular detention facility or "substitute" (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor's application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 25 days.

In 1999 the Supreme Court upheld as constitutional the section of the Criminal Procedure Code under which police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; the Government denied that this was the case.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases sent to police detention facilities tended to be those in which the facts were not in dispute. A Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months. In one case, an accused allegedly was held for 3 years. In 2001 in its final report, an advisory panel to the Prime Minister on judicial reform called for a substantial increase in judges, prosecutors, and Justice Ministry personnel to shorten the time between arrest and trial.

The law does not permit forced exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the judiciary generally was independent and free from executive branch interference. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases may take several years to work their way through the trial and appeals process. Responding to the final report of a government advisory panel established in 1999 to outline structural reforms to the judicial system, in 2001 the Government announced plans to begin drafting legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination, which lasted an average of 20.5 months in 1999. Its proposals included hiring substantial numbers of additional court and Justice Ministry personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel also stated that it would release the official standards for setting up graduate law schools by March 2003, and at year's end, almost 100 universities had expressed an interest in opening graduate law schools by April 2004. In September the Ministry of Justice, the Supreme Court, and the Japan Bar Association agreed to set up a new bar examination system by 2010. In November a government panel introduced a draft bill that would make the Supreme Court responsible for accelerating proceedings in lower courts. The draft bill imposes a 2-year time limit for courts to bring criminal and civil trials to conclusion and requires the Government to take the legal and financial measures necessary to accomplish these goals.

In the case of the Aum Shinrikyo 1995 sarin gas attack on the Tokyo subway system, the trials of three senior members of the group were concluded during the year and the trials of four other senior members were still underway in district courts at year's end.

There is no trial by jury. The defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. However, in 2001 the Government's Judicial Reform Council recommended that randomly chosen members of the public be allowed to participate in determining rulings and penalties in criminal trials by deliberating the cases alongside professional judges. The Diet enacted implementing legislation in 2001, with the aim of adopting all of the advisory panel's reform proposals by 2004.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (*see* Sections 1.c. and 1.d.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the period prescribed by law, appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, although the Supreme Court published handbooks explaining the legal procedures and terms for court interpreters. In 2000 the Supreme Court introduced a training system to help court interpreters understand complicated trial procedures. However, no standard licensing or qualification system for certifying court interpreters exists, and a trial may proceed even if the accused does not understand what is happening or being said. The Supreme Court's 1998 statistics showed a chronic shortage of qualified court interpreters,

particularly for non-English-speaking defendants. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution protects the right to privacy of family, home, and correspondence, and the Government generally respected these rights in practice. Under the Constitution, each search or seizure must be based on a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. In 2000 legislation went into effect that allows law enforcement authorities to use wiretaps in certain criminal investigations, including suspected drug offenses, murder, and trafficking in persons. The law also stiffened penalties for the unauthorized use of wiretaps by police authorities. Under this law, wiretaps can only be used if law enforcement officials can demonstrate that all other investigative techniques have been ineffective.

In April the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. This inspired public debate on a privacy bill that remained under consideration in the Diet at year's end.

There were no new developments in the longstanding effort by groups representing women and persons with disabilities to obtain a government investigation, a formal apology, and compensation in the case of the several thousand women with disabilities who were sterilized without their consent between 1949 and 1992. A law that the Government revoked in 1996 permitted doctors, after they had received the approval of committees appointed by local governments, to sterilize persons with mental or physical disabilities or certain hereditary diseases without consent.

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. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Academic freedom was not restricted. The Science, Technology and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy. In 1997 the Supreme Court ruled that state screening of textbooks did not violate the constitutional provisions for freedom of expression. In 2001 police investigated a suspected firebomb attack on the offices of the Japanese Society for History Textbook Reform whose controversial treatment of World War II events in a junior high school textbook sparked domestic and international protests.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms 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.

Following the 1995 Aum Shinrikyo terrorist attacks, a 1996 amendment to the Religious Corporation Law gave government authorities increased oversight of religious groups and required greater disclosure of financial assets by religious corporations. The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a "religious corporation." In practice almost all religious groups were registered.

The only group under active government surveillance was Aum Shinrikyo, which the Government considered to be a continuing public danger. Formally renamed Aleph in 2000, Aum Shinrikyo lost its legal status as a religious organization in 1996 following its sponsorship of terrorist attacks. Foreign observers have classified Aum Shinrikyo/Aleph as a terrorist organization. In response to reports of increased Aum Shinrikyo/Aleph fundraising and recruitment activities, local police and communities have taken measures against its members and chapters, including denying residency permits and public school access to Aum Shinrikyo/Aleph leader Asahara's children. In 1999 the Diet passed legislation that allowed the authorities to seize the group's assets more easily, tighten surveillance against it, and force it to pay compensation to victims of its past crimes. The laws are subject to review, including possible repeal, in 2005. The Public Security Investigation Agency (PSIA) placed Aum Shinrikyo/Aleph under continuous surveillance for a 3-year period in January 2000, on the basis of one of the new laws. In December the PSIA filed a request

with the Security Examination Commission to extend the surveillance for another 3-year period, but at year's end, no decision had been made.

Members of the Unification Church and Jehovah's Witnesses have alleged that police do not act in response to allegations of forced deprogramming of church members. They also claimed that police did not enforce the laws against kidnaping when the victim was held by family members, asserting that Unification Church members were subjected to prolonged arbitrary detention by individuals, who were not charged by police.

For a more detailed discussion see the 2002 *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.

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

Asylum and refugee policy is in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. However, the UNHCR estimated that approximately 50 percent of applicants were rejected for failing to meet the 60-day application deadline. In November an advisory group to the Ministry of Justice proposed that the 60-day application deadline be extended to either 6 months or a full year. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits. An alien denied refugee status may appeal the decision to the Ministry of Justice. Rejected applicants also may take their cases to court if Ministry authorities do not recognize their objections. In an effort to make procedures clearer to applicants, the Government distributed a pamphlet in English, Chinese, and eight other languages to those interested in the asylum process.

While the Government sometimes grants first asylum, the Justice Ministry determines such grants on a case-by-case basis. The average processing time for initial case determination was approximately 1 year.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. It believes that most persons seeking asylum in the country did so for economic reasons. In 2001 353 persons in the country were either seeking asylum or accorded refugee status. Of these cases, the Government recognized 26 refugee cases. According to UNHCR, most new applicants were from Pakistan, Turkey, Afghanistan, and Iran.

The Government has shown flexibility in dealing with visa extensions for Chinese student dissidents, although it continued to be reluctant to grant permanent asylum. Burmese asylum applicants have complained that asylum cases can continue for years without a formal decision.

In May the country's refugee policy came into the national spotlight when North Korean nationals attempting to claim political asylum were stopped and arrested by Chinese security officials inside of the Japanese Consulate General in Shenyang, China. The harsh public scrutiny and criticism resulting from the incident led the Government to re-examine its refugee policy. An advisory group to the Ministry of Justice also proposed that the Government should provide shelter for asylum seekers.

The 2000 revisions to the Immigration Control and Refugee Recognition Act, which aimed at reducing visa overstays and the smuggling of persons, have the potential to affect asylum seekers. The revised law imposes stiff penalties on persons illegally entering the country, and those deported are denied reentry for at least 5 years instead of the previous penalty of 1 year. However, the Immigration Bureau has given assurances to UNHCR that these new provisions will not be used against genuine asylum seekers. In November an advisory group to the Ministry of Justice proposed that potential refugees who are subject to deportation due to their lack of a visa status should be granted legal protection from deportation until the Justice Minister decides on their refugee applications or complaints. In addition, the Ministry of Justice announced in December that, starting in January 2003, it would give detailed, written explanations of decisions not to grant refugee status to asylum-

seekers and that an information office would be opened at Narita Airport in January 2003 for potential asylum seekers.

There were no reports that persons were forced to return 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, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 1998 the Diet granted citizens living overseas the right to vote for candidates in national elections in races based on proportional representation. In 1999 the Diet extended these absentee-voting privileges to fishermen and mariners.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party, the Conservative Party, and the Komeito party formed the existing coalition government in July 2000.

In recent years, the numbers of women holding public office has slowly increased. At year's end, women held 34 seats in the 480-member lower house of the Diet (7.08 percent), and 38 of the 247 seats in the upper house (15.4 percent). There were 4 women in the 18-member Cabinet. Women accounted for 5.7 percent of elected members of prefectural assemblies and 10.5 percent of elected members of local assemblies. Three of the country's 47 governors were women; the female Governors of Osaka and Kumamoto were elected in 2000, and a third was elected in Chiba in 2001.

No figures were available at the national level regarding minority political participation.

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

A number of local and international human rights organizations functioned freely, without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access to prisons and immigration detention facilities by human rights groups (*see* Section 1.c.).

The Justice Ministry's Council for Human Rights Promotion, an advisory panel, continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In 1999 the Council submitted a report that called for greater attention to human rights education, particularly at the municipal level, and cited a number of ongoing human rights problems, including sexual harassment, domestic violence, and discrimination against the elderly, persons with disabilities, minorities, and foreigners. In 2001 the Council submitted a final set of recommendations that included the establishment of a human rights commission to provide relief through arbitration and administrative guidance to victims of social and racial discrimination, domestic violence, and human rights violations committed by public authorities and members of the media (the recommendations cite breaches of privacy, defamation, and "obstruction of a peaceful private life" as potential human rights violations by the mass media and Internet users). The report recommended that the proposed body be granted investigative powers, but it also recommended that its secretariat be established through a reorganization of the Justice Ministry's existing Civil Liberties Bureau. At year's end, this legislation was under consideration in the Diet.

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

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

Women.—Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Also, women who were victims of domestic violence typically returned to the home of their parents rather than file reports with the authorities. Therefore, National Police Agency statistics on violence against women probably understated the magnitude of the problem. In 2001 the Diet passed a new law to combat domestic violence which allows district courts to impose 6-month restraining orders on perpetrators and sentence violators to up to 1 year in prison or fines of up to \$7,910 (1 million yen). In addition, the law also covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local

governments offer financial assistance to 40 private institutions already operating such shelters. According to National Police Agency statistics, 2,174 rapes and 8,699 indecent assaults were reported during the year. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape.

Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices. Since the anti-stalking law went into effect in 2000, police have received 25,145 stalking complaints, arrested 164 persons, and issued 988 warnings.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. In 2001 the Tokyo Metropolitan Police organized a council with representatives of train companies to discuss antigroping measures. As a result, several railway companies started a poster campaign to raise awareness of antigroping ordinances and to advertise railway police contact information, including contact information for the molestation complaint offices established by the Metropolitan Police Department in 1995. In 2001 at the suggestion of the Metropolitan Police, the Tokyo Metropolitan Assembly also revised its antigroping ordinance to make first-time offenders subject to imprisonment. Also in 2001, Keio Electric Railway Company decided to make a trial women-only rail car program permanent, reserving one car only for women on all express and limited express trains running after 11 p.m. Monday to Friday. During the year, the Ministry of Transportation collaborated with the Hankyu and Keihan Railways to add women-only rail cars to their limited express trains, with Hankyu becoming the first railway in Japan to offer women-only cars all day long.

Trafficking in women was a problem (*see* Section 6.f.).

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. A National Personnel Authority survey of female public servants conducted in 2000 found that 69.2 percent of all female respondents believed they have been subjected to acts that constituted sexual harassment. The National Personnel Authority established workplace rules in April 1999 in an effort to stop harassment in public servants' workplaces. New survey data indicated that the most severe forms of sexual harassment may be declining in government workplaces; female public servants who stated that their bosses had pressured them into a sexual relationship dropped from 17 percent in 1997 to 2.2 percent in 2000. In 1999 a revision to the EEO Law intended to address problems of sexual harassment and discrimination against women went into effect. The revised EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance, other than allowing names of companies that practice sexual discrimination to be publicized. Under the Labor Standards Law, an arbitration committee is allowed to initiate procedures to help ensure the rights of female workers at a worker's request, without first having to obtain approval from both management and the worker's union. A number of government entities have established hot-lines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

The Labor Standards Law forbids wage discrimination against women. Under the revised EEO Law, women may work overtime shifts.

Women make up 40 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 51 percent. In response to a 2000 government survey that revealed that potential employers had discriminated against one in five women entering the work force on the basis of gender, in 2001 the Labor Ministry distributed 100,000 manuals outlining 25 hiring or recruiting practices that violated the EEO law. Although the Labor Standards and the EEO laws prohibit wage discrimination against women, in 2001 female workers on average earned only 65.3 percent of average male earnings. In general younger women (age 20–24) tended to make almost as much as men did; older women (50 and older) tended to make much less. Much of this disparity resulted from the “two-track” personnel administration system found in most larger companies under which new hires were put into one of two categories: Managerial track, in which those engaged in planning and decision making jobs had the potential to become top executives, and general track, in which employees engaged in general office work. According to a 2000 survey by the Public Management, Home Affairs, Post and Telecommunications Ministry, women held 8.9 percent of managerial positions. A 2000 Labor Ministry survey found that 52.9 percent of the companies with a two-track personnel system did not have women in managerial track positions. In 2001 the Osaka District Court dismissed a wage bias suit filed by female employees of Sumitomo Chemical Company who had been placed in a non-managerial career track in 1970

when the company introduced a dual-track system. However, in 2001 the Tokyo District Court ruled against conventional wage compensation assessment methods that used existing gender income disparities to determine future earnings potential in the case of minors. During the year, the Supreme Court mediated a settlement to a 1987 lawsuit in which 13 female employees had sued the Shiba Shinkin Bank over discriminatory salary and promotion policies. As a result of the mediation, six retired plaintiffs were retroactively promoted to section chief and paid lost wages worth \$1.86 million. Of the seven currently employed plaintiffs, six received immediate promotions to become section chiefs and one was guaranteed a chance to take the promotion exam.

According to the Prime Minister's Bureau of Gender Equality, women held only 4.1 percent of top local government positions through March 2001, although approximately a third of all local government workers were women. According to the Home Ministry, some of the 4,200 local governments that urged employees to retire before the mandatory age of 60 regularly urged female employees to retire at younger ages than male employees.

In addition to discrimination, the traditional male and female division of labor at home placed disproportionate burdens on working women, who were still responsible for almost all childcare and household duties.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949–92, a formal government apology, and compensation (*see* Section 1.f.).

In 1993 the Government publicly acknowledged and apologized for the former Imperial government's involvement in the army's practice of forcing as many as 200,000 women (including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese) to provide sex to soldiers between 1932–45. A 1999 U.N. Subcommission on Prevention of Discrimination and Protection of Minorities report included a recommendation that the Government provide state compensation to former "comfort women" and prosecute those responsible for setting up and operating "comfort stations" during World War II. The Government has been unwilling to pay direct compensation to individual victims, on the grounds that postwar treaties settled all war claims. In 2001 the Hiroshima High Court reversed a 1998 Yamaguchi District Court ruling that had ordered the Government to pay \$2,542 (300,000 yen) in state compensation to three Korean former comfort women for neglecting its constitutional duty to enact compensation legislation following the Government's 1993 admission. The District Court ruling had been the first court judgment rendered in favor of foreign war victims. Over 50 damage suits have been filed in the courts; approximately 10 cases were pending at year's end. In 2001 a U.S. federal judge dismissed a lawsuit brought by 15 comfort women, ruling that U.S. courts do not have jurisdiction over claims arising from Japan's wartime conduct. During the year, the Hiroshima District Court ruled that although the Yasuno Power Plant had illegally forced five Chinese plaintiffs to work under severe conditions during World War II, the company could no longer be held legally liable as the case exceeded the statute of limitations.

The Asian Women's Fund (AWF) is a private, government-sponsored fund established to "extend atonement and support" to former comfort women. The AWF supported three types of projects: Payments to individual victims; medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. Projects in the first category were funded by private donations, while the second and third types of projects were financed by the Government and administered by the AWF. At year's end, the AWF had collected donations totaling approximately \$4.91 million (590 million yen) and given lump sum payments of almost \$4.75 million (570 million yen) as well as letters of apology signed by the Prime Minister to more than 285 women from the Philippines, Korea, and Taiwan. These women also received medical and welfare assistance from the AWF. The AWF has reached an agreement with a Dutch affiliate to make compensation payments to former Dutch comfort women; government officials estimated that up to 100 Dutch women were forced to provide sexual services during World War II. The Government's refusal to pay direct compensation continued to draw international criticism.

Children.—The Government is committed to children's rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14, or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level (to age 18) exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. In 2000 the Diet enacted a law granting child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. This law raised public awareness of the problem of child abuse. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to the 174 local child counseling centers located nationwide or to municipal welfare centers. In spite of the Child Abuse Prevention Law, 62 children have died of abuse or neglect since its enactment in November 2000. Fifteen of these children died despite the involvement of a child counseling center. Child protection centers received 24,792 reports of abuse in 2001. A 1999 report by the Ministry of Health and Welfare warned that, since caseloads at counseling centers nearly doubled from 1988–96, cuts in funding by local governments to centers handling child abuse cases were exacerbating the problem.

Incidents of student-on-student violence in schools and severe bullying (“ijime”) also continued to be a societal and government concern. An Education Ministry survey released in 2001 reported 20,751 cases of student-on-student violence in public schools during the 2000–01 academic year, a 10 percent increase from the previous year. In addition to compiling statistics on bullying and consulting with various groups concerned with children’s welfare, the Ministry of Justice’s Office of the Ombudsman for Children’s Rights provided counseling services for children 18 years of age and younger who have been victims of bullying.

In previous years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money (which may or may not have involved sexual activity). However, in 1999 the Diet passed a law banning sex with persons under age 18 as well as the production, sale, or distribution of child pornography. The law was passed following heightened public attention to a growing problem of teenage prostitution and international criticism over the country’s lax laws on child pornography. The law has reduced the open availability of child pornography. Whereas in 1998 INTERPOL estimated that 80 percent of Internet sites with child pornography originated in Japan, by late 1999, after passage of the law, the police reported that most of these sites either had disappeared entirely or were accessible only at random hours to avoid detection and arrest. Since April 1999, operators of pornographic home pages and suppliers of pornographic images have been required to register with local safety commissions and not to offer such pages to persons under the age of 18. According to the National Police Agency, the police arrested 613 persons between January and June for patronizing teenage prostitutes and child pornography, a six-fold increase over the same period in 2001. However, teenage prostitution, dating for money, and child pornography continued to be problems.

In 2001 revisions to the Juvenile Law went into effect that lowered the age at which children can be held criminally responsible for their actions from 16 to 14. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. The number of juveniles arrested and sent to prosecutors was up 6.8 percent in 2002, according to the National Police Agency. During the year, juvenile crime also showed a trend toward more serious offenses such as murder, robbery, arson, and rape.

In 2000 the Tokyo prefectural government put into effect programs to protect the welfare of stateless children, whose births their illegal immigrant mothers refused to register for fear of forcible repatriation. According to Justice Ministry statistics, 720 stateless minors under the age of 5 were in the country in 2000.

Persons with Disabilities.—There were an estimated 2.9 million persons with physical disabilities and roughly 2 million persons with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, “mainstream” public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine. A 1998 cabinet directive ordered private companies to raise the proportion of persons with physical disabilities in their work force from 1.6 to 1.8 percent and raised the percentage of persons with disabilities among civil servants from 2 to 2.1 percent. Some prefectural governments provided subsidies to companies that employed persons who used wheelchairs. In 2001 the Diet passed legislation amending 27 laws that previously had banned the blind, deaf and those with mental disabilities from working as doctors, dentists, nurses, and pharmacists, and

the Health, Labor, and Welfare Ministry started awarding licenses for these professions on a case-by-case basis.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax breaks if they build wider entrances and elevators to accommodate persons with disabilities. In 2000 the barrier-free transportation law took effect, requiring public transport systems to take measures to make their facilities more accessible to persons with disabilities as well as to the elderly. In November the Tokyo District Court declared unconstitutional the Public Offices Election Law, which did not exempt people with severe physical disabilities from the requirement to handwrite the name of the candidate on the ballot when voting by mail. The case had been brought by three Tokyo residents who suffered from Lou Gehrig's disease, a condition which left them unable to write.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. Despite the enactment of this law, Health, Labor, and Welfare Ministry data showed that fiscal year 2001 saw the number of persons with disabilities fired from their jobs reach a record high of 4,017, a 1.6-fold increase from the previous year. This dismissal rate is significantly higher than the 1.2-fold increase recorded for the general population. The Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, in previous years recommended that municipalities draw up formal plans for the care of citizens with disabilities. The Ministry of Health and Welfare also has instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to the disabled. In 2000 74.9 percent of municipalities had formal care plans for citizens with disabilities. In 2001 the Government abolished Medical Service Law provisions that had exempted mental hospitals from minimum staffing guidelines; however, reports of understaffing persisted.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949 and 1992, as well as a formal government apology and compensation (*see* Section 1.f.).

Indigenous Persons.—The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of only approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

In 1997 the Sapporo District Court ruled that the Ainu were a minority aboriginal race, and later that year, the Diet passed the Law to Promote Ainu Culture. The law recognized the Ainu as an ethnic minority, and required all prefectural governments to develop basic programs for promoting Ainu culture and traditions. It also canceled previous laws that discriminated against the Ainu, including the 1899 law, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido and also failed to address whether they deserved special rights as a distinct ethnic group. The new law did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal Japanese minority. A 1998 report submitted by the U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits for Ainu throughout the country. According to a 1999 survey, 3.72 percent of Ainu received welfare benefits, roughly double the national average of 1.84 percent.

The Ainu continued to face societal discrimination while engaging in an uphill struggle against complete assimilation, although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased since 1997. In 2001 the U.N. Committee on the Elimination of Racial Discrimination (CERD) noted that the country "has not taken sufficient steps to address the issue of discriminatory treatment of Koreans and Ainu living in" the country. Also in 2001, sev-

eral nongovernmental groups, including the Ainu Association of Hokkaido and the Citizens' Diplomatic Center for the Rights of Indigenous People, protested the Government's failure to note continuing social and economic discrimination faced by the Ainu in its 2000 report to the CERD.

National/Racial/Ethnic Minorities.—Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. They were estimated to number approximately 3 million, but most preferred to hide their identities. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream society. However, in recent years, some within the Burakumin community have questioned whether assimilation is an appropriate goal. When the basic legislation to provide funding for Burakumin programs expired in 1997, the Government enacted legislation effective for 5 years that retained 15 of the original 45 programs for Buraku communities. In March Burakumin relief funds were halved from their previous levels as a result of the expiration of the Special Measures Law for Community Investment. Actual funding was cut to \$408.3 million (49 billion yen) from the previous level of \$875 million (105 billion yen), and the number of Burakumin-related projects was cut from 1,700 to 1,000. A 2001 working paper commissioned by the U.N. Human Rights Commission's Subcommittee on the Promotion and Protection of Human Rights acknowledged that the living standards of the Buraku had improved but noted that discrimination in marriage and employment continued.

In recent years, the Buraku Liberation League placed less emphasis on class struggle and more emphasis on civil rights, social welfare, and the environment. The League also replaced the term Burakumin (hamlet people) with Buraku Jumin (hamlet residents), to try to debunk the false concept that the Burakumin are a different race from other Japanese.

According to the Ministry of Justice, there were nearly 1.77 million legal foreign residents as of 2001, accounting for 1.34 percent of the population. Of these, the largest group at approximately 632,000 were ethnic Koreans, followed by the Chinese, Brazilians, and Filipinos. The number of Korean residents—a record low 35.6 percent of the foreign population in 2001—has been decreasing steadily since 1991 as Korean nationals naturalized or married Japanese, which allows their children to gain citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) still were subjected to various forms of deeply entrenched societal discrimination. In 2001 two associations representing Korean residents in Japan lodged protests against the Public Security Investigative Agency (PSIA) and the Kyoto municipal government when media reports revealed that the PSIA had investigated over 200 persons of Korean ancestry under the Subversive Activities Prevention Law.

Other foreigners also were subject to discrimination. There was a widespread perception that foreigners commit many crimes. In 2001 non-Japanese residents of Nagano prefecture petitioned the governor to remove posters issued by the Nagano Prefectural Police and the Japan Crime and Fire Prevention Communication Association that depicted foreigners committing crimes. Also in 2001, as a result of widespread media attention, appeals by the Justice Ministry, and an antidiscrimination campaign waged by NGOs, several businesses in Hokkaido lifted their bans against foreigners. In 2001 Hokkaido police investigated death threats made against a foreign born naturalized citizen who had sued both a bathhouse for refusing him entrance on the basis of race and the Otaru Municipal government for failing to take measures to stop discriminatory entrance policies. In November the Sapporo District Court ordered the bathhouse to pay the plaintiff \$25,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination.

By law aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote; however, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive

background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to permanent residence in the country.

In 1995 the Supreme Court ruled that the Constitution does not bar permanent foreign residents from voting in local elections. However, the Court also ruled that existing laws denying voting rights to foreign residents were not unconstitutional. In 2000 the Supreme Court upheld Nagoya and Osaka High Court decisions rejecting appeals by Korean permanent residents demanding the right to vote in local elections. The courts have consistently ruled that limiting the vote to citizens is constitutional, but that the Diet could legislate suffrage for foreign residents. Such legislation was submitted to the Diet during the year; however, at year's end, strong opposition to the legislation within the Diet, particularly within the Liberal Democratic Party, remained. In 1999 the Osaka Prefectural Assembly passed a measure granting permanent residents local suffrage, becoming the third prefecture to pass such a bill.

Under the School Education Law, students attending Chinese, Korean, or other non-Japanese-language schools are not eligible to take national university examinations. However, in 2000 the Education Ministry announced that, beginning in 2001, graduates of non-Japanese-language schools would be eligible to take national university examinations if they passed a state-run high school equivalency test. In 2001 the Education Ministry began studying implementation of a Cabinet report that concluded universities should admit graduates of non-Japanese-language schools without the high school equivalency test. A number of local governments provided subsidies to Korean schools; the central government did not subsidize any non-Japanese-language schools. The Association of National Universities also took action in 2001, urging state universities to scrap nationality clauses from their admissions criteria. A majority of state-run universities are expected to comply with the Association's request, which will open the door for many graduates of non-Japanese-language high schools to gain access to a much broader range of university-level educational opportunities.

In 2000 a revised law to end the practice of fingerprinting permanent foreign residents went into effect. Instead of fingerprinting, the Government established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in the country, a system similar to that used for citizens. All foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation. However, in 2001 the Osaka High Court confirmed the legality of the former fingerprinting procedure and overturned a 1998 lower court ruling that had ordered three prefectures to pay damages to six foreign residents who had been tried for violations of the Alien Registration Law in the 1980s for refusing to be fingerprinted.

In 1996 the Home Affairs Ministry reversed the long-held national policy of opposition to localities lifting the Japanese nationality requirement for public servants. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and formation of public opinion. The directive also required local governments clearly to state which jobs were closed to noncitizens. Some of the jobs considered off limits included tax collection, construction permit issuance, sanitation inspection, and firefighting.

Several local governments have changed their rules in response to the Government's position. In 1999 the Hakodate municipal government began to allow foreign residents to take employment tests for all city jobs except firefighters. According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments forbade hiring noncitizens.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of workers to associate freely in unions. Approximately 11.2 million workers, 20.7 percent of all employees, belonged to labor unions. Unions were free of government control and influence. Although most unions were involved in political activity as well as labor relations, they were not controlled by political parties. There were no restrictions requiring a single trade union structure, nor were there restrictions on who may be a union official. The Japanese Trade Union Confederation, which represented 7.2 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Unions were free also to affiliate internationally and were active in international bodies, most notably the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The annual “Spring Wage Offensive,” in which individual unions in each industry conduct negotiations simultaneously with their firms, involved nationwide participation. Management usually consulted closely with its enterprise union. However, trade unions were independent of management and aggressively pursued the interests of their workers. The law prohibits antiunion discrimination, and adequate mechanisms existed for resolving cases that occurred, including the reinstatement with back wages of any workers fired for union activities. The right to strike, implicit in the Constitution, was exercised. During 2001 29,101 workdays involving 223,144 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively.

However, some public employees, including members of the armed forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the International Labor Organization’s (ILO) Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims for damages and compensation for forced labor during World War II in Japanese civil courts, U.S. courts, and in complaints to the ILO. During the year, 15 Chinese men who were forced to work in coal mines during World War II appealed a decision handed down by the Fukuoka High Court that ordered Mitsui Mining Co., but not the Government, to pay them compensation. In late 2001, 18 Chinese men filed a law suit for damages against the Government and two major construction firms to seek compensation for their forced labor during World War II, seeking \$3.87 million (464.4 million yen) in damages and a public apology. In 2001 the Tokyo and Kyoto District Courts ordered the Government to pay damages in two separate cases. In the first, compensation was ordered to be paid to the family of a Chinese man who died in hiding after escaping from a coal mine where he had been forced to work during World War II. In the second case, compensation was ordered to be paid to 15 survivors of a 1945 explosion that had killed 524 Koreans brought to the country as forced laborers. Both lower courts ruled that the Government had failed to ensure a safe return home for the laborers but rejected further compensation for their forced labor. The Government was appealing both rulings at year’s end. In 2000 the Diet passed a law offering “condolence money” for foreign nationals killed or injured while serving with the Imperial army in response to a 1998 Tokyo High Court recommendation. The Public Management Ministry began accepting applications for condolence money in 2001; the legislation provides for payments of \$33,333 (4 million yen) to seriously injured foreign national soldiers and \$21,667 (2.6 million yen) to the survivors of those foreign nationals killed in service. However, seriously injured Japanese veterans are eligible for \$632,761 (80 million yen) and a lifetime pension. An ILO committee has called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war.

The Asian Women’s Fund continued to support former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. In 2001 the Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor

Standards Law, reported 18 instances of children under the age of 15 being employed and 25 instances of children under the age of 18 being employed in dangerous or harmful jobs.

The Government prohibits forced or bonded labor, including that performed by children, and enforced this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates, effective during the year, ranged from \$18 (2,231 yen) per hour in Tokyo to \$11 (1,358 yen) in Aomori prefecture and were considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

The Immigration Bureau of the Justice Ministry estimated that, as of January 1, there were 224,000 foreign nationals residing illegally in the country, a 3.5 percent reduction from the previous year. Illegal immigrants came primarily from South Korea, the Philippines, China, Thailand, and Malaysia. In 2001 the Justice Ministry announced plans to construct a new immigration detention facility in Tokyo and to increase legal immigration numbers by 1,100 over a 5-year period as part of an effort to decrease the numbers of illegal foreign residents. Ministry of Justice sources said that the economic recession, the enactment of a package of measures designed to counter illegal immigration, and the aftershocks of the terrorist attacks of September 11 were among the reasons for the drop in the illegal immigrant population.

While many foreign illegal residents entered the country in search of better paying manufacturing and construction jobs, these opportunities decreased during the economic slowdown. Thus more foreign workers were unemployed or marginally employed. Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. In 2001 NGOs held a forum on migrant labor that was attended by 1,000 activists. The forum was held to draw attention to exploitative practices, including unsafe working conditions and unpaid overtime, to which foreign workers were exposed while working on “trainee” visas under the Foreign Technical Trainee and Technical Internship Programs.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers. Revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. In addition, the 1999 revision to the immigration law established penalties for illegal stays separate from existing injunctions against illegal entry. The Government continued to study the foreign worker issue, and several citizens’ groups were working with illegal foreign workers to improve their access to information on worker rights.

f. Trafficking in Persons.—The Constitution prohibits holding persons in bondage, and the Penal Code contains several provisions that could be used to combat trafficking of persons; however, there are no specific laws that prohibit trafficking in persons, and trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and the former Soviet Union, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. Japan also was a destination for illegal immigrants from China who were trafficked by organized crime groups who often held such persons in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government has reported that some smugglers used killings and abduction to ensure payment.

There was evidence that trafficking took place within the country to the extent that some recruited women subsequently were forced, through the sale of their “con-

tracts," to work for other employers. Child prostitution was a problem (*see* Section 5).

Reliable statistics on the number of women trafficked to the country were unavailable. During the year, the National Police Agency identified 55 women as potential trafficking victims during criminal investigations involving entertainment businesses. During the course of those investigations, 28 individuals were prosecuted as trafficking brokers under various immigration and entertainment facility laws. However, the Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions once in the country. Thus, government figures may understate the problem as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion. Traffickers were prosecuted for crimes ranging from violations of employment law to Penal Code offenses such as abduction, and the Government did not compile statistics on the number of trafficking victims associated with these cases. Since trafficked women generally were deported under immigration law as prostitutes, immigration statistics may provide only a rough picture of the scale of the problem. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses stated that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. In 2001 approximately 72,000 women from the Philippines entered the country on such visas. "Entertainers" are not covered by the Labor Standards Law, and have no minimum wage protections; however, there were indications that they may be somewhat less vulnerable to abuse by employers than female migrant workers entering illegally or on other types of visas. In a move to tighten scrutiny on the entertainer visa system, the Immigration Control and Refugee Recognition Law was revised to give Regional Immigration Bureaus the authority to verify that foreigners entering the country on such visas are abiding by all relevant regulations. Early results of the checks showed that a significant number of entertainer visa holders acquired their visas using fraudulent information, often listing defunct shops or fictitious establishments as employers on immigration documents. Regional Immigration Bureaus planned to file criminal complaints against promoters of entertainer visas who submitted fraudulent information.

Brokers in the countries of origin recruited women and "sold" them to Japanese intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses such as escort services and mail order video services which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars, where they were required to provide sexual services off premises.

Many Thai women were enticed to come to the country with offers of lucrative legitimate employment, only to be sexually exploited; many others reportedly knew that they would work as prostitutes. However, whether or not they understood the nature of the work they would be doing, trafficked women generally did not understand the debts they would be forced to repay, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of Thai women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of their "purchase." Typically, the women were charged \$25,000 to \$40,000 (3 million to 5 million yen); their living expenses and expenses for medical care (when provided by the employer) and other necessities, as well as "fines" for misbehavior, were added on to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold" or threatened to resell troublesome women or women found to be HIV positive, thereby increasing the debt they must repay and possibly worsening their working conditions. To repay the debts they incurred, trafficked women generally had to work long hours (often with no days off) for several months, essentially without pay. Many women were not allowed to refuse clients, even those known to be physically

abusive. Most Thai women trafficked into the sex trade had their movements strictly controlled by their employers while working off their debt, and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. Most trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

In 1999 the Diet amended the Law on Control and Improvement of Amusement Businesses in order to supplement the Prostitution Prevention Act as an instrument against trafficking. The amended law sanctions employers rather than just sanctioning victims and requires the Government to refuse to grant or to revoke the business license of anyone convicted of the "crime of encouragement" to engage in prostitution. In 1999 the Diet also enacted a law intended to prevent all forms of sexual exploitation of children, whether trafficked or not, which imposes a 1- to 3-year sentence on anyone convicted of trading in children for the purpose of child prostitution or child pornography. Traffickers can also be prosecuted for violations of employment, immigration, or labor laws, and for Penal Code offenses such as abduction and kidnaping. However, relatively few persons have ever been prosecuted in connection with trafficking and forced sexual servitude; those who were prosecuted generally were prosecuted in connection with violations of immigration law. There were allegations that some law enforcement units have been reluctant to investigate reports of trafficking, and that the Government has not been aggressive in arresting and prosecuting suspected traffickers. The use of suspended sentences in trafficking cases was also a concern.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan government, which funded a Tokyo-based NGO assisting victims of trafficking, the Government did not assist victims of trafficking for sexual purposes other than to house them temporarily in facilities established under the Antiprostitution Law, in detention centers for illegal immigrants, or through referrals to shelters run by NGOs; generally they were deported as illegal aliens. Victims often were treated as criminals because the Government does not consider persons who willingly enter for illegal work to be trafficking victims. Women without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims. A domestic violence law passed in April may channel funding to NGOs that are working to provide protection to trafficking victims as well as victims of domestic violence. The Government funded trafficking prevention efforts in Asian source countries, sponsored public information campaigns targeted at potential victims, and provided equipment and training to police and customs officials in those countries.

KIRIBATI

Kiribati is a constitutional republic that occupies 33 small islands widely scattered across 1.365 million square miles of the central Pacific Ocean. The country has a popularly elected president and a legislative assembly of 42 members; 40 are elected by universal adult suffrage, the Rabi Island Council in Fiji nominates one, and the Attorney General holds an ex-officio assembly position. The judiciary is independent.

A police force of about 250 personnel is controlled effectively by the civilian authorities.

The country has a population of over 90,000 that is primarily Micronesian, with a significant component of Polynesian origin. Economic activity consists primarily of subsistence agriculture and fishing. The islands' isolation and meager resources, including poor soil and limited arable land, severely limit prospects for economic development. The per capita gross domestic product is approximately \$500.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, the Government placed some limits on freedom of the press. In this traditional culture, women occupy a subordinate role and have limited job opportunities. Violence against women and child abuse in urban areas were problems. Kiribati was invited by the Community of Democracies' (CD) Convening Group to attend the No-

vember 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 torture and inhuman or degrading treatment or punishment and the Government generally observed this prohibition; traditional practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, the island councils occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison conditions generally met international standards. There are separate prisons for men and women. Children under age 16 are not incarcerated. There is no separate facility for juvenile offenders aged 16 or older. Juveniles aged 16 to 17 may be detained no longer than 1 month in the adult facility. Pretrial detainees who do not meet bail are housed with convicted prisoners. Family members and church representatives are allowed access to prisoners. Both diplomats and senior judicial officials have visited the prisons, including some unannounced visits, and reported no problems. The question of monitoring prison conditions by local human rights groups did not arise, and there were no reported requests by nonresident international human rights observers to visit prisons. No policy concerning such visits has been formulated.

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

The Constitution prohibits government restrictions on citizens' freedom of movement, but does not restrict such actions by the village councils of elders. The Government does not use forced exile; however, on rare occasions village manebas (councils) have used this punishment. This practice has never been challenged legally.

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 a High Court, magistrate courts, a Court of Appeal, and land courts. Litigants also have the right of appeal to the Privy Council in London. The right to a fair public trial is provided by law and observed in practice. The Constitution provides that an accused person be informed of the nature of the offense with which he is charged and be provided adequate time and facilities to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided for in the law. Procedural safeguards are based on English common law.

The Attorney General's office and the courts developed case backlogs during the year due to staffing shortages. This problem had been resolved by year's end, in large part by the appointment of a second High Court judge.

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.

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, the Government limited these rights in some instances. Under the 1988 Newspaper Registration Act, newspapers are required to register with the Government. In October the legislature amended the act to give the Government the authority to deregister a newspaper if the publication was found to have published material deemed to be offensive to good taste, decency, or public feeling, or likely to encourage or incite to crime. The amendment also required newspapers to ensure that, in an article affecting the "credibility or reputation of any person," the affected individual can respond in the same article. Fines of \$286 (A\$500) may be assessed for each violation of these provisions. As of year's end, no publications had been deregistered or prevented from publishing. Opponents criticized the amendment as an attempt by the Government to restrict press freedom.

In 2000 a former president established the country's first private newspaper, which enabled the opposition to present views divergent from those in the Government-owned newspaper.

The sole AM and sole FM radio stations in Tarawa are government-owned; Radio Kiribati (AM) broadcast live national news and entertainment as well as hourly Radio Australia and Voice of America programming. The Government FM station relayed a continuous feed from BBC Radio. In 1999 an opposition attempt to operate a private radio station was blocked when the Government closed the station and fined the owners for attempting to import broadcasting equipment without a license. The station owner instituted legal action, and New Air FM was issued a government license in December. The former president owns this station and the only regularly published private newspaper. A foreign journalist was barred from entering the country in 1999 after cabinet officials criticized his articles for giving "a bad impression of the country." The journalist did not attempt to reenter the country during the year. Churches published newsletters and other periodicals. High costs limited the availability of foreign print media and Internet access, but there were no government-imposed limitations.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice. Permits are required for public gatherings, but these were granted routinely.

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 *2002 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.

There is no national legislation implementing the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not formulated a policy regarding refugees, asylees, or first asylum. There were no applications for first asylum or refugee resettlement during the year. However, in 2001 the Government offered temporary protection on Canton Island for a group of Afghans interdicted at sea, pending formal determinations of their asylum claims by the Government of Australia. The offer was considered but not accepted. 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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. To be elected, a candidate must secure at least half the valid votes cast; if there is no first-round winner, a runoff election is held. The President exercises executive authority and is elected for a 4-year term. The elected Legislative Assembly nominates no fewer than three and no more than four presidential candidates from among its members. Under the Constitution, the President is limited to three terms. First-round legislative elections were held in November, with runoff elections in December; the elections were free and fair. President Teburoro Tito was reelected to the National Assembly; however, government candidates lost 14 seats, including 7 previously held by government ministers. A separate presidential election was scheduled for February 23, 2003. Three women held permanent secretary positions, and there were 2 women in the 42-member Parliament.

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

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on operations by international human rights groups. There were no reported allegations of human rights abuses by the Government during the year, and no known requests for investigations.

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

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and the Government observed these prohibitions in practice; however, only native-born I-Kiribati may own land. Society is fundamentally egalitarian and has no privileged class.

Women.—Spousal abuse and other forms of violence against women were a significant problem. Frequently, alcohol abuse was a factor in attacks on women. The law does not specifically address domestic violence, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, it is believed that such prosecutions are relatively infrequent.

Prostitution is not illegal, but it was not common; procuring sex and managing brothels are illegal. The law does not specifically prohibit sex tourism; however, there were no reports of such activity. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment; however, it generally was not regarded as a problem.

The Constitution prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, has impeded a more active role for women in the economy. Nevertheless, women are slowly finding work in unskilled and semi-skilled occupations. The Government increased its hiring and promotions of women to some extent. Section 77 of the Employment Ordinance prohibits “night work” by women except in seven exempt occupations including health worker, hotel, bar, and restaurant worker, and business manager. However, this ordinance was little known, and there were no reported prosecutions based on its provisions. Statistics on the participation of women in the work force and on comparative wages were unavailable, and statistics were generally not well collected in the country. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

Children.—Within its limited financial resources, the Government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice, the Government did not enforce primary school attendance. Unofficial estimates indicated that over 50 percent of all children attended school with no significant gender discrimination. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The Government provided free national medical service; however, there were no doctors on the outer islands. The central hospital in Tarawa provided basic medical services, but not intensive care facilities. There were no reports of gender bias in the provision of health services.

Child abuse was a growing problem, particularly on South Tarawa.

Persons with Disabilities.—The law does not prohibit specifically discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or in the provision of other state services for persons with mental or physical disabilities. Accessibility for persons with disabilities has not been mandated; accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa has a wing for persons with mental disabilities. There was a foreign national psychiatrist working in Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer island workshops for health workers.

Section 6. Worker Rights

a. The Right of Association.—Freedom of association is provided for in the Constitution, and workers are free to join and organize unions. Over 90 percent of the work force were occupied in fishing or subsistence farming, but the small wage sector had a relatively strong and effective trade union force. An estimated 10 percent of wage-earning workers were union members. In 1982 seven registered trade unions merged to form the Kiribati Trade Union Congress (KTUC), which has approximately 2,500 members. There are no official public sector trade unions; however, public sector nurses and teachers belonged to voluntary employee associations similar to unions and were approximately 30 to 40 percent of total union and association membership.

Unions are free to affiliate internationally. The KTUC is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer unions. The Government did not control or restrict union activities; however, unions must register with the Government. Collective bargaining is provided for under the Industrial Relations Code. The Government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could

negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike. However, strikes are rare; the last one took place in 1980.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and there were no reports that such practices occurred.

The prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Commerce, Industry, and Employment generally enforced these laws effectively, given the rudimentary conditions of the economy. Children rarely were employed outside the traditional economy.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—There is no minimum wage. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. Income tended to be pooled within the extended family, and the standard income appeared adequate to provide a decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning work force) worked 36 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers had to provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers were liable for the expenses of workers injured on the job. However, the Government's ability to enforce employment laws was hampered by a lack of qualified personnel. Workers did not have the right to remove themselves from hazardous work sites without risking loss of employment.

There are no laws specifically to protect foreign workers; however, there were no significant numbers of foreign workers and no reports of mistreatment. Some foreign volunteers and missionaries worked in the schools.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there have been no confirmed reports that persons were trafficked to, from, or within the country.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ¹

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, who has exercised unchallenged authority since his father Kim Il Sung died in 1994. He was named General Secretary of the Korean Workers' Party (KWP) in October 1997. In September 1998, the Supreme People's Assembly reconfirmed Kim Jong Il as Chairman of the National Defense Commission and declared that position the "highest office of state." The presidency was abolished, leaving the late Kim Il Sung as the DPRK's "eternal president." The Korean People's Army continued to displace the KWP as Kim Jong Il's chief instrument for making and implementing policy. The titular head of state is Kim Yong Nam, the President of the Presidium of the Supreme People's Assembly. Both Kim Il Sung and Kim Jong Il continue to be the objects of intense personality cults. The regime continues to emphasize "juche," a national ideology of self-reliance. The judiciary is not independent.

The Korean People's Army is the primary organization responsible for external security. It is assisted by a large military reserve force and several quasi-military organizations, including the Worker-Peasant Red Guards and the People's Security

¹The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions there. This report is based on information obtained over more than a decade, updated where possible by information drawn from recent interviews, reports, and other documentation. While limited in detail, this information is nonetheless indicative of the human rights situation in North Korea today.

Force. These organizations also assisted the Ministry of Public Security (MPS) and the KWP in maintaining internal security. Members of the security forces committed serious human rights abuses.

The State directed all significant economic activity, and only government-controlled labor unions were permitted in this country of 22 million persons. Industry continued to operate at significantly reduced capacity, reflecting antiquated plant and equipment and severe shortages of inputs, due in part to the sharp decline in trade and aid that followed the collapse of the former Soviet Union and East European Communist governments. Efforts at recovery have been hampered by heavy military spending, which amounted to approximately one quarter of gross domestic product (GDP) before the economy went into decline and was probably an even larger share of national output during the year. The economy was also hampered by a lack of access to commercial lending stemming from the country's default on its foreign debt and its inability to obtain loans from international financial institutions. Rarely food self-sufficient, the country relied on international aid and trade to supplement domestic production, which has been hobbled by disastrous agricultural policies. From 1995 to 1997, famine caused internal dislocation and widespread malnutrition, and an estimated 1 to 2 million persons, or possibly as much as 10 percent of the population, died from starvation and related diseases.

Economic and political conditions have caused at least tens of thousands of persons to flee their homes. The Government continued to seek international food aid, produce "alternative foods," and take other steps to boost production. It permitted the spread of farmers' markets to compensate for the contraction of food supplied through the public distribution system. Food, clothing, and energy were rationed throughout the country. The U.N.'s World Food Program provided assistance to children and mothers, and the elderly. According to South Korean figures, North Korea's GDP began to grow slightly in 2000, but this was due largely to international aid and South Korean investment and followed years of steady decline during which GDP was estimated to have shrunk by half since 1993. In mid-year, North Korea raised wages and prices drastically and announced a shift in management methods towards granting managers more responsibility. However, these changes failed to have the desired impact on the country's economy, as inflation rose dramatically in the later months of the year. The creation of a Special Administrative Region (SAR) in Sinuiju was announced but encountered immediate difficulties; the Sinuiju SAR is planned as an autonomous region with its own legislative, administrative, and judicial systems, intended to specialize in light industries in line with the July economic reform measures.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens did not have the right peacefully to change their government, and the leadership viewed most international human rights norms, particularly individual rights, as illegitimate, alien, and subversive to the goals of the State and Party. There continued to be reports of extrajudicial killings and disappearances. Citizens were detained arbitrarily, and many were held as political prisoners. Prison conditions were harsh, and torture was reportedly common. Female prisoners underwent forced abortions, and in other cases babies reportedly were killed upon birth in prisons. The constitutional provisions for an independent judiciary and fair trials were not implemented in practice. The regime subjected its citizens to rigid controls over many aspects of their lives. A human rights dialogue initiated by the European Union in 2001 led to another exchange of views in June 2002 in Pyongyang, but the Government did not acknowledge that international standards of human rights apply to North Korea. The Penal Code is Draconian, stipulating capital punishment and confiscation of assets for a wide variety of "crimes against the revolution," including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing "reactionary" letters, and possessing reactionary printed matter. Citizens were denied freedom of speech, the press, assembly, and association, and all forms of cultural and media activities were under the tight control of the Party. Little outside information reached the public except that which was approved and disseminated by the Government. The Government restricted freedom of religion, citizens' movement, and worker rights. There were reports of trafficking in women and young girls among refugees and workers crossing the border into China.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—Defectors and refugees have reported that the regime executed political prisoners, opponents of the regime, some repatriated defectors, and others, reportedly including military officers suspected of

espionage or of plotting against Kim Jong Il. Criminal law makes the death penalty mandatory for activities “in collusion with imperialists” aimed at “suppressing the national liberation struggle.” Some prisoners were sentenced to death for such ill-defined “crimes” as “ideological divergence,” “opposing socialism,” and other “counterrevolutionary crimes.” In some cases, executions reportedly were carried out at public meetings attended by workers, students, and school children. Executions also were carried out before assembled inmates at places of detention. Border guards reportedly had orders to shoot to kill potential defectors. Similarly, prison guards were under orders to shoot to kill those attempting escape in political concentration camps, according to defectors.

Defectors have reported that government officials prohibited live births in prison. Forced abortion and the killing of newborn babies reportedly were standard prison practices (*see* Section 1.c.).

Religious and human rights groups outside the country reported that some members of underground churches were killed because of their religious beliefs and suspected contacts with overseas evangelical groups operating across the Chinese border (*see* Section 2.c.).

Many prisoners reportedly have died from disease, starvation, or exposure (*see* Section 1.c.).

According to some humanitarian organizations, the Government has channeled international food and medical aid to the party elite, military personnel, and other persons viewed as loyal to the regime.

b. Disappearance.—The Government reportedly was responsible for cases of disappearance. According to recent defector reports, individuals suspected of political crimes often were taken from their homes by state security officials late at night and sent directly, without trial, to camps for political prisoners. There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado, without notifying detainees’ relatives.

There also were long-standing reports of past government involvement in the kidnaping abroad of South Koreans, Japanese, and other foreign nationals. On September 17, Kim Jong Il admitted to Japanese Prime Minister Koizumi that the Government had abducted 13 Japanese citizens during the 1970s. According to Japanese government officials, these abductions took place between 1977 and 1983. Government spies used the identities of some of the victims, and some of the victims were forced to provide training in Japanese language and customs. The Government allowed five surviving victims to visit Japan in October for 1 week, but the victims have remained in Japan since that time. The Government alleged that the remaining 8 are deceased. There was speculation, not officially confirmed by the Japanese government or the DPRK government, that the DPRK government has abducted many more Japanese residents over the years.

In November 1997, the South Korean government arrested several alleged North Korean espionage agents. According to the South Korean government’s report on its investigation, those arrested claimed that three South Korean high school students, missing since 1978, had been kidnaped by the North Korean government and trained as espionage agents. The three were identified as Kim Young Nam, who disappeared from Son Yu beach, and Yi Myong U and Hong Kyun Pyo, both of whom disappeared from Hong To beach. According to those arrested, there were several other kidnapings in the late 1970s and early 1980s. The South Korean government has compiled a list of 486 South Korean citizens, most of whom were fishermen, abducted since the 1950–53 Korean War.

In addition, several suspected cases in recent years of kidnaping, hostage-taking, and other acts of violence, apparently intended to intimidate ethnic Koreans living in China and Russia, have been reported. There were unconfirmed reports that in January 2000 North Korean agents. Despite the unprecedented admission to Prime Minister Koizumi, the Government continued to deny that it had been involved in kidnapings of other foreign nationals.

Numerous reports indicated that ordinary citizens were not allowed to mix with foreign nationals, and Amnesty International reported that a number of citizens who maintained friendships with foreigners have disappeared.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Torture is not prohibited by law. Methods of torture reportedly routinely used on political prisoners included severe beatings, electric shock, prolonged periods of exposure, humiliations such as public nakedness, and confinement to small “punishment cells,” in which prisoners were unable to stand upright or lie down, where they could be held for several weeks. According to defector reports, many prisoners died from torture, disease, starvation, exposure, or a combination of these causes. The

U.S. Committee for Human Rights in North Korea claimed that approximately 400,000 persons died in prison since 1972.

Recent crackdowns in China on prostitution and forced marriages resulted in the deportation of thousands of North Korean women, some of whom were pregnant, and many were imprisoned upon their return to the country. There were reports that North Korean officials prohibited live births in prison and that a policy of forced abortion was regularly implemented, particularly in those detention centers holding women repatriated from China. In those cases where live births did occur, the babies reportedly were immediately killed. In addition, guards sexually abused female prisoners.

Prison conditions were harsh; starvation and executions were common. Entire families, including children, were imprisoned when one member of the family was accused of a crime. "Reeducation through labor" was a common punishment, consisting of forced labor, such as logging and tending crops, under harsh conditions. Visitors to the country observed prisoners being marched in leg irons, metal collars, or shackles. In some places of detention, prisoners were given little or no food and, when they contracted illnesses, were denied medical care. In one prison, clothing reportedly was issued only once in 3 years.

In June Lee Soon-ok, a woman who spent several years in a prison camps before fleeing first to China in 1994 and then to South Korea, testified before the U.S. Senate that the approximately 1,800 inmates in this particular camp in those years typically worked 16 to 17 hours a day. Lee Soon-ok witnessed severe beatings and torture involving water forced into a victim's stomach with a rubber hose and pumped out by guards jumping on a board placed across the victim's abdomen, and reported that chemical and biological warfare experiments were conducted on inmates by the army. Other defectors reported similar experiences. At Camp 22 in Haengyong, approximately 50,000 prisoners worked under conditions that reportedly resulted in the death of 20 to 25 percent of the prison population annually in the 1990s.

During the year, witnesses testified before the U.S. Congress about the treatment of persons held in prison camps through the early 1990s. Some of these witnesses stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates (*see* Section 2.c).

The Government did not permit inspection of prisons by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado.

Little information was available on criminal justice procedures and practices, and outside observation of the legal system has been limited to show trials for traffic violations and other minor offenses.

Family members and other concerned persons reportedly found it virtually impossible to obtain information on charges against or the length of sentences of detained persons. Judicial review of detentions did not exist in law or in practice.

During the year, an estimated 200,000 persons were in detention for political reasons in camps in remote areas. The Government denied the existence of prison camps for political prisoners, which are marked as military areas to prevent access by the local population. In recent years, the Government reportedly reduced the total number of prison camps from approximately 20 to less than 10, but the prison population was consolidated rather than reduced. In addition to these camps for political prisoners, there reportedly were approximately 30 forced labor and labor education camps in the country for ordinary criminals serving shorter terms. The Government did admit that there were "education centers" for persons who "committed crimes by mistake." A defector who had been a ranking official in the Ministry of Public Security stated that conditions in the camps for political prisoners were extremely harsh and prisoners never emerged. In these camps, prisoners received little food and no medical provisions. In the labor camps, however, prisoners could be "rehabilitated."

The Government is not known to use forced exile. However, the Government routinely used forced internal resettlement and has relocated many tens of thousands of persons from Pyongyang to the countryside. Although disabled veterans were treated well, other persons with physical disabilities, as well as those judged to be politically unreliable, have been sent into internal exile. Often those relocated were selected on the basis of family background. Nonetheless, there was some evidence that class background was less important than in the past because of the regime's emphasis on the solidarity of the "popular masses" and united front efforts with overseas Koreans. According to unconfirmed September 1997 foreign press reports, some 500 senior officials were sent into internal exile.

e. Denial of Fair Public Trial.—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist in practice. Furthermore, individual rights were not acknowledged. The Public Security Ministry dispensed with trials in political cases and referred prisoners to the Ministry of State Security for punishment.

The Constitution contains elaborate procedural protections. It states that cases should be heard in public, except under some circumstances stipulated by law. The Constitution also states that the accused has the right to a defense, and when trials were held, the Government apparently assigned lawyers. However, reports indicated that defense lawyers were not considered representatives of the accused; rather, they were expected to help the court by persuading the accused to confess guilt. Some reports noted a distinction between those accused of political crimes and common criminals and stated that the Government afforded trials or lawyers only to the latter. The Government considered critics of the regime to be political criminals.

Numerous reports suggested that political offenses have in the past included such behavior as sitting on newspapers bearing Kim Il Sung's picture, or, in the case of a professor reportedly sentenced to work as a laborer, noting in class that Kim Il Sung had received little formal education. The KWP has a special regulation protecting the images of Kim Il Sung and Kim Jong Il. All citizens are required by this regulation to protect from damage any likeness of the two Kims. Beginning in the 1970s, the Ten Great Principles of Unique Ideology directed that anyone who tore or otherwise defaced a newspaper photo of either of the two Kims was a political criminal and should be punished as such. Defectors have reported families being punished because children had accidentally defaced photographs of one of the two Kims. Families were required to display pictures of the two leaders in their homes, and if local party officials found that the family had neglected its photos, the family could be forced to write self-criticisms throughout an entire year.

A foreigner hired to work on international broadcasts for the regime was imprisoned for 1 year without trial for criticizing the quality of the regime's foreign propaganda. He was then imprisoned for six more years (with trial) shortly after his release for claiming in a private conversation that his original imprisonment was unjust.

Common criminals were occasionally amnestied on the occasion of Kim Il Sung's or Kim Jong Il's birthday.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The leadership viewed most international human rights norms, especially individual rights, as alien social concepts subversive to the goals of the State and Party. The Government relied upon an extensive, multilevel system of informers to identify critics and potential troublemakers. Whole communities sometimes were subjected to massive security checks. The possession of "reactionary material" and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments. In some cases, entire families were punished for alleged political offenses committed by one member of the family, under a policy of "collective retribution." For example, defectors reported that families were punished because children had accidentally defaced photographs of one of the two Kims (*see* Section 1.e.).

The Government monitored correspondence and telephone conversations. Telephones essentially were restricted to domestic operation although some international service was available on a very restricted basis.

The Constitution provides for the right to petition. However, when an anonymous petition or complaint about state administration was submitted, the Ministries of State Security and Public Safety sought to identify the author through handwriting analysis. The suspected individual could be subjected to a thorough investigation and punishment.

Since the late 1950s the regime has divided society into three main classes: "core," "wavering," and "hostile." These three classes are further subdivided into subcategories based on perceived loyalty to the Party and the leadership. Security ratings are assigned to each individual; according to some estimates, nearly half of the population is designated as either "wavering" or "hostile." These loyalty ratings determine access to employment, higher education, place of residence, medical facilities, and certain stores. They also affect the severity of punishment in the case of legal infractions. While there were signs that this rigid system has been relaxed somewhat in recent years—for example, children of religious practitioners were no longer automatically barred from higher education—it remained a basic characteristic of KWP political control.

Citizens with relatives who fled to South Korea at the time of the Korean War still appeared to be classified as part of the “hostile class.” This subcategory alone encompassed a significant percentage of the population. One defector estimated that those considered potentially hostile comprised 25 to 30 percent of the population; others placed the figure at closer to 20 percent. Members of this class still were subject to discrimination, although defectors reported that their treatment had improved greatly in recent years.

The authorities subjected citizens of all age groups and occupations to intensive political and ideological indoctrination. After Kim Il Sung’s death, his cult of personality and the glorification of his family and the official *juche* ideology remained omnipresent, approaching the level of a state religion. The indoctrination was intended to ensure loyalty to the system and leadership, as well as conformity to the State’s ideology and authority. The necessity for the intensification of such indoctrination repeatedly was stressed in the writings of Kim Jong Il, who attributed the collapse of the Soviet Union largely to insufficient ideological indoctrination, compounded by the entry of foreign influences.

Indoctrination was carried out systematically, not only through the mass media, but also in schools and through worker and neighborhood associations. Kim Jong Il has stated that ideological education must take precedence over academic education in the nation’s schools, and he also called for the intensification of mandatory ideological study and discussion sessions for adult workers.

Another aspect of the Government’s indoctrination system is the use of mass marches, rallies, and staged performances, sometimes involving hundreds of thousands of persons. According to news reports, hundreds of thousands of citizens were mobilized to greet and perform for China’s President, Jiang Zemin, when he visited North Korea in September 2001. In September 1998, celebrations of the 50th anniversary of the founding of the country included hours of carefully choreographed demonstration of mass adulation of the leadership, and in October 2000, similar celebrations of the 55th anniversary of the KWP reportedly involved more than 1 million persons.

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 prohibited the exercise of these rights in practice. Articles of the Constitution that require citizens to follow “socialist norms of life” and to obey a “collective spirit” take precedence over individual political and civil liberties. The regime only permitted activities that supported its objectives.

The Government strictly curtailed freedom of speech. Authorities punished persons for criticizing the regime or its policies with imprisonment or “corrective labor.” Persons reportedly have been placed under surveillance through their radio sets, and imprisoned and executed for statements made at home that were critical of the regime.

The Government attempted to control all information. Claiming that the country was under continuing threat of armed aggression, the Government carefully managed the visits of foreign journalists. On occasion, when it served its agenda, the Government allowed foreign media to cover some events. During the year, foreign journalists were allowed to cover an international marathon and the “Arirang” Festival. During the June 2000 inter-Korean summit and other events involving foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports, although they were strictly monitored. They were not allowed to talk to officials or to persons on the street, and those who arrived with cellular or satellite phones had them confiscated for the duration of their stay. In August 2000, the presidents of 46 South Korean newspaper and broadcast organizations, led by the South Korean Minister of Culture and Tourism, traveled to the country and met with Kim Jong Il. Foreign journalists also were allowed to report on the Korean Peninsula Energy Development Organization (KEDO) light-water reactor groundbreaking at Kumho in 1997 and the concrete-pouring ceremony in August 2002. Although more foreign journalists were allowed into the country, the Government still maintained strict control over the movements of foreign visitors.

Domestic media censorship was enforced strictly, and no deviation from the official government line was tolerated. The regime prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets received only domestic programming; radios obtained from abroad were required to be submitted for alteration to operate in a similar manner. CNN television broadcasts were only available in a Pyongyang hotel frequented by foreigners. Private telephone lines operated on an internal system that prevents making and receiving international calls; international phone lines were available only under very restricted circumstances. Some deluxe hotels in

Pyongyang offered Internet service for foreign visitors. For citizens, Internet access was limited to high-ranking officials who specialized in science and technology fields. This access was provided via international telephone lines to a provider in China.

The Government severely restricted academic freedom and controlled artistic and academic works. Visitors reported that one of the primary functions of plays, movies, operas, children's performances, and books was to contribute to the cult of personality surrounding Kim Il Sung and Kim Jong Il. The Government reached an agreement with the PRC-based Yanbian University of Science and Technology to allow a branch institution to be set up in Pyongyang to be run jointly by the Government and the University. This would be the first semiprivate educational institution in the country.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government did not respect this provision in practice. The Government prohibited any public meetings without authorization.

The Constitution provides for freedom of association; however, the Government did not respect this provision in practice. There were no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over the organizations' members.

c. Freedom of Religion.—The Constitution provides for "freedom of religious belief"; however, in practice the Government discouraged organized religious activity except that which was supervised by officially recognized groups. In 1992 a constitutional change authorized religious gatherings, provided for "the right to build buildings for religious use," and deleted a clause about freedom of antireligious propaganda. The Constitution also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." Genuine religious freedom did not exist.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations believed that some were genuinely religious but noted that others appeared to know little about religious dogma, liturgy, or teaching.

The number of religious believers was unknown but has been estimated by the media and religious groups at 10,000 Protestants, 10,000 Buddhists, and 4,000 Catholics, in addition to an undetermined number of persons belonging to underground Christian churches. Some sources estimated that as many as 500 informal Christian congregations were active during the year. In its July 30 report to the U.N. Human Rights Committee, the Government reported the existence of 500 "family worship centers," an apparent reference to these congregations. Some reports indicated that such "house churches" have been increasingly tolerated so long as they do not openly proselytize or have contact with foreign missionaries. The Chondogyo Young Friends Party, a government-sponsored group based on a traditional Korean religious movement, also remained in existence.

Most of the 300 Buddhist temples were regarded as cultural relics, but in some of them religious activity was permitted. Buddhist scriptures that had been carved on 80,000 wooden blocks and kept at an historic temple were translated and published. Since 1988 two Protestant churches under lay leadership and a Roman Catholic church (without a priest) have opened in Pyongyang. Several schools for religious education existed, including 3-year religious colleges for training Protestant and Buddhist clergy. A religious studies program also was established at Kim Il Sung University in 1989; its graduates usually go on to work in the foreign trade sector. It was not known whether any Catholic priests remained in the country. In July 2000, Seoul Archbishop Nicholas Jin-Suk Cheong, appointed by the Pope as Apostolic Administrator of Pyongyang, was quoted as stating that while there were 50 priests in the country in the 1940s, it was not known if any were still alive.

Hundreds of religious figures have visited the country in recent years, including papal representatives and religious delegations from South Korea, the United States, and other countries. Overseas religious relief organizations have been active in responding to the country's food crisis. Although some foreigners who visited the country stated that church activity appeared staged, others believed that church services were genuine, although sermons contained both religious and political content supportive of the regime.

Persons engaging in religious proselytizing could be arrested and subjected to harsh penalties, including imprisonment and prolonged detention without charge. The regime appeared to have cracked down on unauthorized religious groups in recent years, particularly on persons who proselytized or who had ties to overseas evangelical groups operating across the border with China. The Government ap-

peared concerned about religiously based South Korean relief and refugee assistance efforts along the northeast border with China becoming entwined with political goals, including opposition to the regime. Some repatriated defectors who had established contacts with religiously based South Korean groups were reportedly executed.

Religious and human rights groups outside the country continued to provide numerous, unconfirmed reports that thousands of members of underground churches were beaten, arrested, detained in prison camps, or killed because of their religious beliefs. One unconfirmed report stated that approximately 400 Christians were executed during 2001. These reports could not be confirmed or disproved because of the effectiveness of the Government's continued ban on outside observers. Nonetheless, the collective weight of anecdotal evidence of harsh treatment of unauthorized religious activity lent credence to such reports.

Little was known about the actual life of religious persons in the country. Members of government-recognized religious groups did not appear to suffer discrimination; in fact, some reports claimed they had been mobilized by the regime. Persons whose parents were believers but who themselves were nonpracticing were able to rise to at least the midlevels of the bureaucracy in recent years. Such individuals, as a category, suffered broad discrimination in the past. However, the regime continued to view religious believers belonging to underground congregations or with ties to evangelical groups in North China as subversive elements.

The Government dealt harshly with all opponents, including those engaging in religious practices deemed unacceptable to the regime. During the year, witnesses testified before the U.S. Congress about the treatment of persons held in prison camps through the early 1990s. Some of these witnesses stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates. One witness, a former prison guard, testified that those believing in God were regarded as insane, since authorities taught that "all religions are opiates." He recounted an instance in which a woman was kicked repeatedly and left with her injuries unattended for days because a guard overheard her praying for a child who was being beaten.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the "freedom to reside in or travel to any place"; however, the Government did not respect these rights in practice. In the past, the regime has controlled strictly internal travel, requiring a travel pass for any movement outside one's home village. These passes were granted only for official travel or attendance at a relative's wedding or funeral. Long delays in obtaining the necessary permit often resulted in denial of the right to travel even for these limited purposes. In recent years, it appeared that the internal controls on travel have eased significantly. Due to the worsening food conditions in the country, the Government at times took a benign approach to those who violated internal travel rules, allowing citizens to leave their villages to search for food, and there were reports of large-scale movement of persons across the country in search of food. Only members of a very small elite had vehicles for personal use. The regime tightly controlled access to civilian aircraft, trains, buses, food, and fuel.

The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime issued exit visas for foreign travel only to officials and trusted artists, athletes, academics, and religious figures. It did not allow emigration. Following the collapse of Soviet Communism, the regime recalled several thousand students from overseas, but recently has again allowed small numbers of students to study abroad.

Since the mid-1990s, there have been numerous reports of a steady increase in the substantial number of North Korean refugees arriving in China from which some proceeded to Hong Kong, Vietnam, and other Asian countries. While thousands crossed into China during the year, many returned to North Korea after securing food.

According to the Penal Code, defection and attempted defection (including the attempt to gain entry to a foreign embassy for the purpose of seeking political asylum) are capital crimes. According to many unconfirmed reports, some would-be refugees who were returned involuntarily have been executed (*see* Section 1.a.), while others faced harsh prison terms upon repatriation. Some migrants stated that DPRK border guards received orders to shoot to kill persons attempting to cross the border into China, although some border crossings for family visits and trade were permitted. The regime also reportedly retaliated against the relatives of some of those who managed to leave the country.

During the year, deportations of North Koreans from China increased. While the Chinese government has long maintained that there were only a few hundred North Korean refugees in China, many observers estimated that since 1994 there have been at least tens of thousands, and perhaps a few hundred thousand refugees in China. Most crossed the border clandestinely in small groups to seek food, shelter, and work. Some settled semi-permanently in Northeastern China, while others traveled back and forth across the border. Since 2000 the Chinese government sought out and forcibly repatriated large numbers of these persons, whom authorities regarded as illegal economic migrants. The Chinese government also allowed North Korean security forces to operate within China to track down refugees.

During the year, approximately 130 North Koreans were allowed to travel to South Korea after seeking refuge in foreign missions in China. In response to these high-profile incidents, both China and North Korea tightened border controls, and border crossings declined significantly late in the year.

North Korean workers and refugees living in Russia also suffered serious human rights abuses. There were about 6,000 DPRK workers in North Korean-run camps in the Russian Far East engaged in farming, mining, and construction; these workers were selected by the Government to work in Russia. Conditions in these camps were harsh, food was scarce, and discipline was severe. In the past, there were allegations that discipline included physical torture such as placing wooden logs between the knees of offenders, after which they were forced to sit down, causing them excruciating pain. In recent years, offenders have been sent back to the DPRK for punishment due to the increased scrutiny that the labor camps have been under since Russian and foreign media began reporting on the conditions there in the early 1990s.

Other North Koreans in Russia included those who were sent to work in Russia but refused to return to the DPRK and those who fled into Russia from the DPRK. Under a secret protocol, the Public Security Service reportedly was allowed to work inside Russia until 1993 to track down workers who fled the camps. Since 1993 many of these defectors have been engaged in business in the Russian Far East.

Many North Koreans in Russia faced severe hardship due to their lack of any identification. Workers arriving in Russia usually had their passport and other identification confiscated by North Korean border guards.

The Government reportedly has tried to prevent persons from staying in Russia by using diplomatic channels to influence Russian authorities and international organizations. In a number of cases, North Korean authorities reportedly told Russian authorities that a particular North Korean who had applied for asylum in Russia or elsewhere was a criminal offender in North Korea. An extradition treaty signed by both countries in 1957 requires that persons with criminal records be returned to their country.

From 1959 to 1982, 93,000 Korean residents of Japan, including 6,637 Japanese wives, voluntarily repatriated to North Korea. Despite DPRK assurances that the wives, more than a third of whom still had Japanese citizenship, would be allowed to visit Japan every 2 or 3 years, none were permitted to do so until 1997. Many had not been heard from, and their relatives and friends in Japan were unsuccessful in their efforts to gain information about their condition and whereabouts. The DPRK government and the Japanese government held a series of bilateral meetings in Beijing in the second half of 1997, during which the DPRK government agreed to allow some Japanese wives resident in the DPRK to visit Japan. The first such visit occurred in November 1997 when 15 Japanese wives arrived for a 1-week visit. An additional 12 Japanese wives visited for 1 week in early 1998. However, in June 1999 the DPRK government cancelled a visit by Japanese wives to Japan, citing "artificial hurdles and inhuman acts on the Japanese side." The visits resumed after the Japanese government and the DPRK government restarted normalization talks in April 2000. A group of 16 Japanese wives visited Japan in September 2000; however, no visits took place during 2002.

In September 2001, the wife of a former Japanese Red Army hijacker being sheltered by the North returned to testify about the group in Japan.

Although the Government has permitted an increasing number of overseas Koreans to visit their relatives in North Korea over the past decade, most requests for such visits were denied. In August and December 2000, and in February 2001, the DPRK and the Republic of Korea sent delegations of members of separated families to each other's capitals for family reunion meetings. However, the meetings generally were of limited duration and certain topics were barred from discussion. A fourth reunion was scheduled for October 2001; however, the Government cancelled the meetings citing South Korea's nation-wide security alert issued after September 11, 2001. During the year, the fourth reunion was held, followed by a fifth, and ini-

tial discussions began regarding establishing a permanent reunion center in Mt. Kungang, North Korea.

Although more foreign journalists, diplomats, and representatives of humanitarian organizations were allowed into the country, the Government maintained strict control over the movements of foreign visitors. For example, journalists accompanying one visiting foreign dignitary were not allowed to visit a department store or a train station; they were not allowed to talk to officials or to persons on the street. Those who arrived with cellular or satellite phones had them confiscated for the duration of their stay.

In August 2001, the Government allowed over 300 South Korean citizens to visit the country to participate in Liberation Day festivities; this was reportedly the largest South Korean delegation ever to visit the country. In May another group of 250, from South Korea's Cheju Island, visited the country. Their movements were strictly controlled. International humanitarian relief workers also faced substantial restrictions on their movements within the country (*see* Section 4).

Reports, primarily from refugees, indicated that the Government routinely used forced resettlement, particularly for those deemed politically unreliable and the physically handicapped.

Although a member of the United Nations, the country did not participate in international refugee forums. The Government had no known policy or provision for refugees, asylees, or first asylum.

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

Citizens have no right or mechanisms to change their leadership or government peacefully. The political system was dominated by the Korean Workers' Party and Korean People's Army, with Kim Il Sung's heir, Kim Jong Il, in control. Very little reliable information was available on intraregime politics following Kim Il Sung's death. The legislature, the Supreme People's Assembly (SPA), which meets only a few days per year, served only to rubber-stamp resolutions presented to it by the party leadership. In 1997 Kim Jong Il acceded to the position of General Secretary of the KWP. In 1998 the SPA reconfirmed Kim as the Chairman of the National Defense Commission and declared that position to be the "highest office of State." The Government adopted a "military first" policy that formalized and legitimated the growing power and influence of the military. The presidency was abolished, leaving the late Kim Il Sung as the country's only President. The titular head of state is Kim Yong Nam, the President of the Presidium of the SPA.

The regime justified its dictatorship with arguments derived from concepts of collective consciousness and the superiority of the collective over the individual, appeals to nationalism, and citations of "the *juche* idea." The authorities emphasized that the core concept of *juche* is "the ability to act independently without regard to outside interference." Originally described as "a creative application of Marxism-Leninism" in the national context, *juche* is a malleable philosophy reinterpreted from time to time by the regime as its ideological needs change. It was used by the regime as a "spiritual" underpinning for its rule.

In an effort to give the appearance of democracy, the Government had created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. Their primary purpose appeared to be promoting government objectives abroad as touring parliamentarians. Free elections did not exist, and the regime criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA and to provincial, city, and county assemblies are held irregularly. In 1998 SPA elections were held for the first time since 1990. According to the Government-controlled media, over 99 percent of the voters participated to elect 100 percent of the candidates approved by the KWP. Results of previous SPA elections produced virtually identical outcomes. The vast majority of the KWP's estimated 3 million members worked to implement decrees formulated by the Party's small elite.

Women reportedly made up 20 percent of the membership of the SPA, but only approximately 4 percent of the membership of the Central Committee of the KWP.

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

The Government did not permit any independent domestic organizations to monitor human rights conditions or to comment on violations of such rights. A North Korean Human Rights Committee, established in 1992, denied the existence of any human rights violations in the country.

The World Food Program (WFP) visited 163 of the country's 206 provinces during the year and completed a nutritional study. However, aid workers representing foreign governments and international organizations, who provided substantial food aid, frequently were denied access to sites where this food was distributed, and thus were unable to verify that the aid consistently reached its intended recipients. Many foreign NGOs reported being charged large fees by government officials to get visas for foreign staff, to set up offices, and to establish programs. There were reports of abduction of ethnic Korean aid workers by government officials; some victims were required to pay large fines to obtain their release.

In July 2001, a North Korean delegate reporting to the U.N. Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of "egoistic" and "hostile forces" seeking to undermine the sovereignty of the country.

In 1996 a delegation from Amnesty International visited the country and discussed legal reforms and prisoner cases with senior government officials. The Government ignored requests for visits by other international human rights organizations, and none were known to have visited.

The Government has reestablished diplomatic ties with a number of countries that have sought to engage it on human rights. In June government officials discussed human rights with EU representatives. As was the case after June 2001 talks, no significant progress resulted. The DPRK participants in the talks told the EU that the Government had ratified all U.N. human rights instruments except those on torture and racial discrimination, which were "being examined."

In August 1997, the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution criticizing the Government for its human rights practices. The DPRK government subsequently announced that it would withdraw from the International Covenant on Civil and Political Rights (ICCPR), calling the resolution an attack on its sovereignty. In October 1997, the U.N. Human Rights Committee issued a statement criticizing the attempt to withdraw from the ICCPR, noting that countries that had ratified the ICCPR could not withdraw from the covenant, and in August 1998, the Human Rights Committee re-adopted a resolution urging the DPRK government to improve its human rights record. During the year, the Government submitted a report on human rights to the U.N. Human Rights Committee.

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

The Constitution grants equal rights to all citizens. However, the Government denied its citizens most fundamental human rights in practice, and there was pervasive discrimination on the basis of social status.

Women.—The Constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women had reached high levels of the Party or the Government. In many small factories, the work force was predominantly female. Like men, working-age women must work. They were thus required to leave their preschool children in the care of elderly relatives or in state nurseries. According to the Constitution, women with large families are to work shorter hours. There were reports of trafficking in women and young girls among North Koreans crossing the border into China (see Section 6.f.).

There was no information available on violence against women.

Children.—Social norms reflect traditional, family-centered values in which children are cherished. The State provides compulsory education for all children until the age of 15. However, some children were denied educational opportunities and subjected to other punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of their parents (see Section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources reported that children from an early age were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

The WFP reported feeding 4 million North Korean children during the year. In some remote provinces, many persons reportedly appeared to be suffering from long-term malnutrition. A nutrition survey carried out in 2000 by UNICEF and the WFP in the aftermath of flood disasters found that 16 percent of children under 7 years of age suffered from acute malnutrition and that 62 percent suffered from stunted growth. In 1997 a senior UNICEF official said that approximately 80,000 children

in the country were in immediate danger of dying from hunger and disease; 800,000 more were suffering from malnutrition to a serious but lesser degree.

In practice children did not enjoy any more civil liberties than adults. The U.N. Committee on the Rights of the Child (UNCRC) has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state party to ensure that these children have effective access to health, education, and social services, and to facilitate their full integration into society.

In the fall of 1998, Doctors Without Borders (MSF) and Doctors of the World closed their offices in the country because the Government reportedly denied them access to a large population of sick and malnourished children. MSF officials stated that they had evidence that orphaned and homeless children had been gathered into so-called "9-27 camps." These camps reportedly were established under a September 27, 1995 order from Kim Jong Il to "normalize" the country. Refugees who have escaped from the 9-27 camps into China have reported inhuman conditions. There have been reports that some of the 9-27 camps have been closed in recent years.

Information about societal or familial abuse of children was unavailable. There were reports of trafficking in young girls among persons crossing the border into China (see Section 6.f.).

Persons with Disabilities.—Traditional social norms condone discrimination against persons with physical disabilities. Apart from veterans with disabilities, persons with disabilities almost never were seen within the city limits of Pyongyang, and several defectors and other former residents reported that persons with disabilities routinely were relocated to rural areas. Furthermore, some NGO reports claimed that these persons, along with some sick and elderly persons from the capital, were predominantly sent to the northeastern part of the country, where international food aid reportedly was no longer distributed by the Government. However, recent visitors to Pyongyang have reported seeing handicapped people on the streets of the capital. There are no legally mandated provisions for accessibility to buildings or government services for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—Nongovernmental labor unions did not exist. The KWP purported to represent the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea, which was affiliated with the formerly Soviet-controlled World Federation of Trade Unions. Operating under this umbrella, unions functioned on the classic "Stalinist model," with responsibility for mobilizing workers behind production goals and for providing health, education, cultural, and welfare facilities.

The country was not a member of, but had observer status with, the International Labor Organization.

b. The Right to Organize and Bargain Collectively.—Workers have no right to organize or to bargain collectively. Government ministries set wages. The State assigned all jobs. Ideological purity was as important as professional competence in deciding who received a particular job, and foreign companies that have established joint ventures reported that all their employees had to be hired from lists submitted by the KWP. Factory and farm workers were organized into councils, which did have an impact on management decisions. Unions do not have the right to strike.

There is one free enterprise zone (FEZ) in the Rajin-Songbon area, and the creation of a Special Administrative Region in Sinuiju was announced. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon FEZ, and it was believed that workers in the FEZ were carefully screened and selected. The Korean Peninsula Energy Development Organization (KEDO) negotiated in 1994 a separate protocol and service contracts for workers at the site of its light water nuclear reactor project. The Government agency, which supplied the labor to KEDO, bargained on the workers' behalf (see Section 6.e.).

c. Prohibition of Forced or Bonded Labor.—In its 2000 and 2001 reports to the U.N. Human Rights Committee, the Government claimed that its laws prohibit forced or bonded labor. However, the Government frequently mobilized the population for construction projects. Military conscripts routinely were used for this purpose as well. "Reformatory labor" and "reeducation through labor" were common punishments for political offenses. Forced labor, such as logging and tending crops, was common among prisoners. School children were assigned to factories or farms for short periods to help meet production goals (see Section 5).

The Constitution requires that all citizens of working age must work and "strictly observe labor discipline and working hours." The Penal Code provides for the death penalty for any individual who hinders the country's industry, trade, or the trans-

port system by purposely failing to fulfill a specific duty. It also states that anyone failing to carry out an assigned task properly is subject to at least 5 years in prison (see Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment.—According to the Constitution, the State prohibits work by children under the age of 16 years. There was no prohibition on forced labor by children, and school children were assigned to factories or farms for short periods to help meet production goals (see Section 6.c.).

e. Acceptable Conditions of Work.—No data was available on the minimum wage in state-owned industries. Until the recent food crisis, wages and rations appeared to be adequate to support workers and their families at a subsistence level; however, in recent years that has no longer been the case. Wages were not the primary form of compensation since the State provided all educational and medical needs free of charge, and only token rent was charged. The minimum wage for workers in the FEZ was approximately \$80 per month; in foreign-owned and joint venture enterprises outside the FEZ the minimum wage was reportedly close to \$110 per month. It was not known what proportion of the foreign-paid wages went to the worker and what proportion remained with the State. KEDO, the international organization charged with implementation of a light-water reactor and other projects, concluded a protocol and a related memorandum of understanding concerning wages and other working conditions for citizens who work on KEDO projects. Unskilled laborers received approximately \$110 per month while skilled laborers were paid slightly more depending on the nature of the work performed (see Section 6.b.).

The Constitution states that all working-age citizens must work and “strictly observe labor discipline and working hours.” The Penal Code states that anyone who hampers the nation’s industry, commerce, or transportation system by intentionally failing to carry out a specific assignment “while pretending to be functioning normally” is subject to the death penalty; it also states that anyone who “shoddily carries out” an assigned duty is subject to no less than 5 years’ imprisonment.

Even persistent tardiness could be defined as “anti-Socialist wrecking” under these articles, although as a result of food shortages absenteeism reportedly became widespread as more time must be spent finding food. A government official described the labor force to an audience of foreign business executives by noting that “there are no riots, no strikes, and no differences of opinion” with management.

In 1994 the authorities reportedly adopted new labor regulations for enterprises involving foreign investments. The regulations on labor contracts set out provisions on the employment and dismissal of workers, technical training, workhours, rest periods, remuneration, labor protection, social security, fines for violations of regulations, and settlement of disputes.

The Constitution stipulates an 8-hour workday; however, several sources reported that most laborers worked from 12 to 16 hours daily when factories were operating. Some of this additional time appeared to include mandatory study of the writings of Kim Il Sung and Kim Jong Il. The Constitution provides all citizens with a “right to rest,” including paid leave, holidays, and access to sanitariums and rest homes funded at public expense. Paid leave was provided on public holidays, but on some holidays some persons were required to participate in mass demonstrations involving extra hours of preparation.

Many worksites were hazardous, and the rate of industrial accidents was high. It was believed that workers did not have the right to remove themselves from hazardous working conditions.

f. Trafficking in Persons.—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking was a serious problem. There were widespread reports of trafficking in women and young girls among citizens crossing the border into China. Some were sold by their families or by kidnapers as wives to men in China. A network of smugglers reportedly facilitated this trafficking. Many such women, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

REPUBLIC OF KOREA

The Republic of Korea (Korea) is governed by a directly elected president and a unicameral legislature. On December 19, Roh Moo-hyun was elected to the Presidency for a single 5-year term of office in a free and fair election. A free and fair National Assembly election was held in April 2000. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). Legislation passed in 1993 bars the NIS and the DSC from involvement in domestic politics and grants the NIS investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NIS to investigate members of domestic organizations that are viewed as supporting the Government of the Democratic People's Republic of Korea (North Korea). Some members of the police were responsible for occasional human rights abuses.

During the year, the country's economy grew by 6 percent. Unemployment remained under 4 percent. However, the country's economic growth was dependent on key export products, and weakness in the financial system left the economy susceptible to unpredictable external conditions. The country's population was 47,600,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police at times physically and verbally abused detainees, although human rights groups reported that the number of such cases continued to decline. Under the Social Surveillance Law, some released prisoners were required to report to the police when moving or traveling. The use of the National Security Law (NSL) continued to infringe upon citizens' civil liberties, including the right to free expression. In 2001 a foreign citizen was convicted under the NSL for the first time. Domestic violence, rape, and child abuse remained serious problems. Women continued to face legal and societal discrimination. Ethnic minorities, very small in number, faced legal and societal discrimination. Many public sector employees did not enjoy the right of association. Trafficking in persons was a problem; the country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. The Ministry of Gender Equality was established in January 2001 to deal with issues including women's rights, violence against women, and discrimination against women. In April 2001 the Government created a National Human Rights Commission to investigate allegations of rights violations. A separate commission, the Presidential Truth Commission on Suspicious Deaths, established to investigate suspicious deaths under previous military-backed governments, has investigated a total of 83 cases, 68 during the year. The Republic of Korea hosted the second Ministerial Meeting of the Community of Democracies in Seoul, Republic of Korea, in November.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year, there was one report of arbitrary or unlawful deprivation of life committed by the Government or its agents. On October 26, murder suspect Cho Cheun-hun collapsed at the Seoul District Public Prosecutor's Office; he died 8 hours later after being taken to a hospital. An autopsy concluded that he died from either shock or a cerebral hemorrhage. President Kim Dae-jung issued an apology for the death, and Justice Minister Kim Jung-kil, as well as Chief Prosecutor Lee Myung-jae, resigned. In November the prosecutor in charge of questioning Cho, Hong Kyeong-ryong, as well as two investigators and one policeman, were indicted on charges of violating the Additional Punishment Law on Specific Crimes, misconduct in office, and brutality. They were tried and convicted, the sentence was upheld on appeal, and they were awaiting the outcome of their second appeal at year's end.

In 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths to investigate and redress complaints that officials of past military governments had tortured and killed prodemocracy activists. As a result of this legislation, in August 2000 a nine-person panel was commissioned as the Presidential Truth Commission on Suspicious Deaths to review cases such as the 1960 student uprising and the 1980 Kwangju civil uprising and to shed light on the circumstances surrounding the arrests and deaths of prodemocracy activists. During the year, the Commission reviewed 68 cases. It concluded that the deaths of ex-professor Choi Jong-kil, Kwangju University student activist Kim Joon-bae, and army private Huh Won-keun were all caused by beating. In September it revealed that evidence in the cases of eight student activists and dissidents executed in 1974 was falsified and that confessions were extracted under torture. The eight allegedly belonged to the "People's Revolutionary Party." In June 2001, the Commission determined that the 1984 death of Park Young-doo in Chungsong Prison was an extrajudicial killing.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Penal Code prohibits the mistreatment of suspects. The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody continued to decline. Nonetheless police sometimes abused persons in custody. Prosecutors continued to place emphasis on securing convictions through confessions, a focus driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of convicted defendants. The Supreme Court has ruled that confessions obtained after suspects have been deprived of sleep during an interrogation cannot be used in court, but police sometimes questioned suspects throughout the night. Credible sources also reported that in some cases police verbally or physically abused suspects, dispensing beatings, threats, and sexual intimidation in the course of arrest and police interrogation. However, human rights groups reported that the number of such cases continued to decline. Criminal suspects, who previously had been required to wear prison garb in court, were allowed to wear street clothes until proven guilty.

On October 26, murder suspect Cho Cheun-hun was beaten to death in custody (see Section 1.a.).

In 2001 police forcibly broke up three demonstrations, which had turned somewhat violent. In April 2001, 40 demonstrators and 55 police officers were injured at a demonstration near a Daewoo automobile factory. President Kim later expressed deep regret for the police's excessive use of force. Numerous Daewoo workers and police were also injured at the same location in February 2001, when police intervened at the request of Daewoo management because of alleged vandalism and destruction of company property.

In the past, police and security officials who abused or harassed suspects rarely were punished. However, in recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. In addition, 10 police officials were charged under criminal law during the year for abuses committed while on duty.

To investigate and redress the complaints of former detainees who claimed that officials of past military-backed governments tortured them or inflicted excessive punishments, in May 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths (see Section 1.a.) and the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movement. In 2000 the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement was established to review cases. As of September, this Commission had determined that, in the over 1,835 cases reviewed to date, compensation was due in 33 cases, the names of 1,600 activists should be cleared, and students Park Ching-chul and Lee Han-yeul should be recognized posthumously as democracy activists.

Prison conditions were Spartan but generally met international standards. Prison diets were adequate, but the facilities offered little protection against cold in the winter and heat in the summer. Some prisoners claimed that these conditions damaged their health and that medical care was inadequate. By year's end, the Government had installed floor heating and cooling systems in 21 of 44 prisons nationwide as part of a multi-year plan to upgrade the entire prison system. Traveling clinic teams visited prisons, and prison clinics were equipped with x-ray machines.

Inmates occasionally criticized guards for using excessive force or needlessly putting prisoners in manacles.

Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an inmate employment center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and for an additional 6 months after giving birth. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of a prison warden, and a female guard was present during such searches.

Among the mandates of the newly established National Human Rights Commission were the inspection of prisons and the compiling of recommendations for improvement of prison conditions. During the year, the Commission began to monitor prison conditions through a prisoner petition system. Petitions were submitted via a petition box placed in each prison in April. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of

medical services, and conditions in military prisons. According to the Ministry of Justice, human rights nongovernmental organizations (NGOs) were allowed to visit prisons by appointment and to submit recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile.—Laws regarding arrest and detention often are vague, and prosecutors have wide latitude to interpret them. For example, the National Security Law (NSL) defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, which are therefore deemed dangerous to the country. The NSL permits imprisonment for up to 7 years of anyone who “with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization.” The legal standard for what constitutes endangering the security of the State was vague. Thus a number of persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or antistate. Among those arrested under the NSL were persons who praised North Korea, its former leader Kim Il Sung, or North Korea’s “self-reliance” philosophy.

In February 2001, a foreign citizen was arrested and charged with violating the NSL. The basis for prosecution was publishing a book on North Korean leader Kim Jong-il, contact with allegedly pro-North Korean figures abroad, and travel to North Korea. In July 2001, he was convicted of violating the NSL and sentenced by the Seoul District Court to 3 years’ imprisonment, with the sentence suspended.

In August 2001, 16 members of a group that went to Pyongyang as a delegation to an inter-Korean Independence Day Festival allegedly broke a pledge not to engage in political activities. They were arrested for violating the NSL. Seven of them, including Professor Kang Chung-koo of Dongkook University, were indicted. Professor Kang was released after being held for 2 months, and was awaiting trial at year’s end. In February four of the other six were sentenced to 2 years and 6 months in prison, with suspension of imposition of sentence for 3 years (essentially a parole). The two others were sentenced to 2 years and 6 months in prison, and both were released on bail by June.

The U.N. Human Rights Committee termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” President Kim Dae-jung, who himself was arrested and sentenced to death under the NSL, acknowledged in August 2000 that the law had “problematic areas” and announced his intent to pursue major revisions, especially in light of improvements in relations between North and South Korea since the June 2000 summit. During the year, 131 persons were arrested for violating the NSL, and 31 persons remained in custody at year’s end.

The Government’s rationale for retaining the NSL was that North Korea actively was trying to subvert the Government and society and as a result, some forms of expression had to be limited to block the greater danger to freedom and democracy posed by North Korean totalitarianism. The effect sometimes was to relieve the Government of the burden of proof that any particular speech or action in fact threatened the nation’s security. Thus, although the Government strove to expand North-South exchanges, citizens were prosecuted in the past for unauthorized travel to North Korea (*see* Section 2.d).

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours but must notify the suspects’ families. The police generally respected these requirements.

Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detainees were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, and a suspect may have a lawyer present during police interrogation. The Ministry of Justice announced in May 2000 that all prosecutors’ offices had installed rooms where suspects could consult with their lawyers. In 2000 individual police stations began to employ lawyers as legal advisors to aid in examining relevant legal clauses in charging suspects. There were no reports of access to legal counsel being denied. There was a bail system, but human rights lawyers said that bail generally was not granted when detainees were charged with committing serious offenses, when they might attempt to flee or harm a previous victim, or when they had no fixed address.

In an August 2001 tax investigation, judges allowed prosecutors to arrest Bang Sang-hoon, president of the newspaper Chosun Ilbo; Kim Byung-kwan, former honorary chairman of the newspaper Dong-A Ilbo; and Cho Hee-joon, former president of the newspaper Kookmin Ilbo; stating that they might flee or destroy evidence if allowed to remain free (*see* Section 2.a). All three were released from detention by November 7, 2001. In January Cho was sentenced to 3 years' imprisonment and fined \$2,465,000 (3 billion won). In February Kim was sentenced to 3 years and 6 months' imprisonment and was fined \$3.7 million (4.5 billion won). Both sentences were appealed and a hearing on these appeals was still pending at year's end. On September 30, the first trial of Bang began; the outcome was pending at year's end. In December the Fair Trade Commission canceled \$15.3 million in fines levied against 15 newspapers and broadcasters for illegal business practices, citing the firms' weakened financial condition and the public interest.

The Constitution and law neither provide for nor prohibit forced exile. The Government does not use forced exile, although some persons living abroad would face criminal charges if they returned to the country.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence. The Prosecutor's Office, which is under the jurisdiction of the MOJ, has been accused of influence peddling and cronyism, and the independence of the Prosecutor's Office (especially in cases involving government officials or political figures) was often called into question by the media and the political opposition. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. During the year, 10 members of the National Assembly lost their seats for election law violations.

Local courts were presided over by judges who render verdicts in all cases. There was no trial by jury. Defendants could appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges could be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is detained physically, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials were open to the public, but a judge could restrict attendance if he believed spectators might seek to disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although convictions rarely were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

Human rights groups believed that many dissidents tried by past military governments during the 1970s and 1980s were sentenced to long prison terms on false charges of spying for North Korea. These persons reportedly were held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. In 2000 the Government enacted the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movements (*see* Section 1.c.). However, these former prisoners were still required to report their activities regularly to the police after their release. In September 2000, 63 North Korean spies, who had been released from South Korean prisons, were allowed to return to North Korea according to their wishes. According to the Ministry of Justice, no long-term, unconverted prisoners remained incarcerated.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. One human rights group reported that, as of September, 93 persons, including 36 students, 37 laborers, and 20 other assorted dissidents, were imprisoned. However, this group's definition of political prisoners included all persons imprisoned for politically motivated acts, including violations of the NSL, the Assembly and Demonstration Act, and the Trade Union Act, and for violence or interference with official duties in the course of demonstrations or strikes.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Government generally respected the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps of political dissidents. The Antiwiretap Law and the law to reform the NIS were

designed to curb government surveillance of civilians and appeared to have succeeded. The Antiwiretap Law lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, soon after placing them, and it provides for jail terms for persons who violate this law. In March a revised law took effect which reduced the monitoring period to 2 months in criminal investigations and 4 months in national security cases. There was no consensus on whether those monitored subsequently should be informed after the wiretap is discontinued or on the legal procedure required by investigating authorities to gain access to telephone records. Some human rights groups argued that a considerable amount of illegal wiretapping, shadowing, and surveillance photography still occurred. They asserted that the lack of an independent body to investigate whether police have employed illegal wiretaps hindered the effectiveness of the Antiwiretap Law.

Several legislators alleged that they were under surveillance by the Government and that their homes, offices, and cellular telephones were tapped. They called for either tightening or abolishing a provision in the existing law that allows government officials to obtain retroactive judicial permission to monitor a conversation (especially a cellular telephone call) in the event of an emergency.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes was legal. The Government also allowed the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops.

Student groups made credible claims that government informants were posted on university campuses.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While most political discourse was unrestricted, under the NSL the Government limited the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. The President continued to urge that areas of the NSL be revised to protect human rights and make the law conducive to North-South détente, and the National Assembly frequently debated the issue.

Although the Government abandoned direct control over the news media, it continued to exercise indirect influence, and government officials vigorously lobbied reporters and editors. In 2001 the Government conducted a massive tax and trade law investigation of major media firms, prompting protests and suspicion that it was attempting to curb media criticism. The Government responded that the tax audit was legitimate and long overdue. Hundreds of auditors examined the records of 23 newspapers for 130 days. The audit resulted in the indictment and arrest of owners or major shareholders of three newspapers, including the Chosun Ilbo and the Dong-A Ilbo, which were considered the most critical of President Kim Dae-jung's policies and administration. However, even though the companies faced penalties of \$398 million, and their owners were on trial for tax evasion and embezzlement, the papers continued to criticize the Government. In September 2001, the International Press Institute and the World Association of Newspapers placed the Republic of Korea on a media watch list and concluded that the Government was harassing the independent media. These organizations expressed concern that the threat of tax investigations against media companies and pressure on advertisers could induce newspapers and broadcasters to mute their criticism of the Government. However, also in September 2001, the International Federation of Journalists stated that the tax probe had nothing to do with freedom of the press and that there was no evidence that freedom of the press was being suppressed.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

Journalists alleged that libel laws were used to harass publishers for articles that were unflattering but not necessarily untrue, and in the past some journalists were arrested and jailed for libel. There were no such detentions during the year.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allowed citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the Government. Prosecutors had wide discretion in determining motives for possessing or publishing such materials.

There was wide reporting on North Korea and North-South issues in the media. The Government Censorship Board, which screened movies for sex and violence, followed more liberal guidelines in recent years and allowed the release of a broader range of films.

The Government blocked violent and sexually explicit Internet sites, and required site operators to rate their site as harmful or not harmful to youth. Some homosexual groups charged that the Government acted discriminatorily in blocking their Internet sites.

The Government did not restrict academic freedom. However, student groups credibly claimed that government informants were posted on university campuses.

b. Freedom of Peaceful Assembly and Association.—The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies, and the police must notify organizers if they consider an event impermissible under this law.

On November 4, approximately 30,000 civil servants took leave in protest against the Government Employees Association Act (GEAA), in the first organized labor action taken by civil servants, and 770 persons were arrested in a related rally. On November 5, approximately 100,000 workers participated in a general strike. The Government initiated disciplinary actions against some civil servants involved in these actions (see Section 6.b).

In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory, and dozens of police and striking workers were injured (see Section 1.c.). President Kim expressed deep regret for excessive use of force, and two police chiefs were transferred. Police and demonstrators also clashed during a series of general strikes in June 2001 (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

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, and the Government did not subsidize or favor a particular religion. Government policy continued to contribute to the generally free practice of religion.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted, but the Government required approval for travel to North Korea. To obtain approval, potential visitors were required to demonstrate that their trip did not have a political purpose or aim to praise North Korea or criticize the South Korean government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were likely to be arrested upon their return. There was reportedly only one such case during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still face sanctions should they choose to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Government guidelines provided for offering temporary refuge in the case of a mass influx of asylum seekers. However, procedures for receiving and adjudicating asylum applications did not always appear to be in keeping with either the letter or the spirit of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

In 2001 the UNHCR reported the forced return of three persons to countries where they claimed to fear prosecution; each of these persons had an active asylum application being reviewed by the Government and were deported without the knowledge of, or contact with, the UNHCR.

At the beginning of the year, there were seven persons of concern to the UNHCR in the country: one convention refugee, three persons with UNHCR mandate refugee status, and three persons recommended for temporary protection against return to their home country on humanitarian grounds. There were also 68 refugee applicants awaiting a decision by the Minister of Justice. During the year, 30 additional persons filed applications for refugee status. In December the Government granted convention refugee status to one person. The UNHCR conferred mandate refugee status

on two persons during the year, and recommended temporary protection against return for three additional persons. There were approximately 10 negative decisions during the year, and 88 cases remained pending at year's end.

The Government handling of asylum applications, although slow, became more flexible toward cases under review by the UNHCR. The Government suspended temporarily exit orders for these individuals. It also showed flexibility toward persons whose applications were rejected in the Government review process, but whom the UNHCR found met the definition of refugee. In June 2000, the Seoul District Court held that the Immigration Office had exceeded its authority by refusing to accept an asylum seeker's application based on an initial assessment of the claim.

The Government extended the right to work to refugees, but did not provide any social assistance to either refugees or asylum seekers. Asylum seekers were given 90-day extensions of their temporary stay permits while their applications were under review and they legally were not able to work during this period. In practice most asylum seekers entered the labor market, as did other undocumented foreign workers.

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 the direct election of the President. In the past, the Constitution was interpreted as providing for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. However, in 2001 the system of proportional election was declared unconstitutional by the Constitutional Court; future legislators are to be elected directly. The President serves a single 5-year term and may not be reelected. The National Assembly members serve terms of 4 years. All citizens 20 years of age or older have the right to vote, and elections are held by secret ballot.

The 273-seat National Assembly included 17 female legislators. One of them chaired a special committee on women's affairs. Two of the 19 Cabinet ministers are women: the Minister of Environment and the Minister of Gender Equality. Due to cultural traditions and discrimination, women occupied few important positions in government, although this was slowly changing.

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

Many domestic NGOs were active in promoting human rights, and they generally operated without government restriction. Chief among these groups were the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and Mingahyup, an association of the families of political prisoners. These groups published reports on human rights and made their views known both inside and outside the country. Government officials generally were willing to meet with international human rights groups.

In 2001 the President established the National Human Rights Commission according to legislation passed by the National Assembly. In April the Commission began to operate. It monitored and investigated human rights violations and complaints of discrimination, including during interrogations and in correctional facilities. Members of the National Human Rights Commission were not to be present at interrogations, but they had the right to visit those who had been arrested and were in custody. They also were authorized to visit prisons and correctional institutions.

There was also a Presidential Truth Commission on Suspicious Deaths (*see* Section 1.a.) and a Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (*see* Section 1.c.).

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

The Constitution and law forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and the disabled. Ethnic minorities were very small in number and faced both legal and societal discrimination.

Women.—Societal violence against women remained a problem. The Ministry of Gender Equality, established in 2001, reported that more women were coming forward to report abuse. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime. Authorities can order offenders to

stay away from victims for up to 6 months and to be put on probation or to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. Women's groups praised the law as a significant step in combating domestic violence.

Rape remained a serious problem. During the year, 7,200 cases of rape were reported, and 3,450 cases were prosecuted. Many rapes went unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. In September 2001, the Seoul District Prosecutor's Office established the Female Prosecutor's Office dealing with sex and family violence cases and also separately established a counseling service for women.

The Sexual Equality Employment Act, which went into effect in 1999, was enacted to combat sexual harassment in the workplace. During the year, 738 cases were filed under the Gender Discrimination Prevention and Relief Act; 48.7 percent of these cases dealt with sexual harassment and 36.9 percent concerned employment discrimination (pregnancy, promotion, or salary). Under the law, companies can be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also requires companies to establish in-house sexual harassment complaint centers and forbids firms from punishing employees for taking their complaints to outside organizations. In addition, the Ministry of Education announced in 2000 that the law's guidelines would apply at the nation's schools and that teachers who made gender-discriminatory remarks would be disciplined. As examples of gender-discriminatory remarks, the Ministry cited statements that emphasized women's traditional roles in families, stressed men's leadership in society, and encouraged female students to work for good marriages instead of embarking on a career after graduation.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, including victims of domestic violence, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. The Government has established some shelters for battered women and has increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups said that they fell far short of effectively dealing with the problem.

The country's conservative traditions left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. The Equal Employment Act was revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$3,873 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless some government agencies' preferential hiring of applicants with military service (nearly always men) led to continued legal barriers against women. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminate against women and disabled persons and are unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women; an increasing number of women occupied key positions within political parties; and the military and service academies continued to expand opportunities for women. With the establishment of the Ministry of Gender Equality, the Government strove for increased employment opportunities for women and also for an enhanced role and stronger rights for women in society, while closely monitoring violations and instances of discrimination.

The Government provided an allowance of \$442 (535,000 won) per month to 137 former "comfort women," women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army.

The country was a major origin and transit point for trafficking in Asian women and children destined for the sex trade and domestic servitude (*see* Section 6.f.).

Children.—The Government demonstrated its commitment to children's rights and welfare through its well-funded system of public education. The Government provided high-quality elementary education to all children free of charge. Education was compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. According to one NGO's figures, approximately 600 cases were reported during the year. The Seoul metropolitan government ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children. The Prevention of Domestic Violence and Victim Prevention Act of 1998, which defines domestic violence as a serious crime, allows a child to bring charges against a parent in cases of abuse. In July 2001 the Government enacted a revised Child Protection Law that mandates the establishment of a child abuse hot line and the dispatch of trained personnel to take preliminary measures for the protection of an abused child. Under the revised law, the Government established temporary protection facilities, counseling centers, communal homes, and other appropriate protection services and facilities. Revisions also included increased penalties for convicted child abusers, who faced up to 5 years in prison (compared to the previous 2 years) for child abuse.

Since 1999 the Youth Protection Law has provided for prison terms of up to 10 years and a fine of \$7,747 (10 million won) per minor hired for owners of entertainment establishments who hired minors under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. In 2000 the Government enacted the Juvenile Sexual Protection Act. It established a maximum sentence of 20 years for the sale of the sexual services of persons less than 19 years of age. It also established prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (*see* Section 6.f.). Based on this law, the Commission enforced a decree to publicize the names of those who had committed sex offenses against minors. As of year's end, the names of 1,114 sexual offenders had been made public.

The traditional preference for male children continued, although it was less evident among persons in their twenties and thirties. Although the law bans fetal testing except when a woman's life is in danger, when a hereditary disease would be transmitted, or in cases of rape or incest, such testing and the subsequent termination of pregnancies with female fetuses frequently occurred. The Government expressed concern over the widening disparity between male and female birth rates.

Persons with Disabilities.—Although measures aimed at creating opportunities for persons with disabilities have been taken, public facilities remained inadequate. However, discrimination against persons with disabilities in employment, education, or the provision of other state services was illegal. The law states that "no one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability."

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Surveys indicated that most companies either paid the fine or evaded the law; one 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the mandated 2 percent job quota for persons with disabilities. The hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. New public buildings were required to include facilities for persons with disabilities such as ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry announced that existing government buildings must be retrofitted with these facilities, and, as of April, 98 percent of major public buildings had facilities for persons with disabilities. According to the Health and Welfare Ministry, of 388 subway stations nationwide, wheelchair lifts were installed at 247 stations and elevators were installed at 110 stations. After two disabled people were killed in accidents involving wheelchair lifts, the Government drew up a plan to install elevators at all subway stations by 2004. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who had performed military service discriminated against persons with disabilities and were unconstitutional.

National/Racial/Ethnic Minorities.—The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Thus ethnic Chinese born and resident in Korea

obtained citizenship only with great difficulty. Without citizenship they could not become public servants and had difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many ethnic Chinese have emigrated to other countries since the 1970s. There were approximately 20,000 ethnic Chinese residents, who represented 0.05 percent of the population. In June 1998, the Government passed legislation to allow a female citizen to transmit citizenship to her child regardless of the citizenship of the child's father. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides workers, except public sector employees, with the right to associate freely. Since 1999 government white-collar workers have been allowed to form “workplace councils.” Blue-collar workers in government agencies were allowed to organize unions. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation of these changes was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which included representatives of the Government, labor, and management (*see* Section 6.b.). All unions were required to notify the authorities when formed or dissolved. As of June, 1,551,532 workers—approximately 11.6 percent of employed workers—were union members, and there were 4,381 trade unions according to the Ministry of Labor.

In the past, the Government only formally recognized two labor federations, the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In recent years, the Ministry of Labor officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. The courts have ruled that affiliation with the FKFTU is not required for an entity to be registered as a legal labor federation. In 1999 the legalization of the teachers' unions paved the way for government recognition of the dissident Korean Confederation of Trade Unions (KCTU). In practice labor federations not formally recognized by the Ministry of Labor have operated without government interference.

On March 23, at the inaugural congress of the Korean government Employees Union, approximately 1,000 police arrested 192 of the 268 delegates in attendance on the grounds that white-collar government employees may not legally organize unions. Most of those arrested were questioned and released, but 4 of the 192 remained imprisoned at year's end.

The two teachers' unions, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKFTU-affiliated Korean Union of Teachers and Educational Workers, had the right to bargain collectively with the Ministry of Education on wages and working conditions but not school curricula, and it was illegal for the unions to take collective action. In October 2001, teachers demonstrated twice.

Election laws prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office. In December Kwon Young-kil ran for President as the candidate of the KCTU-affiliated Democratic Labor Party. In the April 2000 National Assembly election, several candidates from the Democratic Labor Party made unsuccessful bids for Assembly seats.

The FKFTU and KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKFTU's 20 constituent federations maintained affiliations with international trade secretariats, as did the KCTU Metalworkers Council.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices could be required to reinstate workers fired for union activities. According to the FKFTU, this occurred frequently. The Tripartite Commission established a subcommittee on the protection of civil servants' basic rights and has discussed the establishment of a civil servants' union.

Extensive collective bargaining was practiced, even with unions whose federations were not recognized legally by the Government. The labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, although since 1999 these workers have been allowed to form “workplace councils,” which may make recommendations, but may not engage in collective bargaining.

The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike. It mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days notice in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications, can be ordered to submit to government-ordered arbitration. However, in practice, the Government rarely imposes arbitration.

On November 4, in the first organized labor action taken by civil servants, approximately 30,000 government workers took leave in protest against the Government Employees Association Act (GEAA), which denied the rights to collective action and collective bargaining, and the right to affiliate with an umbrella union. As many as 4,000 police officers dispersed a rally of approximately 900 civil servants and 100 students at Han Yang University. Following violent clashes, 770 people were detained. On November 5, approximately 100,000 workers participated in a general strike in opposition to the GEAA, to certain provisions in the proposed bill on the 40-hour workweek, and to a bill creating special economic zones that would be exempt from some provisions in the Labor Standards Act. The Government initiated disciplinary actions against 588 civil servants involved in these actions.

In June 2001, the Government declared strikes by workers of two main airlines to be illegal because workers did not submit to arbitration. The Seoul District Prosecutor's Office indicted Yang Kyung-kyu, the chairman of the Korean Federation of Transportation, Public, and Social Services Workers' Unions on charges of leading the strike at Korean Air Lines.

There were 322 strikes and 16 lockouts during the year, involving a total of 93,859 workers and a loss of 1,580,404 working days.

In February a number of strike organizers were arrested during a power workers' strike, and on September 11, police intervened to break up a strike at two hospitals, Kang Nam Hospital and Kyung Hee Medical Center, arresting several of the leaders. According to the KCTU, 130 persons were arrested for allegedly instigating violent strikes or illegally disrupting business during the year, of whom four were still imprisoned at year's end. In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory (*see* Section 1.c and 2.b.).

There was no independent system of labor courts. The central and local labor commissions formed a semiautonomous agency of the Ministry of Labor that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each commission was composed of equal numbers of representatives of labor and management, plus neutral experts who represented the public interest. Local commissions can decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In 1998 the Government established the Tripartite Commission, with representatives from labor, management, and the Government to deal with labor issues related to the economic downturn. The Tripartite Commission concluded an agreement that covered, among other things, unemployment policy, corporate restructuring, labor conditions, labor market flexibility, and the promotion of basic labor rights. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies.

Under the 1997 labor laws, persons who assisted trade unions or employers in a dispute were required to register with the Ministry of Labor. Those who failed to do so faced a large fine or a maximum sentence of 3 years' imprisonment. However, no one had been charged for failing to register.

Enterprises in the two export processing zones (EPZs) had been designated by the Government as public interest enterprises. Workers in these enterprises gradually have been given the rights enjoyed by workers in other sectors of the economy. Labor organizations were permitted in EPZs. At year's end, a bill creating "special economic zones," which are to be exempt from certain provisions of the labor code, was pending in the National Assembly.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including forced or bonded labor by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Some illegal foreign workers alleged beatings, forced detention, withheld wages, and seizure of passports by their employers (*see* Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education was compulsory through middle school (approximately age 14), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 had to have written approval from both of their parents or guardians. Employers could require minors to work only a limited number of overtime hours and were prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and were usually enforced when violations were found, but critics claimed that the Government employed too few inspectors to carry out regular inspections.

e. Acceptable Conditions of Work.—The minimum wage was reviewed annually. As of September, the minimum wage was \$1.90 (2,275 won) per hour, \$15.17 (18,200 won) per day, or \$428.46 (514,150) per month. Companies with fewer than 10 employees were exempt from this law. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1,390,000 people, slightly less than 3 percent of the population, lived below the poverty level.

The Labor Standards Law provides for a maximum regular workweek of 44 hours and provides for a higher wage for overtime. The law also provides for a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 44. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not work more than 12 hours in a working day. Labor groups claimed that the Government did not enforce adequately the maximum workweek provisions at small companies.

Foreign workers, most of whom came from China, the Philippines, Bangladesh, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions. The Government created a program that allowed certain foreign workers to enter the country legally to work at established wages with legal safeguards. In 2000 the Government announced that industrial trainees would be allowed to remain in the country for as long as 5 years, as opposed to 3 years previously. The Government reported that approximately 23,300 foreign workers and 70,500 industrial trainees were in the country legally and that there were an additional 220,000 illegal residents. Illegal workers who sought relief for loss of pay or unsatisfactory living and working conditions faced deportation. However, the Government established counseling centers that heard complaints from illegal foreign workers about issues such as overdue wages and industrial accidents, and in January the MOJ announced that foreigners residing illegally would be allowed to stay to finish medical treatment, seek compensation for industrial accidents, and collect back wages. The Labor Standards Law also prohibits the abuse of workers.

In 2000 the MOJ announced that it would establish a human rights committee for foreign workers to address mistreatment that some foreign workers faced from their employers, such as beatings, forced detention, withheld wages, and seizure of passports. The Government also announced that employers reported to abuse foreign workers would be subject to criminal charges and be disadvantaged in the Government's allocation of jobs for overseas workers. However, as of year's end, the human rights committee for foreign workers had not been established, and there were no reports that abusive employers had been charged. Foreign workers have submitted complaints to the National Human Rights Commission and have on occasion sought assistance from regional labor offices in collecting back wages and addressing other grievances.

Foreigners working as language teachers have complained that the language institutes frequently violated employment contracts, for which the legal system provided insufficient redress.

The MOJ instituted a 1-year amnesty under which all illegal workers who reported their presence by May 25 would be allowed to remain in Korea until March 25, 2003.

The Government set health and safety standards, but the accident rate was unusually high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. Although the number of inspectors has increased, the Labor Ministry still lacked sufficient inspectors to enforce the laws fully. The law does not

provide job security for workers who remove themselves from dangerous work environments.

f. Trafficking in Persons.—There is no single law that specifically prohibits trafficking in persons; however, various laws can be used to prosecute traffickers, including laws against kidnaping, inducement to prostitution, and laws protecting juveniles. These laws stipulate that proper security measures as well as financial assistance must be provided to trafficked victims when they report a trafficking crime. The Labor Standards Law prohibits the employment of any person under 18 years of age in work that “is detrimental to morality or health.” The Juvenile Sexual Protection Act, which took effect in July 2000, imposes lengthy prison terms for persons convicted of sexual crimes against minors (*see* Section 5).

Trafficking was a problem. The Republic of Korea was a country of origin, transit, and destination for trafficking in persons. Young female Koreans were trafficked primarily for sexual exploitation, mainly to the United States, but also to other Western countries and Japan. Female aliens from many countries, primarily Chinese women, were trafficked through Korea to the United States and many other parts of the world. In addition to trafficking by air, much transit traffic occurred in the country’s territorial waterways by ship. Women from the Philippines and Russia were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements, and were flown to Korea, often with entertainer visas. In some cases, victims’ passports were held by their employers.

The country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, were believed to have become victims of traffickers as well. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of citizens of China to Western countries.

In August 2001, the Supreme Prosecutor’s Office established joint investigation centers in collaboration with the police force and local governments to address trafficking and inveigling of women for forcible sexual exploitation, for the forcible transfer to foreign territory for employment in “service establishments of indecent nature,” for granting illegal entry into the country for purposes of sexual exploitation, for the sale of women between prostitution establishments, and for the illegal departure from the country through fake employment or marriage overseas.

During the year, the Government tightened restrictions on the “entertainer” visas by which many trafficked persons formerly entered Korea. Applicants for this type of visa must now be interviewed in their home country by a Korean consular official. The Government also instituted restrictions on the types of establishments in which foreign entertainers may be employed. The National Police Administration initiated a program of informing foreign employees of bars and similar establishments of their rights, and, in cooperation with the Ministry of Gender Equality, established a multilingual hotline for victims of trafficking.

During the year, 445 people were investigated for suspected trafficking, of whom 64 were arrested. In addition, 118 suspected visa brokers and alien smugglers were investigated for violation of the Stowaway Control Law, of whom 40 were arrested.

Various laws stipulate that appropriate facilities, such as temporary shelters, as well as counseling assistance, medical treatment, and occupational training programs, be provided to protect and assist trafficking victims. During the year, 91,978 calls were received by hot lines dealing in women’s issues. There were 23 guidance and protection facilities that were used by 1,457 persons; 92 sexual assault counseling centers, with 39,627 cases reported; 8 protection facilities for victims of sexual violence and trafficking that were used by 129 persons; 142 counseling centers for family violence, with 114,612 cases reported; and 30 protection facilities for victims of family violence that were used by 3,023 persons.

In November 2001, the Ministry of Gender Equality published booklets to publicize counseling centers and protection facilities for victims of family violence, sexual assault, and commercial sex. The Ministry of Gender Equality conducted a comprehensive survey of the sex industry; as of year’s end, the results of the survey were not available.

The Government worked with various NGOs to develop awareness of the issue and help prevent trafficking. Some foreign women working in the entertainment industry were advised of their rights in an orientation program organized by the National Police Agency. The police cooperated with officials of various embassies in investigating and attempting to resolve various trafficking-related issues and disputes.

LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Although the 1991 Constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." In February national elections were held to select a new 109-person National Assembly, and at its inaugural session in April, the Assembly reelected the President and ratified the President's selection of a prime minister and cabinet. The judiciary is subject to executive influence.

The Ministry of Public Security (MOPS, formerly known as the Ministry of Interior) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MOPS support, is responsible for oversight of foreigners. The MOPS includes local police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external security but also have some domestic security responsibilities that include counterterrorism and counterinsurgency activities and control of an extensive system of village militias. Civilian authorities generally maintained effective control over the security forces. Some members of the security forces committed serious human rights abuses.

Laos is an extremely poor country with an estimated population of 5.5 million. The economy is overwhelmingly agricultural, with 85 percent of the population engaged in subsistence agriculture. The sharp income inequality between participants in the monetary economy and those in the subsistence economy is demonstrated by the fact that the mean annual income is about \$335 and the per capita gross domestic product about \$1,700. Since 1986 the Government has abandoned most of its socialist economic policies in favor of market-based ones. It officially welcomes foreign investment, and is gradually strengthening its legal framework, including laws to protect property rights, but the domination of the state-owned banks and enterprises and a reluctance to embrace far-reaching reforms have slowed the process. The country is heavily dependent on official foreign aid and on remittances from Lao living abroad.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens do not have the right to change their government. Members of the security forces abused detainees, especially those suspected of insurgent or antigovernment activity. Prisoners were abused and tortured, and prison conditions generally are extremely harsh and life threatening. Police used arbitrary arrest, detention, and surveillance. Lengthy pretrial detention and incommunicado detention were problems. The judiciary was subject to executive, legislative, and LPRP influence, was corrupt, and did not ensure citizens due process. The Government infringed on citizens' privacy rights. The Government restricted freedom of speech, the press, assembly, and association. The Government continued to restrict freedom of religion, and police and provincial authorities arrested and detained more than 60 members of Christian churches, with 4 members of religious communities in custody or incarcerated for their religious beliefs at year's end. Unlike in previous years, there were no reports of forced renunciations of faith involving profane rituals such as drinking animal blood, although there were isolated reports from some areas that ethnic minority Protestant communities continued to be pressured to renounce their faith. Authorities in some provinces allowed Christian communities to reopen churches that had previously been closed, and in July the Government issued the Decree on the Administration and Protection of Religious Practice aimed at providing guidelines to both religious groups and authorities on permissible religious activities. The Government imposed some restrictions on freedom of movement. Societal discrimination against women and minorities persisted, although the Government actively supported a policy of encouraging greater rights for women, children, persons with disabilities, and minorities. The Government restricted some worker rights. Trafficking in women and children 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 confirmed reports of politically motivated killings by government officials during the year. There were unconfirmed reports of deaths of Hmong villagers in connection with security force

operations against insurgents in remote parts of Saisomboun Special Zone and in Xieng Khouang, Vientiane, and Bolikhamsai Provinces.

Small bands of Hmong insurgents, known as the "Chao Fa," launched several attacks against government and civilian targets during the year, with sporadic insurgent attacks on military posts reported during the January-May dry season. In March suspected insurgents shot at a low-flying military aircraft in Xieng Khouang Province, killing a policeman and injuring a pilot. In June insurgents raided villages in Vientiane Province but reportedly caused no casualties. According to Lao press reports, six of the attackers were killed, and a seventh subsequently died in Thailand of wounds received in the attack.

In September two men threw an explosive device into a crowd of people gathered for a religious ceremony at a Buddhist temple in Vientiane, seriously injuring a young child. According to subsequent police reports, both suspects were apprehended at the scene of the attack. Although officials stated the attack was the result of a "dispute" between youth groups, there were credible indications the attack was politically motivated.

b. Disappearance.—There were no confirmed reports of politically motivated disappearances during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the Penal Code prohibit torture; however, in practice members of the security forces subjected prisoners to torture and other abuses. Credible sources reported that detainees sometimes were subjected to beatings, long-term solitary confinement in completely darkened rooms, and burning from cigarettes. In some cases detainees were held in leg chains or wooden stocks. During the year, several persons arrested for religious activity were held in wooden stocks or shackles for part of their confinement. At least one religious detainee was seriously beaten by authorities while under detention.

Prison conditions generally were extremely harsh and life threatening. Food rations were minimal, and most prisoners relied on their families for their subsistence. The Government discriminates in its treatment of prisoners, restricting the family visits of some and prohibiting visits to a few. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Prison authorities used degrading treatment, solitary confinement, and incommunicado detention against perceived problem prisoners, especially suspected insurgents. On occasion the authorities used incommunicado detention as an interrogation method; in isolated cases, this was life threatening when prisoners were detained in such conditions for lengthy periods. There were confirmed reports that a few jails placed prisoners in leg chains, wooden stocks, or fixed hand manacles for extended periods (see Section 2.c.). Medical facilities were extremely poor or nonexistent. Some prisoners died as a result of abusive treatment and lack of medical care. Prison conditions for women were similar to those for men. Prisons hold both male and female prisoners, although they were placed in separate cells. Juveniles were housed together with adult prisoners.

Several international human rights groups continued their longstanding requests to the Government to move two political prisoners to a prison with better conditions, including more modern medical facilities (see Section 1.e.). The Government continued to ignore these pleas, as well as other representations regarding use of torture and abusive treatment.

The Government has provided limited access to some detention facilities to Lao U.N. personnel monitoring the status of juveniles in the prison system; however, the Government generally did not permit independent monitoring of prison conditions, including by foreign individuals or organizations, and has denied the International Committee of the Red Cross access to its prisons.

d. Arbitrary Arrest, Detention, or Exile.—The law provides for arrest warrants issued by the prosecutor, and the Constitution provides for procedural safeguards; however, in practice the Government did not respect these provisions, and arbitrary arrest and detention remained problems. Police sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for those in the act of committing a crime or for "urgent" cases. Incommunicado detention was a problem (see Section 1.c.). There is a 1-year statutory limit for detention without trial; the length of detention without a pretrial hearing or formal charges by law also is limited to 1 year; however, these limits often were ignored in practice. The Office of the Prosecutor General must authorize police to hold a suspect pending investigation. Authorization is given in 3-month increments, and, in theory, after a maximum of 1 year, a suspect must be released if police do not have sufficient evidence to bring charges. Access to family or a lawyer is not assured. There is a bail system,

but its implementation was arbitrary. A statute of limitations applies to most crimes. In practice, alleged violations of criminal laws involving national security led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, especially in cases where prisoners were unable to pay court fines.

During the year, government authorities arrested and detained more than 60 Christians, at times holding them in custody for months (*see* Section 2.c.). According to confirmed reports, those detained without trial at year's end for their religious activities included one person in Phongsaly and one person in Houaphanh; one person detained in Savannakhet was released in December. Seven lowland Lao men who returned from China have been detained without trial since 1997. An eighth member of this group was released in 2001.

Some sources reported that in June authorities in Vientiane Province arrested six Hmong villagers in Muang Feuang district, reportedly because of suspicion that the six had some involvement with antigovernment insurgents.

Police in some instances administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law (*see* Section 1.e.). There were no known instances of the police being reprimanded or punished for such behavior.

An unknown number of persons, perhaps over 100, were in detention for suspicion of violations of criminal laws concerning national security. Security-related laws were sometimes applied to routine criminal actions to justify long periods of incarceration without trial.

The Government does not use forced exile; however, a small group of persons who fled the country at the time of the change in government in 1975, and who were tried in absentia for antigovernment activities, does not have the right of return (*see* Section 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for the independence of the judiciary and the prosecutor's office; however, senior government and party officials influenced the courts, although perhaps to a lesser degree than in the past. Impunity was a problem, as was corruption. Many observers reported that judges can be bribed. The National Assembly Standing Committee appoints judges for 5-year terms; the executive appoints the Standing Committee. The Assembly may remove judges from office for "impropriety." Since 1991 one judge at the district level has been removed for improper behavior.

The People's Courts have three levels: District; municipal and provincial; and a Supreme Court. Decisions of the lower courts are subject to review by the Supreme Court, but decisions by military courts are not subject to the Supreme Court's review. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this reportedly was rare.

The Constitution provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The Constitution requires that the authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. For several reasons, including lack of funds, a near absence of attorneys, and a general perception that attorneys cannot affect court decisions, most defendants did not have attorneys or trained representatives. In theory, under the law defendants enjoy a presumption of innocence; however, in practice trial judges usually decided a defendant's guilt or innocence in advance, basing their decisions on the result of police or Prosecutor's Office reports. Reliance on these reports created a presumption that the defendant was guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having already been reached. Most criminal trials reportedly ended in convictions. Defendants sometimes were not permitted to testify on their own behalf. Trials for alleged violations of some criminal laws relating to national security and trials that involve state secrets, children under the age of 16, or certain types of family law, are closed.

Most of the country's 450 judges had only basic legal training, and many had few or no references upon which to base their decisions. The National Assembly's Law Committee routinely reviewed Supreme Court decisions for "accuracy" and returned cases to the Court or the Prosecutor General's Office for review when it felt a decision had been reached improperly.

In some instances, police administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law.

In addition to the hundreds of short- and long-term political detainees (*see* Section 1.d.), there were nine known political prisoners. Two prisoners from the pre-1975

regime, Colonel Sing Chanthakoumane and Major Pang Thong Chokbengvoun, were serving life sentences after trials that did not appear to be conducted according to international standards. Two former government officials, Latsami Khamphoui and Feng Sakchittaphong, were detained in 1990 for advocating a multiparty system and criticizing restrictions on political liberties and were not tried until 1992. They were serving 14-year sentences based on their 1992 convictions. Five persons arrested in October 1999 for attempting to organize a prodemocracy demonstration in Vientiane were sentenced to 20 years' imprisonment for antigovernment activities in a closed trial; they were incarcerated in Vientiane at year's end.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, the Government is silent on the matter, and there is no reliable independent method to ascertain accurately their total number. There have been no verifiable reports of other political prisoners in the last few years.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Government limits citizens' privacy rights, and the Government's surveillance network is vast. Security laws allow the Government to monitor individuals' private communications (including e-mail) and movements. However, some personal freedoms accorded to citizens expanded along with the liberalization of the economy.

The Constitution prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law security police may not authorize their own searches; they must have approval from a prosecutor or court; however, in practice police did not always obtain prior approval. The Penal Code generally protects privacy, including that of mail, telephone, and electronic correspondence; however, the Government often violated such legal protections.

MOPS monitored citizens' activities; in addition, an informal militia in both urban and rural areas, operating under the aegis of the military, has responsibility for maintaining public order and reporting "undesirable elements" to the police. The militia usually was more concerned with petty crime and instances of moral turpitude than with political activism, although some rural militia may be used for security against insurgents. A sporadically active system of neighborhood and workplace committees under the control of the popular front organizations played a similar monitoring role.

Although the Government permitted the public sale of leading foreign magazines and newspapers, restrictions on publications mailed from overseas were enforced, albeit loosely (*see* Section 2.a.). The Government allowed citizens to marry foreigners but only with prior approval. Although the Government routinely granted permission, the process was lengthy and burdensome. Marriages to foreigners without government approval may be annulled, with both parties subject to arrest or fines. During the year, at least one foreign person was separated from his citizen wife and their child and deported (*see* Section 2.d.).

The Government displaced internally hundreds of persons during the year, mainly as a result of infrastructure development programs. During the year, hundreds of families were relocated from downtown Vientiane to make way for a new city park. Although the Government provided compensation to displaced persons in the form of land and household supplies, this compensation was often inadequate.

Local officials in Kasi district of Vientiane Province and Khamkeut district of Bolikhamsai Province reportedly forced a number of Christians out of their villages because they had refused to change their religious beliefs (*see* Section 2.c.).

There are three Internet service providers. The Prime Minister's Office has stated that it intends to monitor and control more actively Internet communications by the country's 3,200 subscribers. However, most Internet sites, including those critical of the Government, were accessible to users. Vientiane and most larger towns had numbers of Internet cafes that catered primarily to foreign travelers but were also accessible to citizens.

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 severely restricted political speech and writing in practice. The Government also prohibited most criticism that it deems harmful to its reputation. The Penal Code forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature, or targeting the leadership, may lead to arrest.

All domestic print and electronic media were state-owned and controlled. Local news in all media reflected government policy. Television talk shows and opinion

articles referred only to differences in administrative approach. Although domestic television and radio broadcasts were closely controlled, the Government made no effort to interfere with television and radio broadcasts from abroad. In practice many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas. Although such visas normally were granted, persons traveling on journalist visas were restricted in their activities. The authorities did not allow journalists free access to information sources or to travel without official escort. In addition, they must pay a daily fee for the services of their escort.

The authorities also prohibited the dissemination of materials deemed to be indecent, to undermine the national culture, or to be politically sensitive. Any person found guilty of importing a publication deemed offensive to the "national culture" faces a fine or imprisonment for up to 1 year. Until July the Government did not permit the printing of non-Buddhist religious texts or their distribution outside a congregation and restricted the import of foreign religious texts and artifacts. A new Prime Ministerial Decree issued in July, however, allows for the printing and distribution of religious material, providing the authorities first grant permission (*see* Section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship. However, in practice most foreign films and music were easily available in video and compact disc format. Government enforcement of restrictions on nightclub entertainment generally was lax during the year.

Citizens had 24-hour access to Cable News Network and the British Broadcasting Corporation, among other international stations accessible via satellite television. The Government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use.

The Government controlled all domestic Internet servers and occasionally blocked access to those Internet sites that were deemed pornographic or were critical of government institutions and policies. The Government also sporadically monitored e-mail. In October 2000, the National Internet Control Committee promulgated highly restrictive regulations regarding Internet use by citizens. The regulations significantly curtailed freedom of expression and made "disturbing the peace and happiness of the community" and "reporting misleading news" criminal acts. In addition, in 2001 the Prime Minister's Office issued orders consolidating government control over Internet service (*see* Section 1.f.). However, the Government in the past was limited in its ability to enforce such regulations.

The Constitution provides for academic freedom; however, the Government restricted it, although over the past several years it has relaxed its restrictions in certain areas. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel and access to information and to Penal Code restrictions on publication. As the sole employer of virtually all academic professionals, the Government exercised some control over their ability to travel on research or to obtain study grants. However, the Government, which once limited foreign travel by professors, actively sought out these opportunities worldwide and approved virtually all such proposals.

In recent years, credible reports have indicated that some state and party officials denied some academically qualified ethnic minorities, including Hmong, opportunities for foreign fellowships and study abroad. This discriminatory behavior went unchecked. On rare occasions in previous years, the Government denied government employees who were not party members permission to accept certain research or study grants, apparently because they had chosen not to join the LPRP. No such cases were known to have occurred during the year.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. The Penal Code prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause "turmoil or social instability." Such acts are punishable by a prison term of from 1 to 5 years. If defendants are tried for crimes against the State, they may face much longer sentences of up to 20 years or possible execution.

The Constitution provides citizens with the right to organize and join associations; however, the Government restricted this right in practice. The Government registers and controls all associations and prohibits associations that criticize it. Political groups other than popular front organizations approved by the LPRP are forbidden. Although the Government restricted many types of formal professional and social associations, in practice informal nonpolitical groups met without hindrance. The

Foundation for Promoting Education, a private voluntary organization in Vientiane Municipality, operated independently under its own charter; however, it reported to the Ministry of Education. The Buddhist Promotion Foundation, a semiprivate group founded in 1998 by the Lao Buddhist Fellowship Association, reported to the LPRP Lao Front for National Construction, an LPRP popular front organization responsible for overseeing all religions.

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right in practice.

The Constitution prohibits “all acts of creating division of religion or creating division among the people.” The LPRP and the Government apparently interpreted this section as inhibiting religious practice by all persons, including the Buddhist majority and a large population of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize.

In July the Prime Minister’s Office issued a Decree on the Administration and Protection of Religious Practice. The decree, which has the effect of law, was designed to specify clearly the range of activities permitted religious groups or practitioners. The decree permits minority religious groups to engage in a number of activities that had previously been considered by most authorities to be illegal, such as proselytizing and printing religious material. However, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the Lao Front for National Construction, the party-controlled organization that oversees religious issues on behalf of the Government. Although most religious leaders were hopeful that the new decree would lead to increased religious freedom, some were concerned that its requirements for advance permission would actually hamper religious activity.

The Constitution notes that the State “mobilizes and encourages” Buddhist monks, novices, and priests of other religions to participate in activities “beneficial to the nation and the people.”

During the year, government authorities arrested and detained more than 60 Christians, at times holding them in custody for months. In several cases, the prisoners were handcuffed, detained in leg chains and stocks, and subjected to psychological pressure. At least one detainee was severely beaten while in detention.

In Oudomxay one person was serving a 12-year sentence and another a 15-year sentence at year’s end for religious proselytizing, purportedly in coordination with foreigners. Three prisoners serving 3-year terms in Luang Prabang for religious practice found by the courts to be “creating social turmoil” were released in July after completing their sentences.

A campaign begun in 1999 and continuing into early 2001 in some provinces to close churches and force Christians to renounce their faith appeared to have largely dissipated or at least to be confined to just a few districts. Religious leaders reported no incidents of persons being forced by authorities to give up their faith during the year. However, Christians in some areas reported that authorities continued to tell them that Christianity was illegal or that they should give up their faith. A 2-year-old campaign to close churches continued early in the year in some areas. However, as the year progressed, authorities in a number of provinces, including Vientiane, Savannakhet, and Luang Prabang, permitted many churches to reopen. There were no reports of security forces stopping vehicles that carried multiple passengers during Sunday worship hours in order to prevent villagers from traveling to attend worship services as had occurred in the past (*see* Section 2.d.).

The LPRP controls the Buddhist clergy (“Sangha”) in an attempt to direct national culture. Although the state is secular in both name and practice, the Party and the Government pay close attention to Theravada Buddhism, which is followed by more than 60 percent of the population. The Government’s observation and control of the training of clergy and support for and oversight of temples and other facilities constituted means for overseeing the dominant Buddhist faith as well as promoting Buddhism as an integral part of the national culture and identity.

There is only one semireligious government-recognized holiday—Boun That Luang—which also is a major political and cultural celebration. However, the Government recognized the popularity and cultural significance of Buddhist festivals, and most senior officials openly attended them. Buddhist clergy were featured prominently at important state and party functions. The Lao Front for National Construction directed the Lao Buddhist Fellowship Association. Since 1996, monks studying at the National Pedagology School are no longer required to study Marxism-Leninism as part of their curriculum, and the integration of Communist ideology in Buddhist instruction has waned greatly in recent years. Some temples have been permitted to receive support from Theravada Buddhist temples abroad, to ex-

pand the training of monks, and to focus more on traditional teachings. In addition, many monks traveled abroad, especially to Thailand, for formal religious training.

The authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths do not share Theravada Buddhism's high degree of direction and incorporation into the Government structure. Some authorities criticized Christianity in particular as a Western or imperialist "import" into the country. Local authorities, apparently with encouragement from some officials in the Central government or Communist Party, have singled out Protestant groups as a target of persecution. Protestant churches' rapid growth over the last decade, their contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control all have contributed to government and Communist Party suspicion of the churches' activities. The Government strictly prohibited foreigners from proselytizing, although it permitted foreign nongovernmental organizations with religious affiliations to work in the country. Foreign persons caught distributing religious material may be arrested or deported, although no such incidents were known to have occurred during the year. Although there is no legal prohibition against proselytizing by citizens, local officials investigated and harassed citizens who do so, based upon a constitutional provision against "creating division of religion." The Prime Minister's Decree on the Administration and Protection of Religious Practice permits proselytizing, but only if permission is first obtained from government or party authorities.

The Government's tolerance of religion varied by region. In general central government authorities appeared unable or unwilling to control or mitigate harsh measures that were taken by local or provincial authorities against the practices of members of minority religious denominations. Although there was almost complete freedom to worship in a few areas, particularly in the largest cities, government authorities in many regions allowed properly registered religious groups to practice their faith only under restrictive conditions. In some areas, such as Savannakhet, Luang Prabang, and Vientiane Provinces, the authorities continued to arrest and detained some religious believers without charges (*see* Section 1.d.). There were no reports during the year that local officials in isolated areas monitored and arrested persons who converted to Christianity, as had occurred in the past. Efforts by some officials to force Christians to renounce their faith apparently have ceased in most areas, and there were no reported instances of forced religious renunciation during the year, although Protestants reportedly were forced out of their villages in a few areas because of their unwillingness to renounce their faith (*see* Section 1.f.). Followers of Islam and the Baha'i faith were able to practice their religion without hindrance from authorities.

In some parts of the country, particularly the south, the authorities generally tolerated diverse religious practices; however, a pattern of petty local harassment persisted in other areas. Many converts must undergo a series of harsh government interviews; however, after overcoming that initial barrier, they generally were permitted to practice their new faith unhindered. Members of long-established congregations had few problems in practicing their faith; however, some churches established a century ago continued to be subjected to harassment and closure by local government officials in Savannakhet. Many groups of coreligionists seeking to assemble in a new location were prevented from meeting, practicing, or celebrating major religious festivals.

The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups' beliefs. Some groups did not submit applications to establish places of worship because they did not believe that their applications would be approved. In recent years, some minority religious groups have reported that they were unable to register new congregations or receive permission to establish new places of worship, including in Vientiane.

The Roman Catholic Church is unable to operate effectively in the highlands and much of the north, and the Catholic Church in northern Laos is largely moribund. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo Provinces sporadically held services in members' homes, but there are no priests resident in the area and pastoral visits from Vientiane were infrequent. However, the church has an established presence in five of the most populous central and southern provinces, where Catholics were able to worship openly. There were three official bishops, one each in Vientiane, Thakhek, and Pakse, as well as a fourth bishop for Luang Prabang whose position had not been approved by the country's authorities and who resided in Vientiane.

Between 250 and 300 Protestant congregations conduct services throughout the country. The Lao National Front for National Construction has recognized two

Protestant groups: The Lao Evangelical Church (the umbrella Protestant church) and the Seventh-Day Adventist Church. Nominally all Protestant congregations in Laos belonged to one of these two organizations, although in practice some congregations operated independently. Both the Lao Evangelical Church and the Seventh Day Adventist Church owned properties in Vientiane and other cities.

Although the Government generally permitted major religious festivals of established congregations without hindrance, local officials have restricted the celebration of major Christian holidays by some congregations. Several Protestant congregations in remote areas of Vientiane, Luang Prabang, Savannakhet, and Syaboury Provinces were not permitted to celebrate Christmas and Easter holidays during the year, and in some areas officials conducted mandatory political training classes on Sunday, preventing villagers from attending worship services. In December over 20 worshippers at several villages in Savannakhet Province were arrested and detained for several days when they gathered for Christmas services. Authorities charged that the congregations had "assembled unlawfully."

Two mosques and two Baha'i centers operated openly in Vientiane municipality; two other Baha'i centers were located in Vientiane Province and Pakse. Five Mahayana Buddhist pagodas were located in Vientiane, and others were found in larger cities and towns.

Animists generally experienced no interference from the Government in their religious practices, which vary extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the Government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

Until recently the Government did not permit the printing of non-Buddhist religious texts or their distribution outside a congregation and restricted the import of foreign religious texts and artifacts. The new Prime Ministerial Decree on Religious Practice, promulgated in July, permits the printing of religious material, providing permission is obtained from the Lao Front for National Construction. The Government requires and usually grants its permission for formal links with coreligionists in other countries; however, in practice the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without much difficulty.

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

d. Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.—The Constitution provides for these rights; however, the Government restricted some of them in practice. Citizens who travel across provincial borders no longer are required to report to authorities upon their departure and arrival. However, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who seek to travel abroad are required to apply for an exit visa. The Government usually granted such visas; however, officials at the local level have denied permission to apply for passports and exit visas to some persons seeking to emigrate, and in the case of one foreign individual deported for marrying a citizen without prior permission, government officials were adamant that they would not issue an exit visa for his wife or their dual national infant child (see Section 1.f.). Access by foreigners to certain areas, such as the Saysomboune Special Zone, an administrative area operated by the military forces, is restricted for safety and security reasons.

There were no reports that security forces in villages where churches had been closed stopped large vehicles carrying multiple passengers during Sunday worship hours in order to prevent villagers from traveling to attend worship services, as had occurred in the past (see Section 2.c.).

Although bandit and insurgent attacks on road traffic in northern Laos have occurred in the past, no such attacks were known to have occurred during the year.

Since 1980 more than 29,000 citizens who sought refugee status in Thailand, China, and other countries have returned to Laos for permanent resettlement under monitoring by the U.N. High Commissioner for Refugees (UNHCR). These returnees generally have been subject to more suspicion and scrutiny by the authorities than other citizens. Nevertheless, many who fled after the change of government in 1975 have visited relatives, some have stayed and gained foreign resident status, and some successfully have reclaimed citizenship. A small group, tried in absentia in 1975 for antigovernment activities, does not have the right of return (see Section 1.d.).

The Constitution provides for asylum and the protection of stateless persons under the law. In practice, the Government did not provide first asylum and generally did not cooperate with the UNHCR or other U.N. offices in such cases.

Eight lowland Lao men who returned from China in 1997 were detained without trial. One was released in 2001, but the seven others remained in detention at year's end.

Some refugee returnees carried government-issued identification cards with distinctive markings, ostensibly for use by authorities. Such cards tended to reinforce a pattern of societal discrimination against the returnees.

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 for a representative National Assembly, elected every 5 years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage; however, it legitimizes only a single party, the LPRP. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but in practice almost all were.

The National Assembly chooses a standing committee generally based on the previous standing committee's recommendation. Upon the committee's recommendation, the National Assembly elects or removes the President and Vice President. The standing committee also has supervision of administrative and judicial organizations, and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections (including approval of candidates). Activities of the standing committee are not fully transparent.

The National Assembly, upon the President's recommendation, elects the Prime Minister and other Ministers in the Government. The 109-member National Assembly, elected in February under a system of universal suffrage, approved the LPRP's selection of the President at its inaugural session in April, and in the same session it ratified the President's selection of a new Prime Minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the Assembly may propose new laws. The Constitution gives the right to submit draft legislation to the National Assembly standing committee and the ruling executive structure.

Women increased their representation in the National Assembly in the 2002 elections from 20 to 22 members in the 109-member body. Three members of the 53-member LPRP Central Committee were women, one of whom was also a member of the 7-member standing committee in the National Assembly. There were no women in the Politburo or the Council of Ministers.

The number of ethnic minority members in the 109-member National Assembly—9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes)—was slightly less than in the previous national assembly; most members of the Assembly were ethnic Lao, who also dominated the upper echelons of the Party and government. Three cabinet ministers were members of ethnic minority groups.

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

There are no domestic nongovernmental human rights organizations, and the Government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles if it were permitted to operate at all.

The Government in general did not respond to requests for information on the human rights situation from international human rights organizations.

The Government maintained contacts with the International Committee of the Red Cross (ICRC); government officials received ICRC training on human rights law in 1998, and the Government continues to translate international human rights and humanitarian law conventions with ICRC support. The Government permitted U.N. human rights observers to monitor the treatment of almost 30,000 returned refugees in all parts of the country with minimal interference (*see* Section 2.d.). The UNHCR's Lao office closed at the end of 2001, with the Commission's determination that the office's monitoring role had been completed and former refugees had been successfully reintegrated.

A human rights unit in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs has responsibility for inquiry into allegations of human rights violations. This government unit rarely responds to inquiries regarding individual cases. In 2000 it published a partial compilation of international conventions on human rights in Lao.

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

The Constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. Although the Govern-

ment at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization is neither well developed nor widely understood among the general population.

Women.—There were reports that domestic violence against women occurred, although it was not widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from 3-years' imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (*see* Section 6.f.). Prostitution is illegal with penalties ranging from 3 months to 1 year in prison.

Sexual harassment was rare. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by 6 months' to 3 years' imprisonment.

The Constitution provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The Family Code prohibits legal discrimination in marriage and inheritance. Discrimination against women is not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years, the Government increased support for development programs designed to improve the position of women in society, including in the political system.

Children.—The level of budgetary support for education was very low. Education was free and compulsory through the fifth grade; however, fees for books, uniforms, and equipment, among other things, precluded children from rural areas and poor urban families from complying with this requirement. According to government statistics, 80 percent of primary school age children, 50 percent of junior high school age children, and 25 percent of high school age children were enrolled in school; the U.N. Development Program estimated that almost 40 percent of children never attended school at all and only 10 percent entered secondary school. There were significant differences in the treatment of boys and girls in the educational system: Female literacy was 48 percent versus 70 percent for males. However, men and women attended the three universities in approximately equal numbers. Although the Government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality.

Violence against children is prohibited by law, and violators are subject to stiff punishments. Reports of the physical abuse of children were rare. Trafficking in girls for prostitution and forced labor was a problem (*see* Section 6.f.). Other forms of child labor generally were confined to family farms and enterprises (*see* Section 6.d.).

Persons with Disabilities.—With donor assistance, the Government was implementing limited programs for persons with disabilities, especially amputees. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the Labor and Social Welfare Ministry has established some regulations regarding building access and some sidewalk ramps in Vientiane. The Lao National Commission for the Disabled (LNCD) has promulgated regulations to protect the rights of persons with disabilities. In 2000 the Lao Disabled Persons Association set up offices in Champassak and Xieng Khouang Provinces to assist with the rehabilitation, job skills training, and social integration of persons with disabilities. Also in 2000, in Vientiane the LNCD hosted a regional conference on disabilities to promote leadership and organizational skills for persons with disabilities.

National/Racial/Ethnic Minorities.—The Constitution provides for equal rights for all minority citizens, and there is no legal discrimination against them. However, societal discrimination persisted.

Approximately half the population is ethnic Lao, also called "lowland Lao." Most of the remainder is a mixture of diverse upland hill tribes whose members, if born in the country, are citizens. There are also ethnic Vietnamese and Chinese minorities, and a small community of South Asian origin, particularly in the towns. The Law on Nationality provides a means for foreigners to acquire citizenship; more than 100 persons, mostly Vietnamese and Chinese, became citizens during the year. The Government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the Government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination against the Hmong continued. In recent years, the Government focused some limited assistance projects in Hmong areas in order to address regional and ethnic disparities in income. Some international observers claimed that governmental policies aimed at assimilating the Hmong into the larger society—such as regional boarding schools—were not respectful of Hmong native culture; others saw this approach as an escape from centuries of poverty.

Unlike in past years, there were no reports of government forces mistreating Hmong suspected of harboring insurgents (*see* Sections 1.a. and 1.c.).

During the year, the Government continued to assist citizens, largely members of ethnic minorities, who returned to the country after having fled in 1975. Central and local government officials worked with organizations such as the UNHCR to provide land and a sustainable level of economic security. Repatriated Hmong at times faced greater discrimination than those Hmong who remained. In 1999 and 2000, a number of Hmong returnees were forced to renounce their Christian faith, and the authorities closed one church in a returnee village. However, this church was later allowed to reopen. During the past 2 years, international observers who monitored repatriation efforts reported no significant human rights violations.

The Constitution states that foreigners and stateless persons are protected by “provisions of the laws,” but in practice they did not enjoy the rights provided for by the Constitution. Unlike in previous years, there were no reports of cases of foreigners of Hmong ethnicity who were arrested or detained and suffered discrimination because of their ethnicity.

Section 6. Worker Rights

a. The Right of Association.—Under the law, labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. Most of the FLTU’s approximately 77,000 members worked in the public sector.

The State employed the majority of salaried workers, although this situation was changing as the Government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

With advice from the International Labor Organization (ILO), including a foreign expert provided by the ILO to work with the Ministry of Labor and Social Welfare, the Government in 1994 revised the Labor Code in an effort to clarify the rights and obligations of workers and employers. However, the 2001 Report of the ILO Committee of Experts cited the Government for its failure to submit reports on ratified conventions required of member states. Furthermore, the Government has not replied to comments from the Committee from 7 years ago.

The FLTU is free to engage in contacts with foreign labor organizations, which during the year included contacts with the Association of Southeast Asian Nations Trade Unions and the Asia-Pacific American Labor Alliance. The FLTU was a member of the World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—There is no right to organize and bargain collectively. The Labor Code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the Ministry of Labor and Social Welfare. Labor disputes reportedly were infrequent. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the Government’s ban on subversive activities or destabilizing demonstrations (*see* Section 2.b.) makes a strike unlikely, and none were reported during the year. However, the Labor Code does not prohibit temporary work stoppages.

The Labor Code stipulates that employers may not fire employees for conducting trade union activities, for lodging complaints against employers about labor law implementation, or for cooperating with officials on labor law implementation and labor disputes. Workplace committees were one mechanism used for resolving complaints.

There were no export processing zones. A law to establish a special economic zone in Savannakhet Province was under consideration.

c. Prohibition of Forced or Bonded Labor.—The Labor Code prohibits forced labor except in time of war or national disaster, during which time the State may con-

script laborers. The Code also prohibits forced or bonded labor by children under age 15, and generally this was enforced effectively.

d. Status of Child Labor Practices and Minimum Age for Employment.—Under the Labor Code, Children under age 15 may not be recruited for employment, except to work for their families, provided that such children are not engaged in dangerous or difficult work. Many children helped their families on farms or in shops. Child labor was rare in industrial enterprises. The Ministries of Public Security and Justice are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources. Some garment factories reportedly employed a very small number of underage girls. The Government has not ratified ILO Convention 182 against the worst forms of child labor.

e. Acceptable Conditions of Work.—The Labor Code provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities). The Code also provides for at least 1 day of rest per week. The daily minimum wage was about \$0.40 (4,000 kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. However, few families in the wage economy depended on only one member for income. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The Labor Code provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for all expenses for a worker injured or killed on the job, a requirement generally fulfilled by employers in the formal economic sector. The Labor Code also mandates extensive employer responsibility for those disabled while at work. During the year, this law was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the Ministry of Labor and Social Welfare lacked the personnel and budgetary resources to enforce the Labor Code effectively. The Labor Code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children worked selling goods on the streets of Vientiane.

f. Trafficking in Persons.—The Penal Code prohibits abduction and trade in persons as well as the constraint, procuring, and prostitution of persons; however, trafficking in persons, particularly women and children, was a problem. Laos was primarily a country of origin for trafficking in persons and to a lesser extent, a transit country. Although there was no reliable data available on the scope and severity of the problem, rough estimates indicated that from 15,000 to 20,000 Lao girls and young women were trafficked annually for purposes of prostitution mostly to Thailand; a small number were trafficked to China and to the United States. Some young men were also victims. As many as 100,000 citizens annually traveled to Thailand to participate in seasonal agricultural labor and some urban labor; many of these citizens were illegally in Thailand and vulnerable to exploitation and some were trafficked only after their arrival in Thailand. A much smaller number of foreign nationals transited through Laos, including Burmese to China and Thailand, and Vietnamese to Thailand. In recent years, highland minority women from the interior of the country had become the group most vulnerable to traffickers.

Labor recruiters in the country usually were citizens with experience in cross-border labor and, for the most part, with no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude. They simply may be assisting fellow villagers.

There were no reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities and a very few profited from them.

In the past, the Government has prosecuted some persons for involvement in such trafficking activities.

The Ministry of Labor and Social Welfare (MLSW) has a five-person unit devoted to children with special needs, including protection from and prevention of trafficking. However, the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW and the Lao Women's Union have conducted pilot studies on antitrafficking information campaigns. Due to financial constraints the Government has conducted only limited campaigns in a few border towns.

The Government has increased monitoring and educational programs provided by the Lao Women's Union and the Youth Union, both party-sanctioned organizations, designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere.

Some victims were punished for improper documentation or for crossing the border illegally. The victims had no recourse to relief. Some local authorities have ordered trafficking victims into reeducation seminars and subjected them to substantial fines. The Government remained concerned about children being lured into sexual exploitation and slave labor in other countries, but the Government denied that there were any problems in the country that involved child prostitution. The National Commission for Mothers and Children, established in 1992 and chaired by the Foreign Minister, continues an active program with support from UNICEF.

MALAYSIA

Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face significant obstacles in competing with the long-entrenched ruling coalition. However, in the November 1999 elections, opposition parties won approximately 25 percent of the seats in the Federal Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

The country has a free market economy and a population of approximately 23.8 million. The economy grew 3.3 percent in 2000, but slowed in 2001 to a growth rate of 0.4 percent growth. Analysts expected the economy to grow from 3.5 percent to 4 percent by year's end. The Government continued its stimulative fiscal and monetary policies, and took an active role in the development of the export-oriented economy. Services and manufacturing accounted for 49.6 percent and 31.5 percent of the gross domestic product (GDP). The unemployment rate was approximately 3.6 percent.

The Government generally respected the human rights of its citizens; however, serious problems remained. Police killed a number of persons, and the authorities prosecuted the perpetrators in some of these cases. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. Prison conditions were generally satisfactory, although the National Human Rights Commission (Suhakam) publicly noted its concern about prison overcrowding and about the lack of adequate health care and facilities in prisons. The trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. Police continued to use the Internal Security Act (ISA) as well as other statutes to arrest and detain many persons, without charge or trial. Prolonged pretrial detention was a serious problem.

Although reforms instituted by the new chief justice in 2001 appeared to have led to some improvements, many observers expressed serious doubts about the independence and impartiality of the judiciary, especially in high-profile cases. The politically motivated convictions of former Deputy Prime Minister Anwar on charges of corruption and sodomy in 1999 and 2000 demonstrated the judiciary's lack of independence. In May the Federal Court upheld Anwar's conviction on corruption charges. Politically motivated, selective prosecution decreased during the year but continued to be a concern.

Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The threat of slander and libel awards against journalists and media publications diminished during the year; however, these awards represented a restraint on press freedom. The Government continued to limit the publication of an opposition party newspaper, and refused to renew the publication permits of several other political weeklies. It also sometimes delayed the release of several foreign weekly magazines. Independent on-line newspapers operated without direct government interference.

The Government increased restrictions on freedom of assembly and some peaceful gatherings, particularly those organized by the political opposition. The Government continued to restrict significantly freedom of association. In 2001 the Government restricted student participation in political activities, and detained several students under the ISA. The Government placed some restrictions on religious freedom, in particular the right of Muslims to practice teachings other than Sunni Islam or to convert to other religions. The Government continued to impose some restrictions

on freedom of movement. Government policies created significant restrictions on opposition parties' ability to compete effectively with the ruling coalition. The Government continued to criticize human rights nongovernmental organizations (NGOs), but also met with several such groups during the year. In 2000 the Government established the National Human Rights Commission, Suhakam. Despite some limitations on its scope, and a lack of enforcement powers, the Commission established several human rights working groups and in certain cases acted as a credible check on government authority and policy.

Despite government efforts, societal violence and discrimination against women remained problems. Sexual abuse of children occurred, although it was punished severely. Indigenous people faced discrimination and often were exploited, especially in regard to land issues. Longstanding policies gave preferences to ethnic Malays in many areas, and ethnic minorities faced discrimination. Some restrictions on worker rights persisted. Child labor persisted, in spite of vigorous government action against it. The country was a source and destination country for trafficking in women and girls for the purpose of prostitution. Malaysia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

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, there were reports of police killing persons while apprehending them. According to press reports, police killed 51 persons in this manner during the year. By year's end the Government had not formed an independent commission to investigate police killings, as was recommended by a group of 119 domestic NGOs in February 1999. According to the Government, however, in 2001 disciplinary action was taken against 577 officers and members of the Malaysian Royal Police. In 2000 1,381 officers and members were disciplined. The disciplinary action cases ranged from bribery and extortion to rape and murder.

According to the Deputy Minister of Home Affairs, 18 persons died in police custody during the year. In September the Attorney General said that whenever a person dies in police custody, the law requires that a magistrate investigate. An inquiry was begun in one of the cases. During the year, police leadership continued efforts to curb such abuses, including inviting the National Human Rights Commission (Suhakam) officials to provide training to police officers.

In May 2001, a Coroner's Court ruled that there was no criminal wrongdoing in the 1998 fatal shooting at close range by police officers of six men. However, in August the High Court overturned the decision and found that police were responsible for murderous assault.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture. At times some police tortured, beat, and otherwise abused prisoners, detainees, and other citizens. The authorities investigated some of the cases; however, the Government routinely does not release information on the results of investigations, and whether those responsible are punished is not always known.

There were several press reports of persons who alleged being tortured or mistreated while detained by the police. In August according to news reports, a man who sued police for being physically brutalized while in detention won \$3,700 (10,000 ringgit) in damages. In 2001 leading members of the opposition party, Parti Keadilan Nasional, were arrested under the ISA and held incommunicado at Bukit Aman police headquarters (see Section 1.d.). One of the opposition activists who was detained in April 2001 under the ISA reported that, among other things, he was knocked from a chair while handcuffed. In response to such reports, the Government continued to require police to attend community relations and ethics courses to address public concerns over police misconduct.

Local NGOs stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. In 2001 former Police Chief Rahim Noor was released early for good behavior after serving 40 days of his 2-month prison sentence for "causing hurt" to former Deputy Prime Minister Anwar Ibrahim. Rahim pleaded guilty to beating Anwar in 1998 while Anwar was handcuffed and blindfolded in police custody. Charges of attempted assault were reduced as part of a plea bargain. Rahim earlier paid a fine of \$525 (2,000 ringgit) for assaulting Anwar. Rahim also lost his government pen-

sion. No action was taken against senior police officers who failed to arrest or report Rahim after the beating.

In 2000 the case against fashion designer Mior Abdul Razak bin Yahya for fabricating evidence in former Anwar's trial was dismissed. Mior swore in an affidavit that police threatened and abused him into a false confession of having had sexual relations with the former Deputy Prime Minister after he was detained in September 1998. Two other codefendants recounted similar stories.

At year's end, there was still no government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was detained without charge under the ISA (see Section 1.d.).

Riot police several times, forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas (see Section 2.b.).

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. The new immigration law, which came into effect on August 1, also prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely include caning in sentences of those convicted of such crimes as kidnaping, rape, and robbery. Some state Islamic laws, which bind only Muslims, also prescribe caning (see Section 1.e.). The caning which is carried out with a ½-inch-thick wooden cane, commonly causes welts, and it sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in December, male children from 10 years of age and up may be given up to 10 strokes of a "light cane" (see Section 5).

Prison overcrowding was a serious problem. After visiting a number of prisons, several Suhakam Human Rights Commissioners said that in general they were satisfied that conditions in those prisons were acceptable. During the year there were credible reports by former prisoners who indicated that guards at some prisons regularly beat prisoners convicted of criminal offenses. In June the Director General of Prisons said that the country's 34 prisons, designed to hold 22,000 prisoners, actually held 29,000 inmates. In April 2000, Deputy Prime Minister Abdullah Badawi announced that the Government spent over \$250,000 (1 million ringgit) to provide every prisoner with a mattress, although this was not confirmed by independent monitors. In 2001 a moral rehabilitation center that provides job skills training and education opportunities was built, but two promised juvenile reform schools were not built. According to the Government, 5 new prisons, with the capacity to hold 7,900 prisoners, were in the process of being built at year's end.

The law provides that, unless the Court of Detention determines otherwise, young boys and girls in remand (judicially approved detention) may be placed in prison. According to the law, most children have the right to remain with their imprisoned mothers until the age of 3 years, but can stay beyond that age by special authority of the Director General. In 2000 the local press reported that children as young as 10-years-old were held in prisons for offenses such as petty theft or involvement in school fights. Although kept in a separate cellblock, they reportedly mingled with adult prisoners during communal activities. However, the Government claimed that juvenile prisoners were kept separately from adult prisoners, either in separate cell blocks or separate institutions, at all times. In 2001 the Government identified 2,061 juveniles held in 26 prisons throughout the country.

"Security" prisoners were detained in a separate detention center (see Section 1.d.).

The NGOs and former detainees made credible allegations of inadequate food, inadequate medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. In recent years, conditions were considered to have improved with increased food and water rations, and vitamin B shots for detainees suffering from beri-beri. In August a new immigration law, which provides for 6 months in prison and up to six strokes of the cane for illegal immigrants, took effect. The law was implemented after a 4-month special amnesty program for illegal immigrants ended. Subsequent to the law's implementation, hundreds of illegal immigrants were detained in camps pending deportation, and there were reports of significant overcrowding during that time. According to some reports, this overcrowding contributed to the deaths of several detainees. During the year, a number of Rohingya asylum seekers were sent to detention camps for illegal immigrants pending deportation to Burma. There were no reports of deaths or mistreatment of Burmese Rohingyas in detention camps during the year.

Immigration officials said that over 450,000 illegal immigrants were deported back to their home countries during the year. They also stated publicly that several hundred individuals convicted of violating the immigration law had been subjected to its provisions, including caning.

The Government does not have any agreement with the International Committee of the Red Cross (ICRC) that permits visits to prisoners. If the ICRC were to request such a visit, it would need to negotiate an ad-hoc agreement with the Government. However, according to one ICRC representative, prison conditions did not represent a significant problem. NGOs and the media generally were not permitted to monitor prison conditions. Access to illegal alien detention camps was restricted, although UNHCR officials were given access to several camps to identify and interview potential refugees at various times during the year (see Section 2.d). In addition, Suhakam officials visited various camps at different times during the year. The Government reportedly has welcomed a proposal for a team to undertake an objective assessment of the situation in detention camps.

d. Arbitrary Arrest, Detention, or Exile.—Police continued to use several statutes to arrest and to detain many persons without charge or trial. Suspects in some crimes (called “seizable offenses”) may be arrested without warrants; suspects in other crimes (“nonseizable offenses”) may be arrested only based on a warrant from a magistrate. Crimes characterized as bailable offenses permit suspects to present bail at the police station according to a schedule. The Courts enjoy discretion to deny bail for “nonbailable offenses”, which are typically serious in nature, and in other circumstances, for example, great risk of flight. Police may hold suspects for 24-hours without charge. Police may request a magistrate to extend the period of detention without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect, must charge him and seek an order of detention from a magistrate. In some cases, police released suspects under remand and quickly re-arrested them on new but similar charges; however, in general, police practice was in accord with legal provisions concerning detention.

Police may deny prisoners under detention access to legal counsel and routinely did so. Police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice. Defendants’ advocates claimed that the lack of access to counsel seriously weakened defendants’ legal rights.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures). The ISA which originally was enacted when there was an active communist insurgency, empowers the police to hold for up to 60 days any person who may act “in a manner prejudicial to the security of Malaysia.” The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to “imposed restricted conditions” for the remainder of their detention periods. These conditions limit their rights to freedom of speech, freedom of association, and freedom to travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. In October the Deputy Home Minister said that there were 114 persons in detention under the ISA. In July Deputy Home Minister Datuk Zainal Abidin Zin said that since its inception in 1960, 4,190 persons were arrested under the ISA.

The ISA often is used against what the Government considers nonpolitical crimes. The Government states that deviant Muslim groups pose a danger to national security because of their radical beliefs. There were no reports of the Government using the ISA against political opponents during the year. The ISA, and the threat of invoking the ISA, however, are used to intimidate and restrict political dissent. For example, in 2001 the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. Six of these individuals received a 2-year detention order and remained in detention at year’s end. Two of the detainees who were released claimed that, during their interrogations while in police custody, they were questioned only about their political beliefs and personal life but not about the alleged offenses for which they initially were detained. In April the six detainees began a hunger strike to protest their detention under the ISA, calling on the Government to release them or to try them in open court. They ceased their hunger strike when Suhakam publicly stated its intention to conduct an inquiry into all aspects of ISA detentions. A small group of sympathizers conducted a parallel hunger strike in front of the Islamic party, Parti Islam Se-Malaysia (PAS) headquarters on the outskirts of Kuala Lumpur.

In June Suhakam conducted the first part of an inquiry into the conditions of the ISA detainees in Kamunting prison camp. According to an observer, 3 Suhakam Commissioners publicly interviewed 17 ISA detainees. The six supporters of imprisoned former Deputy Prime Minister Anwar Ibrahim detained under the ISA boycotted the proceedings and criticized the inquiry for its narrow scope. One attendee said that during the proceedings the detainees were free to speak about almost anything including political issues.

In December, 10 individuals were detained under the ISA for rumor mongering but were released on police bail. The 10 had allegedly forwarded e-mails claiming that a terrorist group was planning to launch a series of attacks at popular locations in Kuala Lumpur.

There were 43 suspected terrorists detained under the ISA during the year. One individual was released conditionally, another was released unconditionally, and the rest remained in detention at year's end. In 2001 two university students were detained under the ISA for participating in opposition political activities, including protesting against the ISA itself. Both were released within 60 days. In November one of these detainees was released after a High Court judge ruled his detention invalid but was then immediately rearrested under the same section of the ISA. In 2001 the Government also detained a number of suspected terrorists. Among those detained reportedly were members of PAS. One, Nik Adli, is the son of the PAS leader and Chief Minister of Kelantan, Nik Aziz. Most of these individuals remained in detention at year's end.

Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees refused to participate in the review process under these circumstances.

Amendments to the ISA in 1988 circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts did not concur with this interpretation, and they reviewed ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always were detained again immediately. However, in May 2001 Shah Alam High Court Judge Hishamuddin Mohd Yunus ordered the release of two opposition leaders who were detained that April under the ISA, calling their detentions unlawful. In his ruling, the judge said that the police could not simply cite the ISA's function to "preserve national security" as justification for its use. Additionally, the judge included a special provision in his ruling that forbade the police from rearresting the two individuals in the first 24 hours after their release. By the end of the year, neither one had been rearrested.

In August the Federal Court ruled that the detention of the six opposition activists detained under the ISA in April 2001 were unlawful. However, as the Court's ruling focused on the police's initial 60-day detention order and not on the Home Affairs Ministry's subsequent determination to detain the activists for an additional 2 years, the detained activists remained in detention at year's end. In December the ISA advisory board reviewed the case, noted the Federal Court decision, and recommended that the detainees be released. Anti-ISA activists criticized the Government's legal reasoning and its refusal to follow the court's ruling to release the detainees.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. For example, in 2001 a group of 71 NGOs and opposition parties joined together to form the Abolish the ISA Movement (AIM). The group organized conferences, hosted a web site, and staged other events to broadcast its opposition to the ISA. In 2001 it submitted a proposal to Parliament to repeal the ISA. However, during the year, a number of ruling coalition politicians and government officials continued to state that the ISA remained necessary and would not be repealed. Government Ministers publicly stated that the move by foreign governments to implement preventive detention measures to combat terrorism, underscored the country's continued need for the ISA. Representatives of human rights organizations stated that the international campaign against terrorism dampened support for the anti-ISA movement. Following several successful legal challenges to ISA detentions on procedural grounds, the Government reportedly was reviewing the law to further restrict the scope of judicial review.

Under the Emergency Ordinance, the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence."

In practice the Government used the Emergency Ordinance for other reasons. According to the human rights NGO, Suaram, as of July, 309 persons had been detained under the Emergency Ordinance.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial. Such suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges—often as they left the courtroom. During the year, the Government detained over 1,821 persons under this law.

Immigration laws are used to detain possible illegal immigrants without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention centers that were separate from prisons (*see* Section 1.c.).

Crowded and understaffed courts often result in lengthy pretrial detention, sometimes lasting several years.

Law enforcement authorities also used the Restricted Residence Act to restrict movements of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists questioned the need for this law, which was passed more than 60 years ago (during British sovereignty), and they have called for its repeal. The Government continued to justify the act as a necessary tool to remove suspects out of the area where undesirable activities are being conducted. The Government did not disclose how many persons were subject to the Restricted Residence Act and no accurate estimate was available. In 2000 there were 93 persons held in prison waiting to be placed under restricted residence, and 17 of these persons were released from prison into restricted residence.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to abscond.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation restricting judicial review, and other factors eroded judicial independence and strengthened executive influence over the judiciary. In recent years, a number of high-profile cases cast doubts on judicial impartiality and independence, and raised questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGOs, and other observers continued to express serious concern about these problems.

Many observers believe judicial independence improved since Tan Sri Mohamed Dzaiddin Abdullah was appointed Chief Justice in December 2000. Immediately following his appointment, Chief Justice Dzaiddin spoke publicly about the importance of restoring public trust in the judiciary and instituted a rotational case-assignment system intended to ensure impartiality of judges in the assignment of hearing any given case. Dzaiddin also repeatedly stressed that a judge's loyalty must be to the law rather than to outside factors such as politics. Since Dzaiddin's appointment, a number of high-profile cases were decided according to the legal merits of the case. However, some observers, including prominent members of the bar, expressed concern that judicial independence continued to be compromised. Citing, for example, the Federal Court's denial in July of former Deputy Prime Minister Anwar Ibrahim's final appeal on corruption charges, these observers commented that the executive's influence on the judiciary remained a significant problem.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Juvenile courts try offenders under 18 years of age. The Special Court tries cases against the King and the Sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court deci-

sions. The Federal Court, the country's highest court, hears appeals of Court of Appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind Muslims, the majority of whom are ethnic Malays. According to the Government, the Conference of Rulers, which consists of nine Sultans and the heads of the other four states, has agreed on the harmonization of Islamic laws. During the year, a committee was established under the Department of Shari'a to recommend ways to carry out this harmonization. However, Islamic law is under the purview of the states, and it is up to the individual states to adopt the recommended laws.

Indigenous peoples in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these rarely are used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. While the defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial, according to the Government, defendants may make statements for the record to an investigative agency. In general limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

A 1997 amendment to the Criminal Procedure Code that may erode defendants' presumption of innocence continued to concern lawyers. Before this amendment, the prosecution was required to prove its case beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present a defense. Since the amendment, the prosecution only needs to prove a legally sufficient case, and the defendant must be given the opportunity to present a defense. The Courts of Judicature Act limits the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the upper courts. The president of the Bar Association said that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations. These regulations governing trial procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. The Essential Regulations were invoked in 2000 at the beginning of the trial of 29 members of the Al-Ma'unah sect accused of carrying out arms thefts at two army posts. Defense lawyers argued that the use of the Essential Regulations was unconstitutional, since no certificate of emergency declaring a national emergency had been issued. The judge ruled that the Attorney General has the discretion to opt to use the Essential Regulations, if he saw fit to do so (*see* Section 1.d.).

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, during a trial police may call and interrogate witnesses who gave testimony not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants. Prosecution based on political rather than legal considerations (selective prosecution), is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. Some NGOs made credible accusations of political interference in the judicial process. However, the Chief Justice made clear his opposition to the practices of the past and his intention to make the law, rather than political considerations, hold sway over the legal process, including decisions on whether or not to prosecute. Government officials, including the Minister in the Prime Minister's office responsible for legal affairs, denied that the Attorney General practices selective prosecution.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves. However, the use of contempt of court charges against defendants and their attorneys appeared to be decreasing. For example, in 1998 the

High Court convicted Attorney Zainur Zakaria for contempt of court after he refused to apologize for filing a brief on behalf of his client, former Deputy Prime Minister Anwar Ibrahim. In 1999 the Appeals Court upheld his conviction. However, in 2001 the Federal Court overturned the conviction, and stated that the High Court Judge, in his initial handling of the case, appeared to be acting as an agent for the prosecution.

Following a number of high-profile corruption cases, the Government amended the Anti-Corruption Act in 1997. The law gives the Attorney General powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their monetary and other assets legally.

Islamic courts do not give equal weight to the testimony of women. Many NGOs have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, and against Irene Fernandez, raised serious questions about judicial independence and impartiality (*see* Section 2.a.). According to many legal experts, both domestic and international, former Deputy Prime Minister Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. In September 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later that same month, after a large and mostly peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. Many observers believe the Government manufactured these charges and used them to remove Anwar, who appeared to be gaining popular support after he was fired from the political scene. While in detention, Anwar was beaten by the former Inspector General of Police Rahim Noor (*see* Section 1.c.). For several days, Anwar was denied medical treatment for the injuries he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, but according to the Government, to prevent social unrest from boiling over, police changed Anwar's status to "detention without charge" under the ISA. Anwar's status subsequently was changed again to criminal detention.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial, the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under the law but in this case was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges and then expunged the record of all evidence of sexual misconduct. Following his arrest, Anwar was denied bail on questionable legal grounds.

At the beginning of the sodomy trial, prosecutors changed the dates of the alleged acts of sodomy, supposedly because the defense discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police coerced a confession from an alleged homosexual partner, in 1999 the judge ruled that the prosecution proved beyond a reasonable doubt that this confession was voluntary. A few days later, another witness admitted that police coached part of his testimony. In August 1999, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day, the judge ruled that the policeman had not lied. In April 2000, the judge ruled that the Prime Minister, who was called by the defense in an attempt to prove a political conspiracy against Anwar, would not be required to testify. Defense attorneys maintained that they were not permitted by the judge to call a number of witnesses. The defense claimed that the judge exerted pressure to bring the trial to an early conclusion. In his written ruling, which was released in June 2001, the judge said that the testimony of the chief prosecution witness—widely viewed as deeply flawed and lacking credibility—was as solid as the "Rock of Gibraltar."

In 1999 Anwar was convicted on four counts of corruption and sentenced to 6 years in prison. In April 2000, Anwar's appeal of the conviction and sentence was denied by the Court of Appeals. In July of this year, the Federal Court rejected Anwar's final appeal on these charges.

In August 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the 6-year sentence for corruption. Anwar's lawyers requested that this conviction be reviewed by the Ap-

peals Court. At year's end, the date for this appeal had not been set. On May 12, the High Court acquitted Anwar of the four remaining charges of sodomy and one charge of corruption that were pending against him after the prosecution withdrew the charges. Most observers believed this was because the charges were without basis and would have resulted in further government embarrassment should they have been aired in open court. According to the Constitution, Anwar will be disqualified from holding any public office for 5 years once he completes his 15-year sentence.

Anwar's conviction and sentence were criticized strongly by opposition parties, human rights groups, and a number of foreign governments and international human rights organizations. For example, the Bar Council criticized the trial, citing irregularities in the evidence, and characterized the sentence as "manifestly excessive and harsh." After spending nearly 6 months in a hospital receiving treatment for a slipped disk in his back, Anwar was sent back to prison in May 2001. In a May 2001 public statement, Suhakam stated that there were no laws prohibiting Anwar from being sent abroad for medical treatment. The Government denied Anwar's request for medical treatment abroad, claiming that adequate medical treatment for his condition exists in the country. Anwar remained in prison at year's end. He was permitted to receive visits from only his family and lawyers. According to the law, Anwar is a "common criminal" rather than a political prisoner, and therefore does not have the right to receive visits from international human rights organizations.

Anwar Ibrahim is a political prisoner. In addition, the six individuals associated with the Anwar-based National Justice Party who were arrested in 2001 and who remained in detention under the ISA are political detainees. One of the six, Ezam Noor, formally is being detained under the Official Secrets Act (OSA) which restricts freedom of expression, but his detention under the ISA reportedly has not been waived (*see* Section 2.a.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law protects against such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (*see* Section 1.d.). Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

A clause in the Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (*see* Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (*see* Section 2.b.).

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (*see* Section 2.c.).

Muslim couples must take premarital courses (*see* Section 5).

Two state governments sought to restrict Muslim women's dress (*see* Section 5). In Kelantan the state government decreed that female performers may only appear before female audiences.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice the Government restricted freedom of expression and intimidated most of the print and electronic media into practicing self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, OSA, criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. During the year, according to government officials, 1,385 permit applications to hold public talks were approved and 33 were rejected due to either security reasons, late applications, inappropriate venues, or because there was a potential for causing traffic problems.

Throughout the year, government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. However, government and ruling party officials sometimes made statements on sensitive racial and religious issues with no repercussions. In June the opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized the Prime Minister's declaration that the country was an Islamic state. In August the High Court acquitted the Youth Chief of the National Justice Party, Ezam Noor, of sedition charges for his alleged call for street demonstrations in March 2001 to topple the Government (*see* Section 1.e.).

In March opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined \$1,300 (5,000 ringgit). In January the sedition charges against opposition leader and prominent attorney Karpal Singh were dropped. Karpal was charged for statements that he made in court during his defense of Anwar Ibrahim that the Government considered seditious.

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. Opposition leaders historically accused the Government of using the OSA to cover up corruption. In January 2000, Ezam Noor, also a former Anwar aide, was charged under the OSA with disclosing to reporters secret Anti-Corruption Agency (ACA) reports. Ezam said publicly in August 1999 that Anwar stored documents abroad that corroborated charges of corruption against senior government leaders. Ezam claimed that the reports showed that the ACA was not pursuing corruption cases against senior government officials. In August Ezam was convicted of revealing secret ACA reports to reporters and was sentenced to 2 years in prison. In March 2000, a government official said in Parliament that only six persons had been arrested under the OSA since its inception in 1972, and he claimed that this statistic proved that the Government did not use the OSA to silence critics.

In January 2000, the editor and printer of Harakah, PAS' newspaper, were charged with sedition in connection with a 1999 Harakah article that quoted an opposition politician's comments on the confession of Sukma Darawaman, Anwar Ibrahim's codefendant. In May 2001, the printer pled guilty and was fined slightly over \$1,000 (4,000 ringgit). The editor's case still was pending at year's end.

In March 2000, the Melaka state government announced that it terminated the contracts of an undetermined number of panel doctors, architects, lawyers, and blacklisted contractors who allegedly were aligned with opposition parties. The state government also closed government accounts in banks where the staff was accused of criticizing the Government. According to opposition representatives, these practices continued during the year. In July 2000, the Penang state government also blacklisted contractors for their alleged involvement in antigovernment activities, such as supporting or funding opposition parties. Opposition parties and NGOs criticized these actions as discriminatory, claiming that such steps were inconsistent with the demands of a democratic society.

During 2000 many government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In July 2000, the Federal Court upheld a judgment of over \$250,000 (1 million ringgit) against a freelance journalist who was sued for libel by a wealthy businessman in 1994. In 2001 in an unprecedented move, the Federal Court agreed to review this decision. The date of this review was not set by year's end. In September 2000, the Minister in the Prime Minister's department responsible for legal affairs told reporters that the Government would review the defamation law in response to public concern over libel awards which, he noted, frequently exceeded damages handed down in personal injury cases. At year's end, the Government continued to review the issue; however, no results were reported. During the past 2 years there was a noticeable decrease in the number of defamation suits.

The English and Malay mainstream press provided generally laudatory, uncritical coverage of government officials and policies, and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. Chinese-language newspapers generally were freer in reporting and commenting on sensitive political and social issues, but they were not immune to government pressure. There was widespread concern that the purchase in May 2001 of two major Chinese-language dailies by the investment arm of the ruling coalition's most influential Chinese party would restrict this freedom and transform the newspapers into progovernment organs. These concerns were magnified when the top management of one of the dailies was removed immediately following the takeover. Most analysts believed that the editorial content of the two newspapers subsequently became less independent. During the year, several newspaper vendors were

the target of official raids for selling opposition party newspapers. However, self-censorship and biased reporting in the print media was not uniform and the English-language, Malay-language, and Chinese-language press all, at times, provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. According to the Government, this amendment was made to ensure that "distorted news" was not disseminated to the public. Government power over license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In October Deputy Home Affairs Minister Chor Chee Heung told Parliament that from the beginning of 2001 until October, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the act. During the same period, the Home Affairs Ministry brought 199 cases to court for selling and distributing publications without a permit. Government officials continued to argue that the act helped to preserve harmony and to promote peaceful coexistence in a multiracial country.

In October the Deputy Home Affairs Minister said that there were 63 newspapers in the country, including those which were imported. In August 2001, the Deputy Home Minister said that his Ministry approved 2,141 publishing permits and 1,194 printing press licenses during the year and that this showed that the Government had a liberal approach to such permits. In August 2000, the Minister in the Prime Minister's department responsible for legal affairs said that the act would not be repealed, even if a national press council were established to regulate the media.

The Government often conveyed its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition, leading political figures in the ruling coalition, or companies controlled by them, owned most major newspapers, thus limiting the range of views. At times the susceptibility of the press to government pressure had a direct and public impact on operations. For example, in January 2000 the group editor in chief of a local press conglomerate was removed after its flagship newspaper, the *New Straits Times*, carried several articles that reportedly angered the United Malay National Organization (UMNO), the most powerful party in the ruling Barisan Nasional (BN) coalition. However, this individual subsequently was appointed for a 1-year term in September 2001 as chairman of *Bernama*, the national news agency.

In September the permit of the Chinese newspaper *Oriental Daily Express* was suspended on the day of the paper's first issue. The Home Affairs Ministry gave no reason for the suspension. However, in December, the Home Affairs Ministry allowed the paper to be published again.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accused the Government of purposely prolonging the trial, the longest in the country's history. At year's end, the trial continued (*see* Section 1.e.).

The Government also sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to the relevant organization members. *Harakah* was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay and English language media forum for opposition views, and its circulation used to rival that of mainstream newspapers. In March 2000, the Government stipulated that *Harakah* publish only twice a month instead of twice a week. Several other opposition newsletters were allowed to publish and be distributed without government permission.

Most major newspapers have an online edition, and during the year, there were two exclusively on-line newspapers. Exclusively online newspapers did not require publication permits. In 2001 the Government engaged in a sometimes intimidating campaign to discredit the independent Internet daily, *Malaysiakini.com*, winner of an International Press Institute 2001 Press Freedom Award. This campaign did not continue during the year, and *Malaysiakini* was able to establish itself as a core

media outlet in the country. While the Government continued to deny them formal press accreditation, Malaysiakini reporters were allowed to cover government functions and ministers' press conferences. Administrators of the on-line newspaper said its principal challenge was economic rather than political, even though the organization's relationship with the Government remained contentious.

Printers who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

Both legal magazines (those with publishing permits) and illegal publications (those lacking publishing permits) frequently printed criticism of the Government. In November 2001, police raided a printing company and seized several thousand pamphlets that accused the Selangor state Chief Minister of being involved in corrupt practices.

During the year, the Government interfered with the release and distribution of several foreign magazines, including the Far Eastern Economic Review and Newsweek. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news.

The electronic media was restricted more tightly than the print media. Radio and television almost uniformly were supportive of the Government. News of the opposition was restricted tightly and reported in a biased fashion. Opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. In the run-up to the February Indira Kayangan by-election, the Government-owned television networks ran a recurring prime-time news clip that portrayed the PAS as a domestic Taliban group. The two broadcast private television stations have close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. It was unlikely that the Government would grant the opposition a broadcasting license. The Government did not approve a longstanding license application for a state radio station in the opposition-controlled Kelantan State.

In June the Deputy Home Affairs Minister reportedly directed the Government-owned television networks to refrain from broadcasting a program on the Malaysian Chinese Association's controversial acquisition of several Chinese newspapers in 2001.

Internet television faced no such restrictions. In 2001 the opposition Islamic party launched its own Internet television studio, which broadcasted programs daily.

A government censorship board censored films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. The Government banned certain books for political and religious reasons or because of sexual or profane content. Some foreign newspapers and magazines were banned and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet undermined such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. In 2001 the Government announced that it would increase efforts to block the production, distribution, and sales of video compact discs (VCDs), especially those with pornographic or political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In December 2000, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA, which, while prohibiting censorship, provides for "legal action" against those who post defamatory and false information on the Internet. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

In past years, government officials made contradictory comments about the desirability of censoring the Internet, but the Government took no action to restrict the Internet during the year. According to news reports, in March a high-level government official said that the Government abandoned plans to regulate the Internet because the task was impossible.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at government-affiliated mosques. Some state governments banned certain Muslim clergymen from delivering sermons, and more recently, active monitoring of sermons began in certain states (*see* Section 2.c.). The Religious Affairs Department continued to conduct background checks on all clergymen. Throughout the year, government officials and ruling coalition politicians complained that opposition Islamic

party members gave political sermons in mosques around the country. In May 2000, members of the opposition Islamic party were banned by the Selangor state government from giving speeches in all mosques, government buildings, and prayer places in the state.

In July 2001, the Government ceased to issue permits for political gatherings and continued to apply the ban during the year (*see* Section 2.b.). This significantly limited the ability of opposition parties, particularly the Islamic party, to communicate with their supporters and to raise funds for their activities. For example, meetings that were scheduled to take place indoors were restricted. On October 1, police blocked a meeting organized by civil society activists to protest the Government's refusal to release the six opposition figures detained under the ISA following the Federal Court's ruling that their initial detentions were unlawful. The meeting was scheduled to take place inside the Selangor Chinese Assembly Hall in Kuala Lumpur. Nonetheless, some opposition rallies continued to be held. Also, in July 2001, the Government began to crack down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly regarding the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In March the Government began to require that all civil servants sign a pledge of loyalty to the Government, and in May it required that university faculty and students sign the same pledge. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Academics sometimes were publicly critical of the Government. However, there was self-censorship among public university academics whose career advancement and funding depended on the Government. In August 2001, a secondary school teacher in the State of Terengganu was charged with sedition for asking his students to answer a test question regarding the erosion of judicial independence in the country.

In 2001 senior government officials said that teachers who opposed the Government and students who took part in antigovernment activities would face disciplinary actions, including dismissal and expulsion. In October 2001, the Education Minister announced that 61 university lecturers were dismissed, transferred, or issued warnings for alleged "antigovernment" activities. In 2001 several university students were expelled or suspended for engaging in activities associated with the political opposition.

Private institution academics practiced self-censorship as well, due to fear that the Government might revoke licenses for their institutions. The law also imposes limitations on student associations and student and faculty political activity (*see* Section 2.b.).

In July 2001, the Government detained two students at the University of Malaya and the Mara Technical Institute under the ISA for engaging in opposition political activities, including demonstrating against the ISA. The two were released before the initial 60-day period elapsed. The Government claimed that student participation in opposition politics threatened national security, and argued that individuals fortunate enough to be enrolled in the university should focus exclusively on their studies. Opposition leaders said that restrictions of political expression on campus would stifle students' intellectual development.

The Government long stated that students should be apolitical and used that assertion as a basis for denying opposition parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The Government enforced this policy selectively; however, it did not refrain from spreading government views on political issues among students and teachers.

In February 1999, the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform, charged that the University fired him for political reasons and filed suit. The university stated that it declined to renew Chandra's contract for economic and personnel reasons. In March the High Court ruled in Chandra's favor and awarded him \$30,000 (115,000 ringgit).

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly; however, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits routinely to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police did grant permits for many opposition

meetings. In July 2001, the Government ceased issuing permits for all political meetings (ceramah) throughout the country. This was perceived widely as an effort to target the activities of the political opposition, although some opposition rallies continued to be held. In April the Islamic opposition party filed a suit against the Government protesting the ban.

Even before the 2001 ban on political meetings, opposition leaders maintained that police issued permits for public assemblies in a manner that discriminated against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits were granted; however, in certain sensitive cases political considerations led to the denial of permits. Police reaction to opposition rallies that ignored the requirement for a permit or were held after the Government denied a permit varied. In some instances, persons were told to disband immediately or face police action. In other instances, persons were given time to conduct their activities and were not threatened with police action. Opposition politicians noted that ruling coalition parties frequently assembled without the requisite permits.

A university vice chancellor must approve campus demonstrations. Restrictions were not enforced as vigorously on students who participated in political activities in support of the ruling coalition.

In April police broke up an opposition event in the State of Kedah with water cannons that used chemically laced water. In August police broke up a gathering of supporters of former Deputy Prime Minister Anwar Ibrahim who were celebrating Anwar's birthday outside of Sungai Buloh prison. In April 2001, the police mounted an operation to prevent citizens from participating in a Kuala Lumpur demonstration called by the opposition to commemorate the 2-year anniversary of Anwar Ibrahim's 1999 conviction on corruption charges. In the days prior to the event, police detained seven opposition activists under the ISA and claimed they were planning a massive, violent demonstration to overthrow the Government. Three others were detained in the days after the demonstration. Of these 10 individuals, 6 remained under ISA detention at year's end.

In June Suhakam released its second annual report, which reiterated the Commission's earlier criticism of government-imposed restrictions on freedom of assembly. The 2001 report recommended relaxing restrictions on freedom of assembly and noted the need to approve applications for peaceful assemblies as a general rule. In August 2001, the Suhakam also released a report specifically addressing freedom of assembly. Highlighting the fact that the right of assembly is provided for in the Constitution, the report recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. The Government responded by calling the report "biased and idealistic" and influenced by "western liberal thinking."

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limited this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refuses to register organizations or may impose conditions when allowing a society to register.

To avoid the burdensome requirements of the Societies Act, many NGOs register under the Companies Act or under the Registration of Businesses Act (*see* Section 4). The Government prohibits the Communist Party and affiliated organizations (*see* Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it has enforced selectively against political opposition groups. In July 2001, government officials said that the Government would prosecute or deregister societies that did not accurately declare whether they received foreign funds. In the same month, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or for purposes that were incompatible with national security. Some human rights activists claimed that this could be used to restrict NGOs that were critical of the Government. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also may cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists claimed that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target.

In August 2000, the High Court heard an appeal from the Socialist Party of Malaysia, whose application to form a new political party was rejected in February 1999 by the Registrar of Societies. The Registrar stated that information on the ap-

plication form was incomplete. Supporters of the Socialist Party claimed that the denial was motivated politically and filed an appeal. The case still was pending at year's end.

The Universities and the University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated that the act still was necessary.

c. Freedom of Religion.—The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam was restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worshipped freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to “infuse Islamic values” into the administration of the country. The Government imposes Islamic religious law (Shari’a) on Muslims only in some matters and it does not impose Shari’a beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. In May 2001, the Government decided not to approve the Falun Gong Preparatory Committee’s application to register as a legal organization, but this did not effect the Falun Gong’s ability to carry out activities in public.

Under the law and in practice, it is very difficult for Muslims to change religions. In April 2001, a High Court judge rejected the application of a Malay woman who argued that she converted to Christianity, and requested that the term “Islam” be removed from her identity card. The judge ruled that an ethnic Malay is defined by the Federal Constitution as a “person who professes the religion of Islam.” The judge also reaffirmed the March 1999 High Court ruling and stated that only an Islamic court has jurisdiction to rule on the woman’s supposed renunciation of Islam and conversion to Christianity. The ruling makes conversion of Muslims nearly impossible in practice.

In 2000 the State of Perlis enacted a law that stipulated Muslims found guilty of apostasy by a Shari’a court are to be sent to “faith rehabilitation centers.” Since its enactment, there have been no convictions under this law. Such a bill also was proposed at the highest level of the Government. Leaders of PAS said that the penalty for apostasy should be death.

The Government generally respected non-Muslims’ right of worship; however, state governments carefully controlled the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes were granted very slowly. In 1999 the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. In August 2000, these minimum guidelines were relaxed somewhat. The group also argued that, under the guidelines, the Islamic Council of the state in question must approve the establishment of all non-Muslim places of worship. In addition, after years of complaints by non-Islamic religious organizations about the need for Islamic authorities in each state to approve construction of non-Islamic religious institutions, the Minister of Housing and Local government announced that such approval no longer would be required. However, it was unclear whether this change generally would be reflected in state policies and local decisions. For example, in Shah Alam, the Selangor state authorities continued to block construction of a Catholic church.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national “inter-religious” council, although no such council was created. During the year, Suhakam initiated an inter-religious dialog to improve understanding among different religious groups. Leaders of a number of different faiths, including Islam, Christianity, and Buddhism participated.

The proselytizing of Muslims by members of other religions is prohibited strictly; persons proselytizing non-Muslims face no obstacles. The Government discouraged, and in practical terms forbade, the circulation in the peninsular region of the country Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities did not always enforce them actively. The distribution of Malay-language Christian materials faced few restrictions in the eastern part of the country. Most visas for foreign Christian clergy were approved. Beginning in March 2000, non-Muslim representatives sat on the immigration committee that approves such visa requests.

The Government opposes what it considers to be deviant interpretations of Islam, maintaining that the “deviant” groups’ extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi’a. The Government continues to monitor the activities of the Shi’a minority, including those of 55 religious groups believed to be involved in deviant Islamic teachings. In November 2000, the Shari’a high court in the State of Kelantan sentenced four persons to 3 years in jail for disregarding a lower court order to “recant” their allegedly heretical Islamic beliefs and to “return to the true teachings of Islam.” The High Court rejected their argument that Shari’a law had no jurisdiction over them because they had ceased to be Muslims. In August the Court of Appeals reaffirmed the High Court ruling. The four individuals subsequently have filed an appeal with the Federal Court.

The Government periodically detains members of what it considers Islamic deviant sects without trial or charge under the ISA. After release such detainees are subject to restrictions on their movement and residence. For example, in July 2000, the Government used the ISA to detain at least 33 members of the Al-Ma’unah sect, who reportedly were not suspected of involvement in an early July arms theft incident. Fifteen members remained under ISA detention at year’s end.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. The Government periodically warned against those who delivered sermons in mosques for “political ends” and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques (*see* Section 2.a.). In November Kedah Chief Minister Syed Razak Zain announced that the Government planned to install voice recording equipment in all mosques in the northern State of Kedah in order to monitor imams who were suspected of straying from their religious texts and criticizing the Government. In October 2000, the Chief Minister of Kelantan, who is also the spiritual adviser for the opposition Islamic party PAS, was banned from speaking at a mosque in Selangor. The Chief Minister spoke despite the ban and vowed that he would continue to speak wherever he was invited. He was warned of prosecution if he defied the ban again. The mosque officers who allegedly allowed him to speak were not prosecuted, but they were required to attend a counseling session.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction.

In 2000 the Government announced that all Muslim civil servants must attend religious classes, but only classes in Islam would be held. In addition, only teachers approved by the Government would be employed to conduct these classes. During the year, the Government implemented this rule for civil servants.

In family and religious matters, all Muslims are subject to Shari’a law. In 2001 the PAS-led government of Terengganu State passed the Shari’a Criminal Offence Bill (*see* Section 5). The bill sought to impose Islamic law against theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam. However, a suit arguing that state governments have no authority to make criminal law was filed in the Federal Court to block the implementation of a similar law in the neighboring State of Kelantan. Both cases were pending at year’s end. According to some women’s rights activists, women were subject to discriminatory interpretations of Shari’a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as “bumiputras,” most of whom are Muslim (*see* Section 5).

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The

eastern states of Sabah and Sarawak have the right to control immigration and to require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still were bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of an attorney from peninsular Malaysia who was involved in several lawsuits against the state government. In May the Federal Court overturned the Appeals Court decision and ruled that Sabah's exclusive control on immigration was provided for in the Constitution and could not be challenged. In June the Sabah State Immigration Department gave the attorney a work permit enabling him to stay and work in Sabah. In 2001 the Government reportedly prohibited 78 citizens from traveling abroad claiming that they had "tarnished the country's image while abroad." Deputy Home Minister Datuk Zainal Abidin Zin told Parliament that the individuals in question were "blacklisted" and would not be issued passports. Also in 2001, the Sarawak state authorities deported a well-known ethnic Chinese education activist and prohibited his return. The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (*see* Section 1.d.).

Citizens must apply for the Government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government does not always abide by customary international law in this area. The Government does not recognize the principle of first asylum; however, it sometimes granted temporary refuge to asylum seekers. In 2001 Foreign Minister Datuk Seri Syed Hamid Albar said that Indonesian refugees fleeing violence in Kalimantan would be prevented from entering the country, and the Government continued to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, had a claim to refugee status. However, the Government enjoyed a mostly cooperative relationship with the UNHCR and generally did not obstruct the UNHCR's efforts to process refugees, including Acehnese, for third-country resettlement.

Beginning on August 1, when the new immigration law went into effect, the Government temporarily restricted access for asylum seekers and refugees to the UNHCR field office in Kuala Lumpur. (The new immigration law provides for 6 months in prison and up to six strokes of the cane for violators. Prior to the implementation of the law, a 4-month grace period was given for all illegal immigrants to depart the country.) During the approximately 1 week that access to UNHCR was restricted, police arrested over 100 individuals in front of the UNHCR offices. Some individuals may have been refugees and others reportedly were asylum seekers who had scheduled interviews with the refugee agency. However, the Government subsequently granted UNHCR officials access to detention camps to identify and to interview potential refugees who might have been caught in the dragnet for illegal immigrants. The Government reportedly assured UNHCR that no action against possible refugees and asylum seekers would be taken until the refugee agency had identified the ones that merited asylum interviews (*see* Section 1.c.).

According to news reports, three Filipino children died during deportation from Sabah. In September there were allegations that police raped a 13-year-old Filipino girl in an immigrant detention camp in Sabah. Following widespread media coverage and pressure from the Government of the Philippines, Prime Minister Mahathir publicly pledged to have the allegations investigated. Further investigation after the girl was deported to the Philippines revealed that she was a Malaysian citizen, and she subsequently returned to Sabah. No additional information was available at year's end.

In June police arrested 18 Muslim Rohingya asylum seekers whose encampment in the UNHCR compound prevented other asylum seekers from approaching the agency. Newspapers reported they were sent to Semenyih illegal immigrants' detention camp in Selangor for deportation to Burma after their requests for refugee status were denied by the UNHCR (*see* Section 1.d.).

There were some forced expulsions of asylum seekers and refugees during the year.

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

By law citizens have the right to change their government through periodic elections; however, while votes generally were recorded accurately, there were some irregularities that affected the fairness of elections, and in practice opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on

campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. For example, a number of opposition parties contested in the state election in Sarawak in 2001 and in five by-elections that were held during the year. In July the opposition retained a seat in the Kedah state assembly but lost a Parliamentary seat in a tightly contested election. In the November 1999 elections, the opposition more than doubled the number of its seats in the national parliament from 20 to 45, out of a total of 193.

The country has a parliamentary system of government. National elections are required at least every 5 years and have been held regularly since independence in 1957. The Malay-based UMNO party dominates the ruling National Front coalition, which has ruled the country continuously since independence. Since 1969 the National Front coalition always has maintained at least a two-thirds majority in Parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch and in the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (*see* Section 2.a.). Government officials frankly said that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders credibly claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but is perceived to be under the control of the Government. In June 1999, Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said that there was no need to consult the opposition on the appointment of a new Election Commission chairman. The Election Commission stated that the NGOs were permitted to form an independent election watch organization, but the organization was accorded no special privileges. The Government continued to publicly reject the idea of foreign observers.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated during the year, and according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that in the past local government officials who served as election officers were not always neutral. The Election Commission later announced that it completed its investigation into these complaints, but it did not reveal its findings. In the most recent elections, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties and some NGOs alleged that defective voting rolls led to some fraudulent votes. In Sabah state elections in 1999, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). In June 2001, a High Court judge in Sabah ruled that the 1999 election of a ruling coalition candidate, Yong Teck Lee, to the state assembly seat in Likas was null and void due to the presence of phantom voters on the electoral rolls. However, in the by-election that followed, Yong won by a margin wider than that in his 1999 victory. Opposition representatives charged that the Government did nothing to clean the electoral rolls of phantom voters following the judge's ruling and before the by-election was held. In September Yong lost his appeal to the Federal Court on this case, and once again was forced to relinquish his seat. Analysis by NGOs of the voting rolls used in the national elections also revealed irregularities, such as deceased persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies; however, according to most observers, there was no evidence that these irregularities significantly affected the results in more than a handful of races. According to news reports, the Election Commission is in the process of cleaning up the voter rolls and eliminating the names of unauthorized persons from the lists.

Postal votes (absentee ballots) by police and military personnel and their spouses also were a concern. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes placed on military and police installations. Opposition parties questioned the rationale for such security restrictions. Opposition parties and NGOs raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers. For the November 1999

elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continued to call for monitoring absentee votes by party agents.

The anonymity of balloting also was a potential concern. Ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so had a chilling effect on some voters, particularly civil servants.

Gerrymandering diluted the votes of some citizens. The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often were ignored. For example, in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide, the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. The single member, winner-take-all system also diminishes the political power of the minority groups. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed no longer to be as great an advantage to the ruling coalition. The Government conducted a nationwide electoral redistricting exercise during the year. While the results were not final, preliminary reports suggested that states in which the ruling coalition is strong will gain the majority of the new districts (and parliamentary and state assembly seats) created.

Other government measures hampered the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers not to support the opposition (*see* Section 2.a.). Students faced certain restrictions on political activity (*see* Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition Members of Parliament received a government allocation totaling in aggregate approximately \$25 million (95 million ringgit). Opposition Members of Parliament received no such funds.

In the past, the opposition complained about restrictions on public assemblies during the campaign period (*see* Section 2.b.). However, in the period prior to the November 1999 elections, police did not implement restrictions vigorously, and the opposition held many large rallies. The opposition also stated that the short official campaign period gave an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the elections, and there was little evidence that the short official campaign period had much practical effect. In defending its ban on all political meetings, the Government noted that there was no need for the opposition to continue campaigning in a nonelection year.

In September Parliament passed an amendment to the Election Offenses Act that stated that anyone raising "sensitive issues" such as religion or race before, during, or after an election would be removed from the electoral roles or banned from voting or standing in an election for 5 years. It also prescribed a prison sentence of up to 5 years and a \$13,000 (50,000 ringgit) fine for violators of the law.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. According to the Elections Commission, all petitions were either withdrawn by the petitioners or were dismissed due to lack of evidence. In March 2000, the High Court ruled that the Election Commission and returning officers may not be named as "necessary parties" in petitions filed with election courts by unsuccessful candidates. In July Parliament passed an amendment to the electoral law that forbids judicial scrutiny of voter rolls after the Election Commission certified them.

In the past, within the ruling UMNO party, there was active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited, but did not eliminate, UMNO's role as a vehicle for public debate. However, after the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased, and a 1998 extraordinary UMNO Assembly approved a series of measures designed to limit independent grassroots initiatives. There were no contests for the top two leadership positions in UMNO in 2000 and no party Supreme Council elections during the year. At the UMNO General Assembly in May 2000, 3 vice president slots and 25 elected seats on the Supreme Council were contested vigorously, with a number of candidates known not to be favored by party leaders; however, it was announced before the General Assembly that there would

be no contest for the Party President and Deputy President, positions held respectively by Prime Minister Mahathir and Deputy Prime Minister Abdullah.

Elections for key leadership positions in the MCA, originally scheduled for June, were postponed until after the next parliamentary elections. Some observers suggested that the vote was postponed to ensure that deep divisions within the party did not undermine the ruling coalition's electoral prospects.

Over the years, Parliament's function as a deliberative body deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In December 2001, a Member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary Speaker for disallowing discussion concerning corruption in the process of certifying lawyers. The 1995 Parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited members' opportunities to question and debate government policies even more severely. In 2001 an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches were delivered. Nonetheless, government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the mainstream press. State assemblies also limited debate.

After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

Women face no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that do exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the elected lower house of Parliament, and they held 19 of 69 seats in the appointed upper house. In 2001 the Prime Minister established the Ministry of Women's Affairs and Family Development, and appointed a prominent female politician as its first Minister. In 2000 Tan Sri Doctor Zeti assumed the post of Central Bank Governor as the first woman to be appointed to the post. Also in December 2000, Ainum Mohamed Saaid was appointed as the Attorney General, the first woman to hold that position. Originally appointed for a 2-year term beginning in January 2001, Ainum, citing ill health, was replaced at the end of 2001. In 1998 the Minister of National Unity and Social Development said that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister said that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was between 6 and 7 percent. The Islamic opposition party does not allow female candidates to stand as candidates for the lower house; however, the party has a female senator. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in government, as well as in senior civil service positions. The political dominance of the Malay majority means in practice that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 9 of the 28 cabinet posts and 15 of 28 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition held executive power in the State of Penang.

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

A number of NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. However, government officials met with NGOs on several occasions during the year. Government officials harshly criticized domestic NGOs for collaborating with foreigners, including international human rights organizations. Nonetheless, at year's end, no group was banned or decertified. In the past, public apathy and racial divisions (non-Malays dominated most domestic human rights NGOs) limited the effectiveness of NGOs. However, public discontent over the 1998 removal and subsequent imprisonment of Deputy Prime Minister Anwar encouraged some NGOs to

speak out against the Government, and it led to the increased involvement of ethnic Malays in NGO activity.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest (*see* Section 2.b.). In 2001 Parliament amended the Registration of Businesses Act to enable the Registrar to refuse or to revoke the registration of organizations deemed to be engaging in unlawful activities. The Government generally did not allow international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of international human rights organizations. The Government did not allow Amnesty International (AI) to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO. In recent years, the Government did not revoke the registration of any human rights NGO.

Since its establishment in April 2000, the National Human Rights Commission, Suhakam, has come to be seen by some analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. However, civil society leaders expressed skepticism regarding the strong civil-service orientation of the majority of the new commissioners appointed in April, saying that the Commission would adopt a “progovernment” perspective as a result. To register its concern, a group of leading human rights NGOs formally disengaged from the Commission for a period of 100 days.

The legislation that created Suhakam defines human rights as “the fundamental liberties provided for” in the Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. In 1999 prior to Suhakam’s creation, opposition leaders and NGOs, including the Bar Council, criticized the definition of human rights as too narrow. Further, Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In June Suhakam released its second annual human rights report. The report criticized detentions without trial and reiterated Suhakam’s opposition to government-imposed restrictions on freedom of assembly but also praised the August 2001 Constitutional amendment prohibiting discrimination based on gender. The report provoked little public response and an ambivalent reaction among civil society groups.

During the year, Suhakam Commissioners continued to travel throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. Suhakam issued press statements and held press conferences after several of their visits. In its second annual report, Suhakam published its findings regarding the rights of ISA detainees, the rights of remand prisoners, and the rights of young prisoners. In August the Vice Chairman of Suhakam provoked controversy among human rights groups when he said publicly that the Government should organize rehabilitation programs for ISA detainees. In June Suhakam also held an inquiry into the condition of ISA detainees. The report on this inquiry has not been made public yet.

While initially skeptical, some observers acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however distantly, executive control. However, following former Chairman Musa Hitam’s October 2001 statement that human rights would need to take a back seat in the fight against terrorism, the Commission has assumed a lower profile in carrying out its mission and has not often publicly challenged the Government on sensitive subjects. The new Chairman of the Commission, former Attorney General Abu Talib, appeared to favor a low-key, behind-the-scenes approach to promoting human rights.

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

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001 the Parliament unanimously approved a Constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

Women.—Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Family and

Women Development Ministry, there were 3,107 cases of domestic violence reported in 2001, compared to 3,468 in 2000.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police need additional training in handling domestic abuse as well as rape cases.

Domestic violence complaints are rare under Islamic law. Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Shari'a generally (each state has a separate code) prohibits wives from disobeying the lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, in Shari'a courts against their husbands, although Muslim women are able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, women's rights activists claimed that no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to Royal Malaysian police statistics, as of August there were 984 reported cases of rape during the year. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under age 16. Many government hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. The NGOs and political parties also cooperate in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. According to the Ministry of Women and Family Development and a leading woman's NGO, only 10 percent of rape cases are reported to the police. In a 2000 study involving 417 court files from 7 state capitals and Kuala Lumpur, even when alleged rape was reported, only 1 in 5 cases was heard in court, and only 1 percent of the reported cases resulted in a rape conviction. The Penal Code states that a convicted rapist shall be punished with imprisonment for a term not less than 5 years and not more than 20 years. Some rapists received heavy punishments, including caning, but women's groups complained that some rapists received inadequate punishments. In September a police constable was acquitted of charges of raping two foreign women who were in police custody. The Session Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal, which was still pending at year's end.

In July the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill (*see* Section 2.c.). The Government, led by Women and Family Development Minister Sharizat Abdul Jalil, argued that the proposed law discriminates against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women or non-Muslims would be barred from testifying. An amendment to an earlier version of the law provides for rape convictions (with lesser penalties) even if four male eyewitnesses could not be produced, in the event that circumstantial evidence was deemed sufficient. Illicit sex is still punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100 lashes and 1 year in prison. One prominent NGO critic of the law said that it was contrary to Islamic teachings, as the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. However, this law remained in limbo at year's end, as its implementation required an amendment to the Federal Constitution. The suit filed at the Federal Court challenging a similar proposed law in the State of Kelantan on the constitu-

tional grounds that states have no authority over criminal law was pending at year's end.

According to a well known activist, some girls in provincial areas are subject to varying forms of female genital mutilation (FGM). Some Malay girls receive a tiny ritual cut to the clitoris or participate in a ceremony where a blade is brought close to the clitoris. Almost all Malay women, including Muslim women activists, do not believe that this constitutes mutilation.

A 1998 International Labor Organization (ILO) study estimated that there were approximately 40,000 to 140,000 prostitutes in the country. The Government strongly disputed this estimate, and the police stated that they would investigate NGOs that might have provided the information that formed the basis of the study. Since prostitution itself is not illegal, statistics are only available for foreigners arrested for immigration or other offenses with suspected involvement in prostitution. The number of foreign persons arrested with suspected involvement in prostitution increased during the year. Police attributed the increase to more vigorous enforcement efforts. Police also believed that the increasing number of arrests was a result of greater numbers of women trafficked to the country from ASEAN countries, China, and Uzbekistan (*see* Section 6.f.).

The country was a source and destination country for trafficking in women for purposes of prostitution (*see* Section 6.f.).

In 1999 the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. Women's groups noted the code's detailed definition of sexual harassment and attempted to raise public awareness of the problem, but they criticized the fact that adherence to the code is voluntary and not legally binding. Women's rights activists claimed that a law on sexual harassment would be more effective than a code of practice. In the first year following the issuance of the code, the Human Resources Minister advocated voluntary compliance by employers and advised unions to incorporate policies against sexual harassment into their collective labor agreements. The Malaysian Employers Federation criticized any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Since the code's introduction, the number of reported incidents of sexual harassment has risen. The number of cases reported to the Labor Department in 2000 was 61, more than double the 29 cases reported in 1999. However, the Human Resources Ministry acknowledged in 2000 that shame and embarrassment often prevented women from reporting sexual harassment. There still are many cultural obstacles to women who try to pursue sexual harassment charges.

Despite increased public awareness of the problem of sexual harassment in the workplace, in 2000 the Government acknowledged that the reluctance of employers to adopt the code may force it to enact additional legislation regarding sexual harassment. In 2001 the Human Resources Minister announced the creation of a special monitoring unit in the Labor Department to monitor and investigate discriminatory practices, including sexual harassment, against women in the workplace. According to Women and Family Development Minister Shahrizat, by September 2001 only 1 percent of registered companies in the country had adopted the code. Shahrizat also said in September that her Ministry would conduct a review of the code's effectiveness in March 2002. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

In matters of income tax, government pension benefits, and transmission of citizenship, women were disadvantaged. The cultural and religious traditions of the major ethnic groups also heavily influenced the condition of women in society. In family and religious matters, Muslim women are subject to Shari'a, which is not interpreted uniformly among the country's 13 states. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, is increasing steadily.

A 2001 constitutional amendment rendered gender discrimination in immigration policy illegal. Prior to the change, foreign spouses of male citizens and female citizens were treated differently under the law. Male citizens faced fewer legal and administrative obstacles to obtaining permanent residency status for their foreign wives than did female citizens with foreign husbands. While the change allowed some foreign men to acquire permanent residence, the new regulations do not apply to foreign laborers who marry female citizens. In addition, foreign women who become estranged or divorced from their citizen husbands would no longer face depor-

tation. These women would be eligible for 12-month social visit passes, and they would be able to apply for permanent residency.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In July the Sultan of Selangor, who is also head of the Islamic religion in the state, acknowledged the bias against women of Shari'a court judges. An April 1999 press report described complaints by NGOs and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. Women activists asserted that these problems continued.

Muslim couples are required to take premarital courses. In previous years, female activists complained that the courses, as implemented, perpetuated gender discrimination by misinforming women of their rights in marriage. However, there were no reports during the year of such misinformation regarding marriage rights.

State governments in Kelantan and Terrengganu, which are controlled by the Islamic opposition party, made efforts to restrict Muslim women's dress. Between January and May, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000 the Terrengganu state government introduced a dress code for government employees and workers on business premises. Terrengganu's executive counselor in charge of women's and non-Muslim's affairs claimed that the dress code was designed to protect the image of Muslim women and to promote Islam as a way of life. One Muslim women's NGO criticized the new requirement, stating that forced compliance with a state-mandated dress code is not consistent with the values of the Koran.

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act increased the protection of married women's rights, especially those married under customary rites. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In September Parliament approved an amendment to the Group Settlement Act that gives wives of settlers joint stake in the land awarded to their husbands.

In 2001 the Prime Minister established a cabinet post for Women's Affairs and Family Development. Shahrizat Abdul Jalil heads the new ministry and is credited with leading the successful effort to amend the federal Constitution to prohibit sex discrimination and launch a public campaign in August 2001 against violence in the home.

Government policy supports women's rights, and the Government undertook a number of initiatives to promote equality for women. The Government also promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in professional positions, but women's groups argued that the level of participation was still disproportionately low. However, in the scientific and medical fields, women made up more than half of all university graduates and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to statistics released in the Government's Economic Report 2000-01, women constituted 44 percent of the labor force. The proportion of women in the civil service rose from approximately 33 percent in 1990 to approximately 44 percent in 2001, and women occupied some high-ranking civil service positions. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

Children.—The Government has demonstrated a commitment to children's rights and welfare; it spends approximately 20 percent of the national budget on education. The Government provides free education for children through 15 years of age. Although primary education is deemed compulsory by the Government, there is no legal requirement or enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent. Secondary school attendance is 82 percent. A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In August the Child Act of 2001 went into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child. The act stipulates more severe punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a children's court, which, the Government stated, would better protect the interests of children. The bill allows caning, but this punishment is limited to male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane." As the new act went into force, three other laws governing child prostitution, child abuse, and delinquency—the Women

and Girls Protection Act, the Juvenile Courts Act, and the Child Protection Act—were repealed.

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. Child abuse received wide coverage in the press. A July amendment to the Penal Code provides 6 to 20 years' imprisonment and caning for individuals convicted of incest. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children. In 2001 a women's NGO began promoting an education package about child sexual abuse. The package of booklets, videos, and discussion topics were designed for use in primary schools. Forty schools asked to use the materials, and the NGO hopes the Ministry of Education will introduce the package into the curriculum of all primary schools.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a sometimes punishes the victims of statutory rape. Moreover Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men are charged and punished for statutory rape under secular law. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under 16 years of age.

Child prostitution existed. However, child prostitutes often were treated as delinquents rather than victims. According to police statistics, between January and October, 170 underage girls were detained and sent to rehabilitation centers for involvement in immoral activities. Statistics for the apprehension of traffickers were not available (*see* Section 6.f.).

Child labor occurs in certain areas of the country (*see* Section 6.d.).

Persons with Disabilities.—The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. There is a public sector regulation reserving 1 percent of all public sector job openings for persons with disabilities. However, few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. In December 1999, Former Minister of National Unity and Social Development Zaleha reportedly said that "all buildings" would be made accessible to persons with disabilities within 2 years. Although it was not possible to verify that all buildings were made accessible to persons with disabilities, new government buildings were outfitted with ramps for persons with disabilities.

The Government continued to implement efforts made to address the needs of persons with disabilities. In 2000 the Ministry of Housing and Local government announced that the uniform building by-laws would be amended to ensure that all newly constructed buildings included a full range of facilities for persons with disabilities, including special parking lots, elevators, and restrooms. By year's end, it was not possible to verify whether building by-laws were amended. In 2001 the Human Resources Ministry launched the Code of Practice for the Employment of Persons with Disabilities in the Private Sector. According to the Government, this code is a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. In addition, the federal budget for 2001 included several provisions to ease financial burdens on persons with disabilities and to improve work, education, and training opportunities. In its second annual report, Suhakam recommended the passage of a Disabled Persons Bill to address discriminatory practices and to eliminate architectural and communication barriers facing persons with disabilities. However, no such bill has been introduced.

Special education schools exist, but they were not sufficient to meet the needs of persons with disabilities population. However, the Government and the general public were becoming more sensitive to the needs of persons with disabilities. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Provisions for persons with disabilities in the 2001 budget include several allowances for tax relief for working spouses of persons with disabilities, full exemption for all medical fees at government hospitals, and full exemption on fees for travel documents. All equip-

ment designed specifically for use by persons with disabilities would also be exempt from all import duties and sales taxes. Recognizing that public transportation is not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics state that persons with disabilities made up 7 percent of the population.

Indigenous Persons.—Indigenous people (the descendants of the original inhabitants of peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region known as the Orang Asli vest considerable authority in the Minister for Rural Development, (who oversees the Department of Orang Asli Affairs) to protect, control, and otherwise decide issues concerning this group. The indigenous people of the Borneo states have no special government department dedicated to their concerns. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

The Orang Asli, who number approximately 133,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli live below the poverty level. The percentage of Orang Asli who led nomadic lifestyles has dropped to less than 1 percent. The Government announced development projects for the Orang Asli from time to time. According to the head of an NGO working with Orang Asli, school dropout rates among Orang Asli increased markedly over previous years, and the percentage of Orang Asli living below the poverty line increased.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis were permitted to live on Orang Asli reserves but did not possess land rights. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, agreed to issue titles to Orang Asli. Surveying and transfer of title has proceeded slowly. However, during the year a number of Orang Asli received land titles to leased land. According to the leader of an NGO who worked on Orang Asli issues, over the years the total area of land reserved for Orang Asli has decreased, and some land previously set aside as Orang Asli reserve has been re-zoned for developmental use.

The federal budget for the year did not specify the amount of money allotted to the Orang Asli community. Programs targeting Orang Asli were scattered throughout the budget and included poverty eradication, improvement of education and social welfare, and upgrading the infrastructure of resettlement villages. In addition, in 2000 National Unity and Social Development Minister Siti Zaharah Sulaiman announced a "stay in school" program to address the increasing number of school dropouts in the Orang Asli community. The Government allocated \$1.2 million (4.8 million ringgit) for the project. In August the Cabinet approved the formation of a national advisory council for the development of Orang Asli. Two NGOs criticized the fact that only 5 out of 17 council members were Orang Asli.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In January Orang Asli in the State of Pahang attempted to block logging trucks from entering their land. According to one NGO, the state ministry of Orang Asli Affairs later gave out cash compensation to placate the protesters. During the year, there were continued complaints about land encroachment. In some cases, Orang Asli sued to protect their land. In 1996 a suit was brought by Orang Asli Temuans who lost land during the construction of the Kuala Lumpur International Airport highway. In April the High Court ruled in favor of the Orang Asli Temuans, arguing that they should be considered the rightful owners of the land and ordered the Selangor state government to pay rightful compensation.

Although state law recognizes the right of indigenous people to land under "native customary rights," in the Borneo states the definition and extent of these lands have been in dispute. However, in a judgment in May 2001, the High Court in the provincial capital of Kuching, Sarawak, ruled that native customary rights of the indigenous people of Sarawak do not exist because of statute; rather, they are historically recognized rights which existed long before independence. The judgment further recognized that forests, rivers, and streams adjacent to indigenous communities also are included under native customary rights. The state government of Sarawak appealed the decision. Nonetheless, indigenous people in the State of Sarawak continued to protest the encroachment by state and private logging and plantation companies onto land that they consider to be theirs under customary rights. In July for example, about 200 indigenous people in Miri, Sarawak, failed to get a court injunction to stop two timber companies from conducting logging activities in an area they claimed was their ancestral land. They have appealed the decision.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse. In 2000 the Sarawak state assembly passed amendments to the state land code that the state government stated would increase the rights of indigenous people to exert control over their traditional lands. A group of NGOs disputed the state government's characterization of the legislation and claimed that it would in fact further diminish the ability of indigenous people to defend their rights on land issues. Indigenous people displaced by the Bakun Dam project in Sarawak continued to protest the lack of transparency in the resettlement process, inadequate compensation for their lands and homes, and destruction of their traditional way of life. However, the state government dismissed these complaints, claiming that only the older generation had reservations about the resettlement program. As a result of its October 2001 fact-finding trip, Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands. In its 2001 annual report, Suhakam recommended that the state government allocate alternative land for settlers who were displaced due to the Bakun Dam project, urged the state government to subsidize the cost of their new homes, and provide adequate and equitable compensation to the families.

Suhakam stated in the same report that indigenous people should be involved in the decision-making process of any development projects that have a direct impact on them. In 2001 an NGO working on behalf of indigenous people in the State of Sarawak expressed deep concern over the passage of the state assembly's Land Surveyors Bill, which requires land surveys to be carried out exclusively by state-licensed land surveyors. The NGO claimed that indigenous people struggle to prove their land rights and depend on NGOs to assist them with mapping. NGOs help to create maps that can then be used in court to protect Nature Conservatory Rights land from logging, development, and palm oil cultivation. The NGO contended that without assistance from independent surveyors, indigenous people were legally powerless to dispute encroachment on their land.

National/Racial/Ethnic Minorities.—The Government implemented extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens remained among the country's poorest groups. The Chinese and Indian minorities did not benefit from the preferential policies that benefited ethnic Malays.

Public questioning of the preference rights of ethnic Malays was a sensitive issue. In 2000 a group of youth members of UMNO became unruly at a rally held outside a Chinese assembly hall in the wake of public comments by a Chinese association that allegedly questioned the granting of special rights and privileges for Malays. Some of the demonstrators threatened to burn down the hall. Chinese groups in the ruling coalition demanded action against the perpetrators. The Government had taken no action by year's end.

Section 6. Worker Rights

a. The Right of Association.—By law most workers have the right to engage in trade union activity, but only 8.49 percent of labor was represented by 599 trade unions. Those who do not have the right include workers labeled "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department places conditions on foreign workers' permits that effectively bars them from joining a trade union (*see* Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor poli-

cies by positing that a “social compact” exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (*see* Section 2.b.).

The Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires a union to be recognized within 21 days, it is not uncommon for unions to go unrecognized for 1 to 2 years. There was an increasing number of private company court challenges to Ministry decisions authorizing the formation of unions. During the year, according to MTUC officials, there have been 10 such challenges. Even in-house unions sometimes faced difficulties. One company resisted concluding a collective bargaining agreement for over 12 years, including by changing its name five times so far. At year’s end, the company union remained in limbo pending a decision by the Court of Appeals.

Government policy inhibits the formation of national unions in the electronics sector, the country’s largest industry. The Government believes that enterprise-level unions are more appropriate for this sector. In February 2000, the Minister for Human Resources said employers should not obstruct the formation of in-house unions. According to MTUC officials, 150,000 electronics workers still were unable to organize and only 8 in-house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as “pioneer status.” According to the ILO, the Government has been promising to repeal this statute since 1994.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a federation of all unions in the country, in both the private and government sectors. The Congress of Unions of Employees in the Public and Civil Service is a federation of civil servant and teacher unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In June 2001 the Trade Unions Department received an application to register a federation of trade unions representing port workers. The Director General of Trade Unions rejected the application saying it did not fulfill the requirements of the Trade Unions Act. At year’s end, MTUC officials said no decision had been made in this case. In February 2000, the Government approved the establishment of a federation of airline unions that represented approximately 20,000 employees in the aviation industry.

MTUC officials were hopeful that Prime Minister Mahathir would announce the country’s plans to ratify ILO Convention 187 when he addressed the ILO in June, but were disappointed when he made no reference to the convention in his speech. At year’s end, the Government still had not it.

Enterprise unions can associate with international labor bodies and do so. The International Metal Workers Federation was working with enterprise unions in the electronic sector to form a national union.

b. The Right to Organize and Bargain Collectively.—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, others point out that the Industrial Court almost always sides with the workers in disputes. In the past, the press reported that an MTUC survey indicated that employers often ignored Industrial Court judgments with impunity. In January 2000, the Minister of Human Resources said that more Industrial Court chairmen would be appointed to deal with a backlog of more than 100 cases and noted that the courts were so congested that new cases could not be scheduled until January 2001. During the year, the number of Industrial Court chairmen was increased from 14 to 23. According to MTUC officials, the backlog of cases was being addressed and had dropped to 3,000 during the year.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union that he deems is being used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government states these essential services are considered crucial to the economy and the public interest. The MTUC officials say that requirements imposed by the authorities are so stringent that it is almost impossible to strike. According to the Ministry of Human Resources statistics up to October, there were 3 strikes and lockouts involving 296 workers during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. Although some trade unions questioned their effectiveness, it is not possible to assess fully whether these provisions were being enforced effectively, given the limited number of cases of alleged retribution. In Johore 120 union members of a large textile manufacturing company were suspended for taking part in a picket protesting the company's refusal to commence collective bargaining. Subsequently, 30 of these workers were dismissed.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries."

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and the Government generally enforced this prohibition. In theory certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, the constitutional prohibition renders these laws without effect.

In 2000 the Appeals Court ruled that a company must give proper notification to its workers when selling its business to another entity. The Appeals Court ruled that compelling an employee to work for a new employer without offering the option to terminate the labor contract amounted to a form of forced labor. The Appeals Court ordered the employers to compensate the workers for failing to give proper notification of sale as prescribed by the Employment Act.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the plantation sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor can be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses, but maintained that foreign workers largely have replaced child labor and that the Government vigorously enforced child labor provisions.

e. Acceptable Conditions of Work.—There was no minimum wage, as the Government preferred to allow market forces to determine wages. Wage Councils which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, Wage Councils have not met for over 12 years and their recommended wages have been obso-

lete for a longtime. However, prevailing market wages often provided a decent living.

Plantation workers generally receive production related payments or daily wages. In February the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$84 (325 ringgit) per month. Proponents of the agreement argue that productivity incentives and bonuses raise the prevailing wage to nearly \$184 (700 ringgit). Rubber plantation workers still have no minimum wage.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 39 percent of the plantation work force, although the number could be higher since there were illegal workers. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belong to the NUPW. Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations. The NUPW asserted that the number of accidents during the year in the plantation sectors was about equal to the accident rate during 2000. Immigrant workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. Government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigated complaints of abuses, attempts to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act includes both local and foreign workers; however, foreign domestic workers have no protection under the act.

According to the Government, foreign domestic workers are protected under the Employment Act, in particular in regard to wages and termination of contract. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. For example, in 2001 a local women's NGO offered shelter to 13 foreign domestic workers who claimed they had been abused. Some of the victims claimed that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them.

In 2000 the Minister of Human Resources Datuk Fong Chan Onn announced that abused foreign domestic servants may be eligible for compensation under the Workmen's Compensation Act. The Cabinet commissioned a study of the issue to determine what measures for protection, compensation, and legal course of action should be available to victims under the act, although it was not verified if the study was completed. In October 2000, the local press reported four separate cases of physical abuse against foreign domestic workers that were settled when the accused offered compensation to the victim. The Criminal Procedure Code allows that for certain offenses an offender may, if the parties agree, pay a fee to the victim by way of compensation. The Human Rights Committee of the Bar Council claimed that the settlement gave the public "the overall impression that justice can be bought." A human rights NGO activist called the settlement a "dangerous trend." In order to reinforce its enforcement capabilities in this sector, the Government increased the number of officers assigned to the Department of Occupational Safety and Health Act (OSHA).

The OSHA covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintained that relatively few committees were established and, even in cases where they did exist, they met infrequently and generally were ineffective. In 2001 the Human Resources Ministry announced a new regulation to protect laborers performing hazardous work in confined spaces such as manholes and storage tanks. Employers are obliged to fulfill certain safety and technical requirements before be-

ginning any projects in confined spaces. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

In 2000 MTUC president Zainal Rampak called for a review of the three-shift system in the electronics industry, referring to a study that concluded that the system contributed to severe stress and workplace accidents among the industry's mainly female work force. Government health and safety officials defended the system, claiming that it provided adequate safeguards for conscientious employers and workers.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. However, in the run-up to the implementation of the new immigration law on August 1, thousands of illegal foreign workers, particularly from Indonesia and the Philippines, returned home. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse. Legal foreign workers are entitled to the same rights and protections under the country's labor law as Malaysian nationals. In addition, the law prohibits discrimination between foreign and local employees in the terms and conditions of employment. However, legal foreign workers are prevented from joining trade unions by Immigration Department restrictions on their work permits. The Government states that it does not encourage foreign workers to join unions and that labor laws are adequate to protect foreign workers' interests. In addition, some foreign workers are victims of unscrupulous agents, and are enticed by promises of a particular job at a particular salary before they leave home but upon their arrival in the country find a contract for a different job at a lower salary.

f. Trafficking in Persons.—The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons, and trafficking in women, and occasionally girls, for the purpose of prostitution. The country has no law that specifically criminalizes trafficking in persons. The country uses other laws such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers. However, authorities generally did not separate trafficking victims from other illegal immigrants. Evidentiary rules made it difficult to obtain convictions of traffickers.

The country was a source and destination country for trafficking in women and girls for sexual exploitation. Young women from primarily Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. During the year, there also were reports that Burmese adults were trafficked to the country.

In 2001 The Royal Malaysian Police arrested 4,132 foreign prostitutes. There were allegations that some level of corruption existed among law enforcement since some trafficking victims were known to pass through two or more ports of entry without travel documents.

Malaysian women were trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who were victims of traffickers were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believe that Chinese criminal syndicates were behind most of the trafficking (both incoming and outgoing) of women of all nationalities.

The new immigration law, which came into effect on August 1, resulted in a significant decrease in the number of illegal residents in the country, which included persons who were trafficked into the country.

Individual government officials may provide counterfeit documents illicitly to traffickers (although no specific cases were reported), but government agencies try to eradicate corruption and fraud within their ranks. Trafficking within the country's borders was perpetrated by one or two organized criminal groups and a few local operators. Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from luxury apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said they were lured to the country by promises of legitimate employment but were then forced into prostitution upon their arrival in the country. In 2001 the police discovered 34 Indonesian and Thai women locked in a shophouse fitted with hidden metal doors and passageways to avoid detection. The women were drugged with sedatives during the day and forced to work as prostitutes at night.

The Penal Code includes special provisions related to trafficking only for purposes of prostitution. For example, specific sections of the Penal Code prohibit the sale or hire of anyone under the age of 21 for purposes of prostitution. Another section prohibits the transport into the country of any woman for purposes of prostitution. Punishment for these offenses includes a maximum 10-year prison term or a fine, to be determined at the discretion of the sentencing judge. Under the Child Act of 2001, which took effect on August 1, brothel owners, pimps, and clients of underage prostitutes may face a fine of up to \$13,000 (50,000 ringgit), a prison sentence of not less than 3 years, and mandatory caning of up to 6 strokes. Repeat offenders face a caning of up to 10 strokes.

The Government assisted underage girls and rescued some kidnaped women during the year. For example, according to police statistics, between January and June 149 underage girls were rescued from vice syndicates. According to Social Welfare Department statistics, 453 women were sent to rehabilitation centers after being detained in suspected places of prostitution in 2001. However, NGOs and women's rights activists complained that police had no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrested or deported individual women for immigration offenses. Some trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being kept by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. Statistics for apprehension of traffickers were not available. From 1998 through June, 130 individuals involved in the harboring of prostitutes were placed under "restricted residence." The Restricted Residence Act is designed to deter organized criminal activity and requires individuals to temporarily move to a predetermined location far from their usual domicile, and check in regularly with police.

The Government stated it did not prosecute anyone for the specific offense of trafficking in persons but did take concrete steps during the year, including the implementation of the new immigration act, to address the problem of trafficked persons. There were a number of active NGOs that provided assistance to trafficking victims. Several NGOs provided shelter for trafficking victims and assisted them in being repatriated to their home countries. The Government provided direct financial support to 75 different NGOs dedicated to women and girls' welfare. While these NGOs did not specifically target trafficking victims, they were available to help repatriated Malaysian victims and foreign victims who had been released into the custody of their embassy or consulate.

The Government recognized the need to improve the treatment and protection of trafficking victims. A local woman's NGO was working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims. The Government formed an inter-agency trafficking in persons working group to formulate its anti-trafficking in persons strategies and to strengthen inter-agency and public-private cooperation against trafficking in persons. The Ministry of Home Affairs formed a special anti-vice Task Force that aimed to target trafficking and prostitution networks and to identify and deport foreign women who entered the country, legally or illegally, and subsequently engaged in the sex trade.

MARSHALL ISLANDS

The Republic of the Marshall Islands is a self-governing nation under the Compact of Free Association with the United States. The Constitution provides for free and fair elections and executive and legislative branches. The legislature consists of a 33-member Parliament (Nitijela), as well as a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. The President is elected by majority Nitijela vote, and he appoints his Cabinet from its membership. The Constitution provides for an independent judiciary; however, past governments have attempted to influence the judiciary.

Under the Compact of Free Association, the United States is responsible for defense and national security, and the country has no external security force. The national and local police forces have responsibility for internal security. These agencies observed constitutional and legal civil rights protections in executing their responsibilities.

According to 2000 statistics, the population was approximately 57,000, was of Micronesian origin, and was concentrated primarily on the Majuro and Kwajalein Atolls. The economy depended mainly on transfer payments from the United States. Coconut oil and copra exports, a small amount of tourism, import and income taxes, an open ship registry, a tuna loining plant, ship chandlery and fishing licensing fees generated limited revenues.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. There were occasional instances of denial of due process for detainees. Violence against women and child abuse were problems. The Republic of the Marshall Islands was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 forbids such practices, and there were no reports that government officials employed them.

Prison conditions, while Spartan, generally met international standards, and the Government permitted prison visits by independent human rights observers. Male juveniles and adults were detained separately, but female juveniles and adults were held at the same facilities. Pretrial detainees were not separated from the general prison population.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Nonetheless, the Chief Justice of the High Court admitted in 2001 that arbitrary detentions did occur. There were several reported cases of arbitrary detention lasting over 24 hours, in which persons were denied their rights to be charged or released within the specified time, or to be informed of the charges against them. However, it appears that such violations were due mainly to inefficiency; the courts and the Attorney General's office worked with the police during the year to improve communications between the courts and police when suspects were detained.

Families had access to detainees, and detainees had the right to lawyers of their choice. There is a functioning system of bail, and the State provides a lawyer if the defendant is indigent. The Constitution and law do not prohibit forced exile; however, the Government did not employ this practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in the past, the Government has attempted to influence judicial matters through legislative or administrative means.

The employment of a foreign national High Court judge, who had disagreements with the previous government, was terminated prematurely in 1999, but he was appointed to the Supreme Court in 2000. In his 2000 inaugural address, President Note pledged to protect the independence of the judiciary, following the previous four years during which three chief justices had resigned or been terminated by the Government. During the year, there were no known incidents of executive pressure on the judiciary. Few citizens are trained in the law. Therefore, the judicial system relied almost entirely on noncitizen judges, public prosecutors, and defense lawyers; most private attorneys were also noncitizens. Since the election of President Note, the Government increased judges' salaries by 20 percent to better attract and retain qualified judges.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

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. In the past, government influence has led to occasional self-censorship by the media in areas of political or cultural sensitivity; however, there were no known instances of self-censorship during the year.

A privately owned weekly newspaper published articles and opinions in both English and Marshallese.

There were two radio stations, one of which was government owned; the other was religious and offered news broadcasts from the Voice of America, the British Broadcasting Corporation, and Radio Australia. In the past, live broadcasts of the legislative session had been interrupted when they included remarks critical of the Government; however, this did not occur during the year. A government station broadcast public service announcements. A cable television company broadcast a variety of foreign news and entertainment programs and occasional videotaped local events.

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.

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

For more detailed information see the *2002 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.

Beginning in 2000, the Government launched an alien registration drive to counter alleged increases in illegal entries by Chinese and other foreign nationals. During the year, the Government periodically conducted “sweeps” to locate and ultimately deport undocumented aliens. In 2001 the Government enacted regulations restricting the operations of certain businesses to citizens. In 1996, as a means of attracting foreign investment, the Government issued so-called investment passports (which conveyed Marshall Islands citizenship) to approximately 3,000 noncitizens. It halted this practice in 1997 following allegations of abuses and fraudulent passport sales, and the Nitijela officially banned such passport sales in 2001 citizenship legislation. These “investment” passports are expiring, and the Government is examining such passports more closely, denying renewal in cases such as those with no record of first-time issuance. There were no provisions in the 2001 law for the removal of any person who loses citizenship as a result of this review.

Although not a signatory, the Government adheres to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperates with the U.N. High Commissioner for Refugees. There were no recent reports of refugees. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise during the year. 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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. Executive power is centralized in the President and his Cabinet. This group dominated the legislature as well. The Nitijela (Parliament) and mayors are elected by secret ballot every 4 years by citizens 18 years of age and older. The last Nitijela election was held in 1999. In January 2000, President Kessai Note was selected unopposed by the Nitijela, from among its 33 members. The President subsequently selected 10 cabinet ministers from among the Nitijela members. There were no restrictions on the formation of political parties. Political activity by foreigners was prohibited.

There were no legal impediments to women’s participation in government and politics; however, women’s cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. Nevertheless, a woman was elected to the Nitijela in 1999. Society is matrilineal, and those men and women who exercised traditional leadership and land ownership powers derived their rights either from their own positions in the family, or from relationships based on their mother’s and sister’s lineage. However, the traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands.

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

While there are no official restrictions, few local nongovernmental human rights organizations have been formed.

The women's NGO Women United in the Marshall Islands (WUTMI) worked on women's, children's, and family issues and played a greater role in social issues. A WUTMI leader, for example, was named to the Compact Renegotiation Team.

There is a government-sponsored committee to establish a local Red Cross chapter, and the Government hosted a Red Cross Conference on the Geneva Conventions in 2001.

No international human rights organization has expressed interest or concern or visited the country.

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

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government observed these provisions.

Women.—Spousal abuse was common. Domestic violence was not condoned in society, and most assaults occurred while the assailant was under the influence of alcohol. The Government's health office provided counseling for reported spousal and child abuse cases but apparently many cases went unreported. Rape and assault were criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Women's groups under the WUTMI umbrella publicized women's issues and promoted a greater awareness of women's rights. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark.

There is no legal age of consent. The law criminalizes only "forced" rape and does not specifically cite sexual assault, domestic violence, or sexual abuse. There was some national debate regarding criminalizing these acts; however, debate was hampered by cultural norms against discussion of these subjects.

In September the Parliament made prostitution illegal; however, prostitution exists on the Majuro and Kwajalein Atolls. Organized prostitution was run by and catered to foreigners, primarily the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the Government assumed that it existed. There is no law against sex tourism, and none has been reported.

Sexual harassment is not prohibited by law and was not considered a serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. However, while female workers were very prevalent in the private sector, many of them were in low-paying jobs with little hope of advancement.

Children.—The Government showed commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education is free, compulsory, and universal through eighth grade. There was no difference between the attendance rates of boys and girls.

It is estimated that up to 20 percent of elementary school age children did not attend school on a regular basis. The Government did not enforce the compulsory education law. The Government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Of that number, 50 percent—or one-third of those who start elementary school—eventually graduated.

The Government provided subsidized essential medical services for all citizens, including children.

Child abuse and neglect are criminal offenses; however, public awareness of children's rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. In August 2001, two young men sexually assaulted an infant and were later charged with child abuse and sodomy. At year's end, both were still free on bail awaiting further judicial action.

Persons with Disabilities.—There was no apparent discrimination against persons with disabilities in employment, education, or the provision of other state services. There were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned and visited by a doctor.

There were no reports of discrimination against persons with mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions, although none have been formed to date.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning collective bargaining or trade union organization. However, there were no impediments to the organization of trade unions or to collective bargaining. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

There were no strikes during the year. There have been no strikes since 1999 strikes at the Government hospital and the Government-owned airline.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits involuntary servitude, and there was no evidence of its practice among citizens of the country. With the increasing presence of illegal aliens, it is possible that forced or bonded labor exists; however, there were no specific reports of the problem during the year. In 2001 there were two separate reports of forced labor involving two noncitizens; one was a domestic worker and the other worked in a restaurant. The domestic employee, whose case awaited review by the Attorney General's Office at year's end, continued to work in the country. The case of the restaurant worker was settled in a civil suit in January 2001, and he returned to his home country.

The law does not specifically prohibit forced and bonded labor by children; however, such practices were not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises. There is no law or regulation setting a minimum age for employment of children. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—A government-specified minimum wage is established by law, but it was not adequate to maintain a decent standard of living for a worker and family. However, in a subsistence economy extended families are expected to help less fortunate members, and there were often several wage earners to support each family. The minimum wage for all government and private sector employees was \$2.00 per hour. The U.S. dollar is the national currency. The Ministry of Resources and Development oversees minimum wage regulations, and its oversight was regarded as adequate. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions.

Foreign workers were protected by the law in the same manner as citizens.

f. Trafficking in Persons.—There are no specific laws concerning trafficking in persons, and there were no confirmed cases of persons being trafficked to, from, or within the country during the year. However, there was increasing suspicion that foreign-born Marshallese passport holders might be using the country as a staging point for trafficking of persons to an unconfirmed destination or destinations. The Immigration Office, the Attorney General's Office, the police, and religious communities were all concerned about the issue, but no steps were taken and cooperation on the issue remained limited.

MICRONESIA (FEDERATED STATES OF MICRONESIA)

The Federated States of Micronesia (FSM), administered by the United States from 1947 to 1979 pursuant to an agreement with the United Nations, is composed of four states: Chuuk (formerly Truk), Kosrae, Pohnpei, and Yap. Political legitimacy rests on the popular will expressed by a majority vote through elections in accordance with the Constitution. There are three branches of government: An executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states that elects the President from among its members; and an independent judicial system that applies criminal and civil laws and procedures that closely parallel those of the United States. Individual states enjoy significant autonomy and have their own constitutions and governmental systems. Traditional leaders retain considerable influence.

Under the Compact of Free Association, the United States is responsible for the islands' defense. The country has no security forces apart from national police and state public safety officers, who operated under effective civilian control.

The population was approximately 107,000 according to the 2000 census, mostly of Micronesian origin. The economy depended heavily on financial assistance from the United States, and on fishing, tourism, and subsistence agriculture.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Traditional customs distinguish among persons on the basis of social status and sex. Neither the Government nor other social organizations have supplanted the role of the traditional extended family in protecting and supporting its citizens. There was growing evidence of spousal abuse and child neglect, and government agencies often did not address such problems due to the constraints imposed by traditional society. Micronesia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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. There was a suspicious death of a prisoner in custody in 2000 (*see* Section 1.c.). The case remained open but was not known to be under active investigation.

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 there were no reports that government officials employed them. In August 2000, two off-duty policemen reportedly beat a foreign national at a bar in Pohnpei. Both officers were dismissed from the police force; however, they were not prosecuted.

Prison conditions generally met international standards. In January the family of a prisoner who died in custody in 1996 won a civil case against the Chuuk state police for violation of civil rights and wrongful death. The family was awarded \$42,000. There was a suspicious death of a prisoner in 2000. The case remained open but was not known to be under active investigation. The question of prison visits by human rights observers did not arise during the year.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. On September 6, officials from the national government attempted to serve a search warrant on the Mayor of Udot in Chuuk State. A crowd made up of the mayor's supporters disarmed the national officials, placed them in handcuffs, and briefly detained them. The Chuuk Director of Public Safety allegedly instructed state policemen not to assist the national officials. The Mayor and the Director of Public Safety were charged respectively with abuse of power and obstruction of justice; at year's end they were awaiting trial.

The Constitution and law do not explicitly prohibit forced exile; however, the Government did not employ it. The courts do not have the option of imposing exile. Punishments for crimes are set out specifically in statutes, which do not provide for the imposition of exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The President, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and each municipality has

a community court. Some states have established additional courts to deal with land disputes.

The Constitution provides for public trial, and trials generally were conducted fairly. Juveniles may have closed hearings. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order has allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy 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.

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.

The national government and the four states publish newsletters. A biweekly newspaper, the *Kaselehlie Press* (originally known as the *Rohng En Pohnpei*), commenced publication in November 2000. Yap also has a privately published weekly newspaper, the *Yap Networker*. Both newspapers have published politically sensitive stories.

Each of the four state governments controls a radio station that broadcasts primarily in the local language. Credible sources reported that the Chuuk state government censored politically sensitive domestic news for its public radio station. Religious groups operate private radio stations. The populations of Pohnpei, Chuuk, and Kosrae increasingly have access to live satellite-broadcast information from around the world and tape-delayed broadcasts of programming by the major U.S. networks. Yap State planned to introduce satellite cable television, but at year's end, there was no television receiver station, and few residents had individual satellite dishes.

There was an increasing level of open public discussion of social and governmental issues on various Internet sites. The Internet played an important role in allowing citizens in the four states, as well as those residing outside the country, an opportunity to share views and opinions.

The Government did not restrict academic freedom.

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

During political campaigns, citizens often questioned candidates at public meetings and social gatherings. Formal associations were uncommon, but nongovernmental organizations increased in number, including organizations for students and women.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Missionaries of many faiths worked in the country without hindrance.

For a more detailed discussion see the *2002 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. It does not address foreign travel, emigration, and repatriation, but in practice none of these were restricted.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. Three Vietnamese who arrived in Yap by boat in 1998 may be the first case testing political asylum rights. Efforts by the national government in August to deport the Vietnamese as illegal immigrants faced opposition from community and traditional leaders in Yap (Yap's constitution includes the Councils of Traditional Leaders as a fourth branch of government), who argued that Yapese tradition allows for the adoption of "lost souls" who arrive on Yap's shores. The three Vietnamese were granted temporary entry permits restricting them to Yap state only.

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 Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President by majority vote from among its four at-large senators. State governors, state legislators, and municipal governments are elected by direct popular vote. Political campaigning was unrestricted. There were no restrictions on the formation of political groups, but there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

Cultural factors in the male-dominated society have limited women's representation in government and politics. Women held midlevel positions at both the federal and state level. The first woman to hold a national government cabinet-level position was appointed in 1999; she continued to serve in that capacity as Public Defender. In 2000 a woman also was elected to serve in the Pohnpei State Legislature. There were no women in the national legislature.

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

There were no known requests for investigations of alleged human rights violations during the year; international human rights groups never have raised issues with the country. While there were no official restrictions, no local groups concerned themselves exclusively with human rights. However, there were groups that addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

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

Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, there was extensive societal discrimination, notably discrimination and violence against women. Government enforcement of these constitutional provisions was weak.

Women.—Reports of spousal abuse, often severe, continued during the year. There are no laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of such offenses was rare. In many cases, the victim decides against initiating legal charges because she is pressured by family, is fearful of further assault, or is convinced that the police will not involve themselves actively in what is seen as a private family problem. The number of reports of physical and sexual assaults against women outside the family context also grew, according to police and women's groups. Such assaults were perpetrated against both citizens and foreigners. Unmarried women sometimes were considered to have invited such violence by living or traveling alone.

In the traditional extended family unit, spouses and children were accorded strong protections from violence, abuse, and neglect. Such actions were deemed offenses against the family, not just the individuals within them, and were addressed by a complex system of familial sanctions. However, with increasing urbanization and monetization of the economy, greater emphasis has been placed on the nuclear family, and the traditional methods of coping with family discord were breaking down. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is not legal, nor was it a major problem. The law does not prohibit sex tourism specifically; however, it was not a problem. The law does not prohibit sexual harassment; however, it did not appear to be a problem.

Women have equal rights under the law, and there were no institutional barriers to education and employment. Women received equal pay for equal work and were well represented in the lower and middle ranks of government. However, there was extensive societal discrimination against women. Nonetheless, women were active and increasingly successful in private business and enterprises. There was an active National Women's Advisory Council that lobbied the Government, and several small nongovernmental groups were interested in women's issues, particularly those associated with spousal and family violence and abuse.

Children.—The Government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the country's growing population, particularly in an environment in which the extended family is breaking down. Health officials and religious leaders started peer support and family care groups to address the factors that may be leading to an increase in youth suicides; although there were a number of suicides during the year, there were no comprehensive statistics.

A compulsory education law requires that all children begin school at the age of 6. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of

children finish 8th grade, 55 percent finish 9th grade, and 35 percent finish high school. Children may leave school when they reach the age of 14 or after completing the 8th grade, whichever comes first.

The Government administered an immunization program throughout the country and provided some vitamin supplements.

Persons with Disabilities.—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities were provided with special education, including instruction at home if necessary. There were no reports of discrimination against persons with disabilities; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings and services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps for persons with disabilities. The school system has established special education classes to address problems encountered by those who exhibit learning disabilities, although such classes were completely dependent on foreign government funding.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land, and the national Congress grants citizenship to non-Micronesians only in rare cases (an authority that last was exercised during 1998, for the first time in almost 20 years). There is no permanent residency status. However, for the most part, noncitizens shared fully in the social and cultural life of the country.

Section 6. Worker Rights

a. The Right of Association.—Under the law, citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the Government without coercion, discrimination, or reprisals; however, they have not formed any such associations. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned business and that citizens are not accustomed to collective action, there were neither associations nor trade unions. The country is not a member of the International Labor Organization (ILO).

b. The Right to Organize and Bargain Collectively.—No law deals specifically with trade unions or with the right to collective bargaining. Individual employers, the largest of which are the national and state governments, set wages. There is no specific right to strike. There were no reports of strikes or collective bargaining agreements during the year. A dispute between management and Chinese citizen employees of a Chinese fishing firm active in Yap State led to the dismissal of several of the employees and their removal to China in October.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution specifically prohibits forced or bonded labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—There is no law establishing a minimum age for employment of children. In practice there was no employment of children for wages; however, they often assisted their families in subsistence farming activities. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The four state governments have established minimum wage rates for government workers. Pohnpei has a minimum hourly wage rate of \$2.00 for government and \$1.35 for private workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk; \$1.49 for Kosrae; and \$0.80 for Yap. The minimum hourly wage for employment with the national government is \$1.68. The U.S. dollar is the country’s legal currency. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability; working conditions varied in practice.

There is no law for either the public or private sector that would permit workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Two states permitted foreign laborers to work in garment manufacturing enterprises. The foreign laborers were paid at a lower rate than citizens who worked at the factories, worked longer hours per day, and worked a 6-day week in contrast to the 5-day week for citizens. However, working and living conditions generally were regarded as good, and workers were not subjected to abuse or deported without cause; they have the right to a hearing under such circumstances. Foreign workers have the right to form unions; however, they have not done so.

f. Trafficking in Persons.—The law does not address specifically the subject of trafficking in persons. A series of articles in the U.S. press in September alleged abusive labor situations for some Micronesian workers recruited for low-wage jobs in the United States. The Government introduced draft legislation in the October/November session of Congress to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices; the legislation still was pending at year's end.

MONGOLIA

Mongolia continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy, although these gains have not yet been consolidated. The Prime Minister is nominated by the majority party and, with the agreement of the President, is approved by the State Great Hural (Parliament), the national legislature. In 2000 the Mongolian People's Revolutionary Party (MPRP), which held power from 1921 to 1996, won a sweeping victory in the parliamentary elections, leaving only 4 of 76 seats to opposition members. In 2001 the MPRP's presidential candidate was elected to his second and constitutionally limited final term. The transition to the new government occurred in accordance with constitutional procedures, and international observers characterized the elections as free and fair. There were 18 political parties, 4 of which held seats in the Parliament. The judiciary is constitutionally independent, but low salaries made it vulnerable to corruption.

Security forces are divided among the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but border security forces are under MOJHA control during peacetime. Civil defense is subordinate to the MOD, giving the MOD a role in internal security. National police, with primary responsibility for law enforcement, operate under the MOJHA. The GIA, formerly the State Security Agency, is responsible for internal security; its civilian head has ministerial status and reports directly to the Prime Minister. Under the new Criminal Code, which came into force September 1, the number of types of crimes under the GIA's purview was reduced from 35 to 22. Reduced government spending continued to force downsizing of the military forces and all security forces operated on a minimal budget. The security forces were under civilian control. The Minister of Defense was a civilian (who retired from the military to accept the position). Some police committed human rights abuses.

The economy was stagnant during the year, with an inflation rate of 8 percent. Despite reforms in the 1990s, the larger economic entities remained under state control; however, the private sector produced more than 70 percent of the gross domestic product. Critical agricultural output fell in 2001 and may have continued to fall during the year. The country's population was 2.4 million with a population growth rate of 1.4 percent, and per capita income was approximately \$450 per year. The country relied heavily on foreign economic assistance. The mainstays of the economy continued to be copper production and other mining, livestock raising, and related food, wool, and hide processing industries. A growing trade and small entrepreneurial sector in the cities provided basic consumer goods. Lack of transportation and other infrastructure, legal and regulatory deficiencies, petty corruption, bureaucratic obstacles, and a small domestic market discouraged foreign investment.

The Government generally respected the human rights of its citizens; however, problems remained in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention conditions continued to be poor although prison conditions were improving. There were no deaths reported during the year in detention centers but a number of prisoners died while in prison. Arbitrary arrest and detention were problems, as was corruption. Government attempts to enforce compliance with moral strictures and tax laws may have been an attempt to intimidate the media and may have resulted in self-censorship by the press. In 2001 the authorities determined some persons requesting asylum to be "economic immigrants" and denied them entry. Harassment by some officials of religious groups seeking

registration persisted. Domestic violence against women was a serious problem; however, efforts to assist victims continued to increase during the year. Child abuse and child labor also were problems. There were some instances of forced labor, and some women seeking work overseas may have become victims of trafficking schemes. In 2001 the Government established a National Commission on Human Rights, which published reports in October 2001 and September 2002. Both reports criticized the Government for abuses and faulted the Parliament and the Courts for failure to fully protect human rights. In September a new Criminal Code came into effect, which is expected to provide additional procedural protections to citizens suspected of crimes. Mongolia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 deprivations of life committed by the Government or its agents; however, it was suspected that the killing of the Minister of Infrastructure in October 1998 was politically motivated. Although the investigation was ongoing, the inability to solve this case continued to be a major problem for the Government. In November the Parliament announced a reward of \$500,000 (500 million tugriks) for tangible information about the murderers.

During the year, 36 prisoners died in custody, largely due to disease (*see* Section 1.c.).

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, while reports of such actions diminished, the police in rural areas occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was not uncommon. During the year, the Prison Administration equipped 11 out of 17 central prisons with television camera monitoring systems, which contributed to a significant decline in the number of prisoners and detainees beaten by guards. In 2001 it was alleged that five persons accused of killing a shopkeeper in 1999 were tortured during 2000 and 2001 while in detention centers in order to extract confessions. One of the five died of tuberculosis while in pretrial detention and the other four reported being subjected to severe abuse such as electrical shocks, threats to family members, and being forced to drink their own blood. A joint monitoring commission from the central police and the state prosecutor's office claimed its investigation found no basis for the allegations. However, the Supreme Court ordered the case reinvestigated in view of questions raised concerning evidence presented at the trial by the prosecution and the absence of legal counsel for the defendants during the early months of their detention; at year's end, the results of this second investigation were pending.

In recent years, reforms undertaken by the Ministry of Justice and Home Affairs upon Parliament's recommendation, following reports by international human rights observers, have changed significantly the way that accused persons and prisoners are treated. Human rights training for prison management and some police guards was implemented in 2001. A training center was established under the Court Decision Enforcement Agency (prison administration). During the year, 250 prison guards received training at the center and 10 went abroad for training. The Ministry's Department for the Enforcement of Court Decisions also monitored conditions, but the new laws and procedures were not publicized widely, especially in the countryside, and citizens were not always aware of their rights with respect to detention and arrest. In general pretrial detention and prison facilities were poor, providing insufficient food, heat, and medical care and thereby threatening the health and life of inmates. Overcrowding declined in prisons but remained common in detention centers.

Many inmates entered prison already infected with tuberculosis or contracted it in prison. In 2001 the Government, with the aid of foreign donors, concluded a program begun in 1997 for surveying and determining methods of treatment of tuberculosis among inmates. As a result of the program, the Government established a tuberculosis hospital that provided treatment for a large number of prisoners and better isolated infected persons from the general prison population. The number of inmates who died of the disease continued to decline significantly from previous years.

Police formerly administered detention centers, and conditions in some respects were worse than in prisons. On September 1, the Revised Criminal Code came into effect, under which the prison administration assumed responsibility for detention centers. At year's end, conditions remained poor but marginal improvements were noted as the prison administration began to address overcrowding; provided improved food, clothing and hygienic items; and began to provide warm meals twice, rather than just once, per day.

Although the number of inmates remained fairly constant, the seriousness of crimes allegedly committed by those detained increased.

Under the continuing reform process, prison inmates in the capital were divided into smaller groups managed by trained personnel and provided health and hygiene instructions. In 2001 a separate facility for juvenile prisoners was established in Ulaanbaatar and designated a training center. As of September, there were 94 children in the facility. Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were kept in the same detention centers as adults, unsegregated from the adult population. Improvements in detention and prison conditions outside of the capital were minimal or nonexistent due to lack of funding. However, families gained better access to inmates, alleviating some of the hardship in obtaining food and clothing. At least two national and six foreign nongovernmental organizations (NGOs) worked to improve conditions in prisons and detention centers, distributing clothing, food, books, and textbooks, and providing English-language instruction and training in computers and trades. All female prisoners were held separately in one central prison in Ulaanbaatar. At year's end, the prisoner population of that facility was 283.

The Government permitted prison visits by human rights monitors, but visits to pretrial detention centers were more difficult to arrange. Nonetheless, Amnesty International and other observers on occasion have visited detention centers as well as prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, and these protections have been incorporated into the Criminal Code; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures was limited. For example, citizens were not always aware of their rights in regard to arrest and detention procedures. Police may arrest those suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release. Under the revised Criminal Code, which came into effect on September 1, a court order must be requested to continue holding a suspect after 24 hours have elapsed. If the requested order is not granted within 72 hours, the suspect must be released. In addition, prosecutors no longer have authority to issue warrants. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. However, in practice many detainees were not made aware of and therefore did not assert this right. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with the agreement of the prosecutor. Under the new Criminal Code, the maximum pre-trial detention (with a court order) is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to administrative regulation, if a person was wrongly charged with a crime, the Government must restore the person's rights and reputation and compensate him, but this regulation very rarely was followed in practice.

In 2000 a one-time amnesty law affected 1,000 inmates and detainees by reducing the sentences of inmates and releasing detainees held on insufficient evidence.

There were no reports of political detainees during the year. The Government did not use forced exile, which is prohibited by the Constitution.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the courts were generally independent in practice, although corruption was a problem.

The judiciary consists of local courts, provincial courts, and the Supreme Court. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts primarily hear routine criminal and civil cases; provincial courts hear more serious cases such as murder, rape, and grand larceny and also serve as the appeals court for lower court decisions. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the Ministry of Justice and Home Affairs, nominates candidates for vacancies on both the Supreme and lower courts; the

President has the power to approve or refuse such nominations. The Council also is charged with ensuring the rights of judges and providing for the independence of the judiciary. In 2001 a human rights course became mandatory for all law students.

According to law, all accused persons are provided due process, legal defense, and a public trial, although closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases provided by law. Defendants do not enjoy a presumption of innocence. Defendants may question witnesses and appeal decisions.

There were no reports of political prisoners. Each September the Government publicly pays respect to the memory of victims of the political repression from 1922 through the 1960s. Since 1991 approximately 36,000 persons have been absolved of accusations leveled against them. In 1991 the Government began giving apartments and monetary compensation to surviving victims or to the victims' spouses. Since then the Government has provided approximately 500 apartments and gers (a traditional nomadic dwelling of the Mongols). In 1998 the State Rehabilitation Commission began providing compensation to other family members of victims in the form of cash grants of \$500 and \$1,000 (500,000 and 1 million tugrik). The program subsequently was halted due to a budget shortfall in 2001 but resumed during the year. Since the inception of the program, more than 16,000 persons have received more than \$13 million (13 billion tugrik) in compensation. The program, originally scheduled to end in 2000, was extended to February 2006.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these provisions in practice. The head of the General Intelligence Agency, with the knowledge and consent of the Prime Minister, may direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the Prosecutor's Office and are authorized for only 2 weeks at a time.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech, press, and expression, and the Government generally respected these rights in practice. An increasing variety of newspapers and other publications represented major political party viewpoints as well as independent views. The media law that went into effect in 1999 bans censorship of public information and future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. Nonetheless, the vast majority of radio and television stations and frequency licenses remained state-owned. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation has been difficult and controversial. Lack of access to information and of transparency in government continued to inhibit political dialog in the media and led to media complaints.

The Government monitored all media for compliance with antiviolenence, antipornography, antialcohol, and tax laws. On July 31, an Ulaanbaatar Court found the editor-in-chief of "Word" newspaper guilty of libel and sentenced her to 1 year in prison. Journalists accused the Government of overzealous prosecution of the case and believed the trial was an assault on freedom of the press. No newspapers were closed during the year or during 2001. In 2000 two newspapers were closed as a result of government inspections, which journalists viewed as an attempt at intimidation and control. While there was no direct government censorship, the press perceived indirect censorship in various forms of government harassment such as frequent libel lawsuits and tax audits following an inflammatory article. The court system places the burden of proof on the defendants in libel and slander cases. As a result, some media practiced self-censorship, although independent media outlets were at times strongly critical of the Government. All newspapers bought newsprint directly from private suppliers, and neither party-affiliated nor independent news media reported difficulty securing an adequate supply. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications was restricted in outlying regions.

There were several television stations, including a government-financed television station with countrywide broadcasting capability, a limited-operation international joint venture private television channel and a second private television station (which did not broadcast nationwide), a local television station controlled by the Ulaanbaatar mayor's office, and several radio stations in Ulaanbaatar. State-owned radio was particularly important as the major source of news in the countryside; however, one independent radio station broadcast widely and there were an increasing number of small local FM stations. The Voice of America and the British Broad-

casting Company broadcast in English only, over FM radio frequencies leased from private media interests. The media presented both opposition and government views. Many residents of the country had access to television, and Ulaanbaatar residents received broadcasts from other countries in Asia and Europe, including China, Russia, Japan, the United Kingdom, France, and Germany, as well as the United States, by commercial satellite and cable television systems. An estimated 70 percent of households had televisions.

Access to the Internet was available, and there were no government attempts to interfere with its use.

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.

c. Freedom of Religion.—The Constitution provides for freedom of conscience and religion, and the Government generally respected these rights in practice; however, some groups that sought to register faced bureaucratic harassment and the law limits proselytizing.

The Constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the “natural religion” of the country. The Government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers. The Government otherwise did not subsidize the Buddhist religion.

Religious groups must register with the Ministry of Justice and Home Affairs. While the Ministry of Justice and Home Affairs is responsible for registrations, local assemblies have the authority to approve applications at the local level.

Under the law, the Government may supervise and limit the number of places of worship and clergy for organized religions; however, there were no reports that the Government did so during the year. The registration process is decentralized with several layers of bureaucracy, in which officials sometimes demanded financial benefits in exchange for authorization. In general it appeared that difficulties in registering were primarily the consequence of bureaucratic action by local officials and attempts to extort financial assistance for projects not funded by the city. Of the 260 temples and churches founded since 1990, approximately 150 were registered, including 90 Buddhist, 40 Christian, and 4 Baha’i, in addition to 1 Muslim mosque and approximately 15 other organizations. Contacts with coreligionists outside the country were allowed.

The law does not prohibit proselytizing, but limits it by forbidding the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious teaching or instruction. The edict was enforced, particularly in the capital area.

The Dalai Lama, a Tibetan Buddhist leader greatly respected by Mongolian Buddhists, visited the country in November, after a series of previous attempts to arrange such a visit failed. The Government actively worked with a number of countries in the region to ensure that the visit of this important religious leader could occur.

For a more detailed discussion see the 2002 *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 as well as the right to travel abroad and return without restriction, and the Government generally respected these rights in practice. However, due to continued harsh winter weather and drought conditions, an increased number of persons sought shelter in the capital, and the authorities continued to raise bureaucratic obstacles, such as increasing fees for residency applications, to prevent new arrivals from qualifying for residency and social benefits in the capital. Ulaanbaatar was the only city that required a registration fee for those moving into the city from other areas. In 2001 these fees were raised to \$50 (50,000 tugrik) per adult and \$25 (25,000 tugrik) per child.

The country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol and it has no laws for granting refugee status. The Constitution contains a provision that addresses political asylum, but there were no implementing regulations. The Government continued talks with UNHCR representatives on both issues. Small groups of North Koreans continued to enter the country from China. The Government’s concerns about potentially growing numbers of North Korean migrants increased opposition to accession to the 1951 Convention.

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. However, in recent years the authorities have denied entry to some persons claiming refugee status, having determined that these persons were “economic immigrants” and not 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 by secret ballot and universal suffrage. Presidential, parliamentary, and local elections were held separately. In 2000 parliamentary elections brought the Mongolian People’s Revolutionary Party (MPRP) back into power. In 2001 the MPRP’s presidential candidate was elected to a second term. The Constitution limits the president to two terms. International observers deemed the presidential election generally free and fair; some irregularities in the 2000 parliamentary elections generated improved election practices and procedures in the 2001 presidential election. For example, new rules were introduced requiring two to three observers to be present with election commission representatives when votes are collected by mobile box (a ballot box circulated among rural households). However, no state funds were provided for the observers to accompany the election commission representatives, and corruption remained a problem in some remote areas. Ballot papers were printed and distributed under the strict control of political party observers. Cultural shows and other performances sponsored by candidates and their supporters were prohibited during the election campaign period except at its start and end. Constitutional amendments meant to address questions raised during the formation of the Government in 2000, concerning the President’s relationship to Parliament and the Government, and the right of Members of Parliament to serve in the Government, were passed by the Parliament in 2000 but vetoed by the President. Parliament overrode the veto and the amendments went into effect in 2001 when, following his reelection, the President signed them. The amendments state that the Prime Minister, in consultation with the President, shall submit proposals of the executive branch to the Parliament, and Members of Parliament may serve in the Government (as Cabinet Ministers).

There were 18 registered political parties; 4 were represented in the Parliament.

There were no legal impediments to the participation of women or minorities in government and politics. There were 9 female members in the 76-member Parliament. There were no female ministers, but there was one female vice-minister. Women and women’s organizations were vocal in local and national politics and actively sought greater representation by women in government policymaking.

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

A number of national 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.

The U.N. High Commissioner for Human Rights closed its separate office in 2001, and complaints were referred to the National Commission on Human Rights (NCHR). Under the direction of the U.N. Development Program, a local representative in each provincial assembly, among other duties, monitored human rights conditions.

In 2001 Parliament established the NCHR to receive complaints from both citizens and foreign residents. The Commission consists of three senior civil servants nominated by the President, the Supreme Court, and the Parliament for terms of 6 years. The independent Commission was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The Commission’s first and second public reports in October 2001 and 2002 criticized the Government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws. The reports also faulted Parliament and the courts for failure to fully protect human rights. The Commission reports directly to the Parliament.

A human rights course was a requirement in the university law curriculum.

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

The Constitution states that “no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status,” and that “men and women shall be equal in political, economic, social, cultural fields, and family.” The Government generally enforced these provisions in practice.

Women.—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. There is no law specifically prohibiting spousal rape.

There were no reliable statistics regarding the extent of domestic abuse but qualified observers believed that it was common, affecting as much as one-third of the female population. Approximately 98.5 percent of those who committed violent crimes in the home were male, and women were disproportionately the victims of these crimes. Further, in recent years domestic abuse appeared to become more violent; different statistical sources stated that between 10 and 24 percent of murders occurred in the home. In 1998 murders of women were 8 percent of all murder cases; in 2001 the number had doubled to 17 percent. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, a common perception was that domestic abuse was either a family issue or not a problem at all. The large economic and societal changes underway have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of the cases of family abuse were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Although women's groups advocated new statutes to cope with domestic violence, there was no known police or government intervention in cases involving violence against women beyond prosecution under existing criminal laws after formal charges were filed. Women were hesitant to prosecute because of likely long-term detention of spouses in detention centers and the resulting loss of household income. A draft Law on Domestic Violence has been in circulation since 1997 and is expected to be submitted to the Parliament in spring 2003.

There are no laws against sexual harassment.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center Against Violence operated branches, each staffed by two to three persons, in two districts of Ulaanbaatar and eight provinces. Only one small shelter for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

The law stipulates the obligations regarding divorce, custody, and alimony to the benefit of the parent caring for children. It provides for more speedy resolution of divorce cases where the relevant agencies have determined that domestic violence is involved.

There were reports that some women and teenagers worked in the sex trade in Asia and Eastern Europe; an unknown number of them may have been trafficked (*see* Section 6.f.).

The Constitution provides men and women with equal rights in all areas. By law women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health. The Government enforced these provisions. Many women occupied midlevel positions in government and the professions, and many were involved in the creation and management of new trading and manufacturing businesses.

There is no separate government agency that oversees women's rights; however, there is a National Council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor has a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with such issues as maternal and child health, domestic violence, and equal opportunity.

Children.—Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with the educational, health, and social needs of the most rapidly growing segment of its population, although it is committed to children's rights and welfare in principle. The Government provides children with free, compulsory public education through the age of 16, although family economic needs and state budgetary difficulties made it difficult for some children to attend school. In practice female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home and schools generally were located far from homes (*see* Section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

The society has a long tradition of supporting communal raising of children. The Government was more willing to admit the extent of the problem of orphaned children, but it lacked the resources to improve the welfare of children who have become the victims of larger societal and familial changes. NGOs continued to assist orphaned and abandoned children. The Government does not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children but estimated that there were as many as 3,000. Female street children, who accounted for one third of all street children, sometimes faced sexual abuse. The Government established a National Committee for Children to address this and other child welfare issues. The Government supported two private shelters, one for children from birth to age 3, and the other for children from 3 to 16 years of age. While government facilities received government funding, finances were inadequate and the Government used foreign aid to help sustain the orphanages.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the issue. The Ministry of Social Welfare and Labor has added a Department for Women and Youth Issues.

Persons with Disabilities.—The 1999 Labor Law prohibits discrimination against persons with disabilities in employment and education, and requires the Government to provide benefits according to the nature and severity of the disability, which it did. There was no official discrimination against persons with disabilities in employment and education. However, in practice most could not find jobs. In 2001 the Government began to implement a section of the 1999 Labor Law that requires companies employing more than 50 persons to hire at least 3 persons with disabilities. Those who have been injured in industrial accidents have the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. There are several specialized schools for youths with disabilities, but these students also were free to attend regular schools. The Government also provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. There is no law mandating access for the disabled; thus it was difficult for the disabled to participate fully in public life. However, in 2001 the Government set aside a small sum to build wheelchair access ramps to public buildings. Disabled citizens' groups have demonstrated for higher government subsidies. Government pensions for the disabled were approximately \$40 (40,000 tugrik) per month. There were approximately 40,000 disabled persons in the country. Approximately 30 NGOs participated in activities assisting persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution entitles all workers to form or join unions and professional organizations of their choosing. Union officials estimated that union membership remained constant at approximately 400,000, which represented less than half of the workforce. Workers who were self-employed or worked at small, nonunionized firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

During the year, the leadership of the newer Association of Free Trades Unions merged with the Mongolian Trade Unions Confederation, leaving in effect only one trade union confederation in the country. The Mongolian Trade Unions Confederation had ties with international labor organizations and confederations in other countries.

b. The Right to Organize and Bargain Collectively.—The law regulates relations between employers, employees, trade unions, and the Government. The Government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination.

Union members have the right to strike; however, those employed in "essential services," which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the

right to strike. During the year, there were approximately 8 strikes involving over 1,000 workers.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law specifically prohibits forced or bonded labor, including forced and bonded labor by children; however, enforcement was intermittent. In 2000 a foreign-owned garment factory was discovered to be requiring employees to work 14-hour shifts 7 days a week, deducting unreasonable sums from paychecks for miscellaneous expenses, and requiring 16- to 18-year-old workers to work excessive hours. Some members of the military forces in rural areas were required to help with the fall harvest. In many cases, prisoners worked to support the detention facility or prison in which they were held, and detained alcohol abusers and petty criminals sometimes were required, as part of their sentences, to perform menial tasks such as street sweeping. Detainees were compensated financially for their work; prisoners were not, but received credit toward time off of their sentences.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 years of age may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited due to the small number of labor inspectors and the growing number of independent enterprises. In 2000 a foreign-owned garment factory was found to be employing 16- to 18-year-old workers for periods in excess of the legal limits (see Section 6.c.).

Children worked informally in petty trade, scavenging in dumpsites, scavenging coal from abandoned mines and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income in order to support themselves, their siblings, and sometimes their parents. Estimates of the number of children in the labor force were as high as 58,000.

Also, due to increasing economic pressures, fewer children, especially teenage boys in the countryside, were staying in school until age 18 (see Section 5). These children most often herded family animals, but reports of such children working in factories or coal mines increased.

The Government prohibits forced and bonded labor by children, and generally attempted to enforce this prohibition. However, forced labor by children did exist in a few circumstances. In 2000 the International Labor Organization (ILO) established a national office for the International Program on the Elimination of Child Labor.

e. Acceptable Conditions of Work.—The legal minimum wage established for the year was under \$25 (25,000 tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, alone was insufficient to provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws were generally enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards, provided by the Ministry of Social Welfare and Labor, was inadequate. The labor monitoring unit employed only 70 inspectors to inspect a growing number of enterprises throughout the country. However, 42 additional volunteer inspectors from NGOs assisted the labor monitoring unit in 2001. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were a small number of foreign workers in the country who, in general, enjoyed the same protections as citizens.

f. Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and there was evidence that women and teenagers working in the sex trade

in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking. Although most officials and NGOs found it difficult to estimate the extent of the trafficking, increasing attention was focused on the issue.

The primary targets of trafficking schemes were middle class girls and young women, ranging in age from 14 to approximately 28 years of age. These girls and women were lured abroad by offers to study or work. It was not difficult to traffic persons across the country's borders. Some NGO experts believe that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders. In 2001 an NGO began providing training and education on trafficking for police officials.

NAURU

The Republic of Nauru adopted a modified form of parliamentary democracy on gaining independence in 1968. The country is governed by a unicameral Parliament. The Parliament is elected at least triennially and consists of 18 members from 14 constituencies. It elects the President, who is both Chief of State and Head of government, from among its members. The most recent parliamentary elections, held in 2000, were considered free and fair; Parliament elected a new president in April 2001. The judiciary is independent.

There are no armed forces, although there is a small police force, with fewer than 100 members, under civilian control.

The population is approximately 10,500. The economy depends almost entirely on mining of phosphate deposits. The Government-owned Nauru Phosphate Corporation (NPC) controls the mining industry, and a large percentage of its earnings were placed in long-term investments meant to provide national revenue after the phosphate reserves were exhausted. However, financial mismanagement and corruption has led to a shortage of basic goods and utilities and some domestic unrest. During the year, opposition party Naoero Amo (Nauru First) pushed actively for reform of the NPC.

Media reports indicated that substantial offshore deposits were associated with the country's banking facilities. The Organization for Economic Cooperation and Development financial action task force investigated allegations of money laundering and concluded that new banking laws passed in December 2001 did not address adequately the deficiencies in the country's licensing, regulation, and supervision of its offshore banking sector. The Government continued to sell passports openly.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. However, some human rights advocates expressed concerns about poor living conditions and alleged arbitrary detention of asylum seekers held in the country. The country has a refugee processing and detention center, funded by the Government of Australia, that held approximately 700 asylum seekers at year's end. Most were intercepted at sea en route to Australia; Australian immigration officials continued to process their asylum claims in coordination with the U.N. High Commissioner for Refugees. Societal pressures limited women's economic opportunities. Nauru was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reports that government officials employed them.

The Government attempted to meet international prison standards within its limited financial means and in accordance with local living standards. However, prison conditions were basic, and food and sanitation were limited. There were separate accommodations for pretrial detainees and convicted prisoners, men and women, and adults and juveniles.

The country hosted a refugee processing and detention center, funded by the Government of Australia, that held approximately 700 asylum seekers at year's end.

Most of the detainees were citizens of Afghanistan, Pakistan, and other South Asian countries, were intercepted at sea en route to Australia, and sought resettlement in Australia or another developed country. Australian human rights organizations expressed concern about conditions at the detention center, including problems with the water quality and the power supply. Water quality and power supply problems were common in the country as a whole.

There were no local human rights groups, and the question of visits to prisons by human rights observers was not raised. Prison visits by church groups and family members were permitted.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The police may hold a person for no more than 24 hours without a hearing before a magistrate.

In May the Australia-based Catholic Commission for Justice, Development and Peace asserted that the detention of asylum seekers in the country was not being handled in accordance with the Constitution of Nauru, since these individuals had been detained without first being brought before a court for a hearing. The Government had not responded to these assertions by year's end.

The Constitution and law do not prohibit forced exile; however, the Government did not use it.

e. Denial of Fair Public Trial.—The judiciary is independent, and constitutional provisions for both a fair hearing and a public trial generally were respected.

The Supreme Court is the highest court when addressing constitutional issues; it is presided over by the Chief Justice of Nauru. The Appellate Court of Nauru, composed of two judges, hears appeals of Supreme Court decisions on other matters. Parliament cannot overturn court decisions. Under the Appeals Act, cases may be reviewed by the High Court of Australia on Criminal and Civil Actions, but this rarely was done. A Resident Magistrate, who is also the Registrar of the Supreme Court, presides over the District Court. The Resident Magistrate also presides over the Family Court as Chairman of a three-member panel. There are two other quasi-courts established under the Constitution, the Public Service Appeal Board and the Police Appeal Board. The Chief Justice of Nauru presides over both as chairman, with two members for each board.

Defendants may have legal counsel, and a representative for the defense is appointed when required "in the interest of justice." However, traditional reconciliation mechanisms were used in many cases rather than the formal legal process—usually by choice but sometimes under communal rather than governmental pressure. Contract workers from Kiribati and Tuvalu working in the mining sector did not have recourse to effective communal assistance, and were disadvantaged in complaints against citizens. There were only three trained lawyers in the country, and many persons were represented in court by "pleaders," trained paralegals certified by the Government (*see* Sections 6.a. and 6.b.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution generally prohibits such actions, and the Government generally respected these prohibitions in practice. Searches not sanctioned by court order were prohibited, and there was no surveillance of individuals or of private communications. Citizenship and inheritance rights are traced through the female line. Marriage between women and foreign males may draw social censure. The law extends the right of citizenship to both male and female spouses of citizens, provided that marital and residency requirements are met.

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. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

The country had no regular print media. Occasional publications included the Government bulletin. A newsletter called *The Visionary* was published sporadically by the opposition party Naoero Amo, and provided an independent and critical view of the Government. It was particularly vocal regarding economic crises during the year. In December 2001, Presidential Counsel David Adeang and Senior Medical Officer Dr. Kieren Keke (both members of Naoero Amo) were suspended from and later resigned their government positions following publication in *The Visionary* of their comments criticizing the Government's policy toward asylum seekers. Adeang later became a Member of Parliament. The sole radio station was owned and oper-

ated by the Government; it broadcasts Radio Australia and British Broadcasting Corporation news reports. Local television included Nauru TV, which is government owned, as well as a privately owned sports network.

The Government was the sole Internet service provider in the country, but did not monitor or censor content.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms 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; however, the Government restricted this right in some cases. During the year, the Government prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

For a more detailed discussion see the 2002 *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.

Foreign workers had to apply to their employers for permission to leave during the period of their contracts. They could break the contract and leave without permission but would lose their positions and often a sizable bond as a result. In most cases, foreign employees whose contracts were terminated by their employers had to leave the country within 60 days.

The Government has not formulated a formal policy regarding refugees, asylees, or first asylum. However, the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The country has accommodated asylum seekers as a processing center for Australia. These asylum seekers were held in facilities funded by the Government of Australia, with day-to-day supervision provided by officials of the International Office on Migration and local authorities. At year's end, some asylum seekers had been resettled, primarily in Australia and New Zealand; however, approximately 700 remained in detention in Nauru. Most of this population had been denied refugee status, but not yet repatriated. None had requested resettlement in Nauru. In May the UNHCR asked the Government to reconsider its denial of admission to the bar for several Australian lawyers offering legal assistance to detained asylum seekers. The Government reportedly had suggested that asylum seekers instead retain local counsel.

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

The Constitution provides citizens the right to change their government. The Government also can be changed through a petition from the members of Parliament. Although the country's politics is based more on clan than party membership, persons with diverse points of view have been elected to Parliament.

Parliament elects the President. There was a change in government in March 2001, the first change in government since the general elections in April 2000. A new President was elected by Parliament, and a new cabinet was convened in April 2001. In March 2002, Chief Secretary Matthew Batsuia resigned, citing a lack of faith in the Government. (Chief Secretary is the senior civil service position in the country.)

During the country's history, all changes in government have been peaceful and in accordance with the Constitution. In parliamentary elections, voting by secret ballot is compulsory for all citizens over the age of 20. There were multiple candidates for all parliamentary seats during the 2000 elections. Naoero Amo member and former Presidential Counsel David Adeang was elected to Parliament during the year, winning a by-election prompted by disputes over the counting of ballots in his 2000 parliamentary race. New nationwide parliamentary elections are scheduled to take place in April 2003.

There are no legal impediments to participation in politics by women. In the past, the dominance of traditional clans in national politics limited participation by women, and there are no female Members of Parliament. However, there is growing participation by women in party-based politics, and women held many senior civil service positions, including Permanent Secretary and Cabinet Secretary-level jobs.

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

There were no restrictions on establishing local groups that concern themselves specifically with human rights, but no groups have been formed. In May the Australian-based Catholic Commission for Justice, Development and Peace raised concerns about alleged arbitrary detention of asylum seekers, asserting that the detainees were not being processed in accordance with the Constitution (*see* Section 1.d.).

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

The law prohibits discrimination on the basis of race, sex, disability, language, or social status, and the Government observed these provisions.

Women.—The Government did not keep track of incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally, and, if necessary, communally. The judiciary and the Government treated major incidents and unresolved family disputes seriously.

Spousal rape per se is not a crime, but police will prosecute charges of rape leveled against a spouse. Prostitution is illegal and not widespread. Sexual harassment is a crime, and was not a serious problem.

The law grants women the same freedoms and protections as men. The Government officially provided equal opportunities in education and employment, and women were free to own property and pursue private interests. However, in practice societal pressures limited opportunities for women to fully exercise these rights. There was a Women's Affairs Office to promote professional opportunities for women.

Children.—The Government devoted adequate resources for education and health care for children. Education was compulsory until age 16. Child abuse statistics do not exist, but alcohol abuse sometimes led to child neglect or abuse. There were no reported cases of child abuse or child prostitution during the year.

Persons with Disabilities.—There was no reported discrimination in employment, education, and the provision of state services to persons with disabilities. However, no legislation mandated access to public buildings and services for persons with disabilities. Persons who applied to the Health Department could obtain government assistance in building access ramps to homes and workplaces.

There are no formal mechanisms to protect persons with mental disabilities; however, the Government at times provided essential services to the families of such persons.

National/Racial/Ethnic Minorities.—Nonnative Pacific Island workers experienced some discrimination. While foreign workers were provided free housing, the shelters were often poorly maintained and overcrowded. In the past, some foreign workers alleged that the police rarely acted on their complaints against citizens (*see* Section 6.e.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, and there were no trade unions. Past efforts to form unions were discouraged officially. The transient nature of the mostly foreign work force also has hampered efforts to organize the labor force. There were no prohibitions or limits on the right of unions to affiliate with international bodies.

b. The Right to Organize and Bargain Collectively.—While there were no legal impediments, collective bargaining did not take place. The private sector employed only about one percent of salaried workers. For government workers, public service regulations determined salaries, working hours, vacation periods, and other employment matters.

The right to strike is neither protected, prohibited, nor limited by law. No strikes took place during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids forced or bonded labor, including forced and bonded labor by children, and the Government effectively enforced these prohibitions.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets age 17 as the minimum age of employment. The only two large employers, the Government and the NPC, honored this rule. Some children under the age of 17 worked in small, family-owned businesses.

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—Minimum wage rates for office workers and manual laborers provided an adequate, if modest, standard of living for a worker and family. Most families lived in simple but adequate housing, and almost every family owned some sort of motor vehicle. The Government set the minimum yearly wage administratively for the public sector. Since November 1992, that rate has been \$6,562 (\$A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age. Employers determined wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families received free housing, utilities, medical treatment, and often a food allowance. Some noncitizen contract workers complained about conditions in company living compounds. By regulation the workweek for office workers was 36 hours, and for manual laborers, 40 hours in both the public and private sectors. Neither law nor regulations stipulated a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The Government sets health and safety standards. The NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. The NPC had a safety officer who was specifically responsible for improving safety standards and compliance throughout the company.

f. Trafficking in Persons.—The law does not specifically prohibit trafficking; however, there were no reports that persons were trafficked to, from, or within the country.

NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in a 20-member cabinet led by the Prime Minister. Queen Elizabeth II is Chief of State and is represented by the Governor General. The 120-member Parliament is elected in a mixed-member proportional representation system, with 7 seats reserved for members of the native Maori population. Citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

The national police maintain internal security under the direction of the Minister of Police. The civilian authorities maintain effective control of the security forces. The police committed some abuses during the year.

The country has a population of approximately 3.9 million. It produces agricultural products and exports wool, meat, and dairy products. Tourism, forestry, fishing, and manufacturing were also significant economic sectors. Disparities in wealth were small but increasing. Government social programs offered substantial benefits to disadvantaged persons.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were some complaints of police abuses and of violence against women and children; societal discrimination against persons with disabilities, indigenous people, Pacific Islanders, and Asians was a problem. The Government generally respected the human rights of citizens living in its territories of Tokelau, Niue, and the Cook Islands. New Zealand was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial meeting in Seoul, Republic of Korea, as a participant.

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 a case involving a police officer who fatally shot a Maori youth in 2000, the family of the deceased youth filed the first-ever wrongful death civil suit against a police officer acting in an official capacity. In December a jury exonerated the officer and concluded that he had acted in self-defense. A December investigative report on John David Bryant, struck and killed by a bus while fleeing police custody, determined that arresting officers were not responsible for his death.

An independent Police Complaints Authority handles complaints and can refer cases directly to Parliament. Complaints range from police use of abusive language to allegations of complicity in deaths. During the 12-month period ending June 30, the Authority received 2,792 complaints; only 187 complaints were upheld. There

were 11 convictions and 2 acquittals in these cases; police were exonerated in the four cases involving deaths in custody, pursuit, or while police were present. The remaining cases were pending 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 law prohibits such practices, and the Government generally respected these prohibitions in practice.

There were some instances of police abuse during the year; four cases involved deaths. The Police Complaints Authority accepted 2,792 complaints against the police in the 12-month period ending June 30 and upheld 137 (see Section 1.a.).

Prison conditions generally met international standards. In 2000 prison overcrowding prompted the Government to begin a major building program; the Auckland Central Remand Prison, with capacity for 360 male inmates, opened in July. Four additional men's facilities, with a total combined capacity of 1,470 beds, are scheduled to open between 2003 and 2006. At year's end, the inmate population was 5,968 and total prison bed capacity approximately 6,000. Male and female inmates normally were housed separately, and no women were held in men's prisons during the year. Since 1999 the Government has been adding prison beds for women, and at year's end had a total capacity of 344 beds for a female inmate population of 236. During the year, the Government began a program to reduce recidivism among female inmates by creating mother-baby feeding facilities, parenting programs, and enhanced family visitation opportunities. Babies under 6 months of age were allowed to live with their mothers in prison, where appropriate. Under the Criminal Justice Act of 1985, the Minister of Corrections also may grant early release to an inmate who has given birth while serving a determinate sentence. Assaults in prisons (mostly inmate on inmate) rose to 120 in the period July 1999-June 2000 (the latest available statistics) from 97 during the previous 12-month period. There were 3 suicides during the 12-month period ending in June, a decline from the previous 12-month period. All new corrections officers received suicide awareness training, including tools to manage at-risk inmates effectively.

Maori make up only 15 percent of the general population but were more than half the prison population. The Government sought to reduce Maori recidivism through special programs to integrate Maori cultural values into the rehabilitation program (see Section 5).

Inmates under age 20 constituted approximately 6 percent of the total prison population. Four special units, providing a peer-based approach to rehabilitation for inmates under the age of 17 and vulnerable 17- to 19-year-olds, opened between 1999 and 2001. Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. At year's end, CYFS had a capacity of 143 beds. Despite increases in capacity, a shortage of beds for youthful offenders continued to be a problem during the year. In June the Sentencing and Parole Act was temporarily amended to permit youths aged 15 and older to be remanded to adult facilities. During the year, juveniles were held in adult remand centers in 2 homicide cases involving a total of 10 youths.

Pretrial detainees were housed separately from convicted prisoners to the extent possible.

The Government permitted visits by independent human rights observers.

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

There is no statutory authority for imposing a sentence of exile, and the Government does not practice forced exile. The Bill of Rights guarantees every citizen the right to enter the country.

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

There is an independent judiciary, with the right of appeal to the Privy Council in London, United Kingdom, although this is rarely invoked. Within the country, the Court of Appeal was the highest appellate court; it heard appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also heard appeals from lower courts and reviewed administrative actions. Remaining original jurisdiction rested with 110 judges of the district courts. Special courts included the Employment Court, family courts, youth courts, the Maori Land Court, the Maori Appellate Court, and the Environment Court.

In December the Government introduced a bill to transfer final appeals from the Privy Council to the Supreme Court of New Zealand. Opponents argued that the Supreme Court would be less impartial than the Privy Council, and the bill was still pending in Parliament at year's end.

The law provides for the right to a fair trial and affords defendants the rights found in other common-law jurisdictions. An independent judiciary generally enforced these rights.

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 law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

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.

For a more detailed discussion see the 2002 *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 provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees. The Government provides first asylum. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. 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

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system; the last general elections were held in July.

Women are accorded full opportunity to participate in political life. There were 34 women in the 120-seat Parliament. There were 9 women (including the Prime Minister) on the Executive Council, which comprises 26 ministers (20 within the Cabinet and 6 outside the Cabinet). The Cabinet included seven women. The Prime Minister, the former opposition leader, the Attorney General, and the Chief Justice are women; the Governor General, who represents the Queen, is a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands, and 2 women in the 20-seat Parliament of the dependent territory of Niue.

There were 20 Maori, 3 members of Pacific Island origin, and 1 member each of East and South Asian heritage in Parliament. The first Muslim Member of Parliament was elected during the year. The Cabinet included at least 6 members with Maori ancestry.

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 Human Rights Commission, a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. The Government also funds the office of a race relations conciliator, which was integrated into the National Human Rights Commission in December 2001.

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

The law prohibits discrimination on the basis of race, sex, religion, disability, and language, and the Government actively enforced it.

Women.—Violence against women was a serious and growing problem. Assaults by males against females increased by more than 5 percent from 6,956 for the 12-

month period ending in June 2000 to 7,324 for the 12-month period ending in June 2001. More recent statistics were not available. The total number of breaches of the Domestic Violence Act (including all races) increased from 4,429 for the 12-month period ending in June 2001 to 5,659 for the 12-month period ending in June 2002.

According to a 1996 National Survey of Crime Victims (the latest such statistics available), an estimated 20 percent of all Maori, 11 percent of all persons of European ancestry, and 9 percent of all Pacific Islanders reported domestic abuse by a partner. According to the Injury Prevention Research Center, 15 to 35 percent of all women reported having been hit or forced to have sex by their partners at least once in their lifetime. Although Maori women and children constituted less than 10 percent of the population, half the women and children who used the National Council of Independent Women's Refuges were Maori. According to 1998 government statistics, 5,056 men were prosecuted for domestic assault and approximately 1,000 on less serious family violence charges. In this study, Maori men constituted 41 percent of men convicted of assaulting a woman and 43 percent of men convicted of assaulting a child. Disproportionately high rates of domestic abuse also were documented among Pacific Islander families. Convictions for "male assaults female" (all races) increased 30 percent from 2000 to 2001, rising from 2,240 to 2,921 cases. Assaults on a child increased nearly 60 percent in the same period, from 186 to 296 cases. However, convictions for breaching protection orders under the Domestic Violence Act fell 46 percent, from 4,429 to 2,366.

The law penalizes spousal rape. The Government prosecuted and convicted persons on this charge during the year; however, specific statistics were not available. The National Collective of Rape Crisis groups disbanded during the year; however, local groups continued to be active. Rape crisis groups asserted that most sexual assault cases went unreported and that only a small percentage of reported cases resulted in convictions.

The 1995 Domestic Violence Act broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order. As of June 30, 2001, the family court had received 22,369 applications for protection orders under the Act.

In March the Government introduced "Te Rito," a national strategy to combat domestic violence. It included a range of programs to expand initiatives for prevention of family violence, provide victim support, incorporate best practices from family violence centers into the national family violence programs, ensure safety from violence, and ensure that approaches to family violence were culturally relevant and effective for minority populations, such as the implementation of Maori-designed and delivered programs. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

Female genital mutilation (FGM) is not traditionally practiced in the country. However, in the mid-1990s, cases of FGM were documented in the Somali, Sudanese, and Ethiopian immigrant communities. A 1996 law made it illegal to perform FGM or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to 7 years in prison. The Government also funded a national FGM education program. During the year, the Government sponsored ongoing public awareness campaigns to address FGM, a child protection network, and a special clinic at the country's largest women's hospital. There were no FGM cases reported during the year.

Prostitution is legal; however, organizing and recruiting women into prostitution is not. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts (*see* Section 5). There were no reports of abuse or the involuntary detention of women involved in prostitution during the year; however, there were several credible reports that women smuggled into the country were forced into prostitution to repay substantial debts to traffickers. There were also reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid (*see* Sections 6.c. and 6.f.).

The law prohibits sexual harassment; however, it was a serious problem. In a survey commissioned by the National Human Rights Commission in 2001, 31 percent of women and 13 percent of men reported experiences of sexual harassment. In September 2001, the commission started a Sexual Harassment Prevention Campaign, including a week focused on the issue.

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap

persisted in practice. Statistics as of August indicated that women earned 76 percent of men's average total wage and 84.4 percent of men's average ordinary hourly wage.

Children.—The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. In November 2001, the Government instituted 12 weeks of government-funded, paid parental leave to care for children born after July 2002. Established in 1989, the office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. The Government provided free health care to all children under age 5.

Child abuse continued to gain significant attention. During the year, there were approximately 2,026 reported cases of physical abuse, 1,262 cases of sexual abuse, and 2,121 cases of severe emotional abuse of children. In 2000 (the most recent statistics available), 2 children under age 15 died in assaults, down from 12 in 1997. In the past, the Government reported that Maori children were four times as likely as non-Maori children to require hospital care for injuries resulting from deliberate harm. In August 2000, the Government instituted an expanded program of information sharing between the courts and health and child protection agencies to identify children at risk of abuse. Notifications to child protection agencies of at-risk children increased by 4 percent on an annualized basis as a result of this program. Applications to family court requested protection for 22,948 children during the year.

A January study published by the Ministry of Justice concluded on the basis of anecdotal evidence that child prostitution was a growing problem throughout the country. In 2001 the Government had published a National Plan of Action against the Commercial Exploitation of Children developed in concert with nongovernmental organizations (NGOS). Assistance programs for victims of debt bondage were implemented through the Human Rights Commission, the Mayor of Auckland, the police, the Immigration Service, and NGOs including ECPAT NZ, the Prostitutes Collective, and Shakti Asian Women's Refuge. Other initiatives included pamphlets about the unacceptability of child prostitution, and peer counseling programs. In August a man was fined \$625 (\$NZ 1,300) and sentenced to community service for possession of child pornography.

In 1995 the Government introduced extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad. In February an 18-year-old man was convicted under this law for committing indecencies with a 13-year-old child while in a foreign country; he was sentenced to 5 months' imprisonment and a fine. In July a citizen was extradited to India on charges of sexually exploiting children in a Goa orphanage in the mid-1990s.

In the mid-1990s, there were a small number of documented FGM cases, most involving young girls, in Somali, Sudanese, and Ethiopian immigrant communities. However, there were no documented cases of FGM during the year (*see* Section 5, Women).

Incidents of trafficking in children for sexual purposes have been documented; however, there were no such cases during the year. The Government worked with the NGO ECPAT NZ to combat trafficking in children (*see* Section 6.f.).

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be "demonstrably justified in a free, democratic society." The Human Rights Commission reported that during the year, it continued to receive more complaints of discrimination based on disability than for any other type of discrimination. The International Labor Organization (ILO) has criticized the Government for not collecting adequate data regarding the employment of persons with disabilities.

In 2001 the Human Rights Commission funded a public campaign featuring prominent citizens who had suffered from mental disabilities, and continued to address mental health issues in its overall antidiscrimination efforts during the year.

Indigenous Persons.—Approximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, the Government's May 2000 Closing the Gaps report noted a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

For example, the official Maori unemployment rate (12.3 percent) was more than three times that of non-Maori. Maori officials continued to express concern over the Government's November 2000 announcement of a shift in its Closing the Gaps strategy to address socioeconomic rather than race-based disparities.

Maori inmates constituted more than half the prison population. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders. Five Maori focus units, involving approximately 300 inmates, integrated Maori values into the prison rehabilitation program. A special program for Maori sex offenders, *Kia Marama*, halved the rate of recidivism among participants.

Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues impacting commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

National/Racial/Ethnic Minorities.—Pacific Islanders, who make up 5 percent of the population, experienced societal discrimination similar to that experienced by Maori. Pacific Islanders also were overrepresented in the prison system, accounting for 10 percent of inmates. In June the Department of Corrections introduced its first-ever strategy to reduce the crime rate among Pacific Islanders through the use of culturally based techniques. Asians, who make up less than 5 percent of the population, also reported discrimination.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to establish and join organizations of their own choosing. The principal labor organization is the New Zealand Council of Trade Unions, a federation that includes unions representing various trades and locations. In August 2000, the Council of Trade Unions merged with the second-largest labor federation, the New Zealand Trade Union Federation. As a result, nearly all unionized workers are members of the Council of Trade Unions. A few small, independent labor unions also exist.

Labor organization is rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation.

The law protects unions from governmental interference, suspension, and dissolution.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Under the law, "sworn police officers" (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively.

The law prohibits antiunion discrimination against members and organizers. In July the courts fined a major company for a September 2001 incident in which union organizers conducting a labor compliance survey at the company facility were arrested for trespassing.

Unions may affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of workers to organize and contract collectively, and this right was observed in practice.

Unions influenced legislation and government policy. Some unions were affiliated with the Labor Party; others operated independently of political parties; all were free to support parties whose policies they favored. Unions represented approximately 21 percent of all wage earners.

In 2000 the Government significantly changed the law governing industrial relations, repealing the Employment Contracts Act of 1991 and replacing it with the Employment Relations Act (ERA). The ERA promotes collective bargaining, strengthens unions, and requires that parties to an employment agreement bargain in good faith to achieve either a collective or individual employment agreement. The act also promotes mediation and attempts to reduce the need for judicial intervention. Under the ERA, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf or may authorize any other person or organization to do

so on their behalf. Although choosing a union is entirely voluntary, unions remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees.

In 2001 the Freedom of Association Committee of the International Labor Organization (ILO) ruled that the ERA promoted collective bargaining. (In 1994, the ILO had ruled that the Employment Contracts Act of 1991 did not, and that it limited freedom of association and the right to strike in a manner inconsistent with ILO conventions.)

The Government does not control mediation and arbitration procedures. The ERA strongly encourages mediation and requires that the majority of employment disputes first proceed through mediation. It also established the Employment Relations Authority as an investigative body to establish the facts of an employment relationship dispute and to make a determination according to the merits of the case. There is also an Employment Court with exclusive jurisdiction over employment matters. Appeals from the Employment Court to the Court of Appeal are possible. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation. Other than police and armed forces personnel, public services employees, including essential service employees such as prison workers, may organize and strike. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

Sympathy strikes, secondary strikes, and strikes over social or political causes are illegal.

Unions often exercised the right to strike. Significant limitations on the right to strike were eliminated when the ERA replaced the Employment Contracts Act; unions no longer are limited to strikes related to the negotiation of a collective contract and may strike in pursuit of multiemployer contracts across an entire economic sector.

During the 12 months that ended in June, there were 46 work stoppages, involving approximately 24,580 workers and the loss of approximately \$3.8 million (\$NZ7.9 million) in wages and salaries. This represented a 39.4 percent increase in the number of work stoppages compared with the previous reporting period (July 2000-June 2001), involving 350 percent more workers and a 170 percent increase in lost wages and salaries.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution; however, there were reports that some foreign commercial sex workers had their passports held by employers until bonds were repaid.

d. Status of Child Labor Practices and Minimum Age for Employment.—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 years in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. Acceptable Conditions of Work.—A 40-hour workweek is traditional. There are legal limits regarding hours worked; for example, professional drivers must have a 24-hour rest period after an 11-hour day. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. In 2000 the Government mandated an hourly minimum wage of approximately \$3.70 (\$NZ7.70) and lowered the minimum age of eligibility for this wage to cover workers ages 18 to 20. Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage was generally adequate to provide a decent standard of living for a worker and family. There is a separate youth minimum wage for younger workers (ages 16 to 17), which was increased in March to approximately \$2.95 (\$NZ6.15). A majority of the work force earned more than the minimum wage.

Extensive laws and regulations govern health and safety issues. Under these rules, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others. As a result of union criticism, the law was under review by Parliament; however, at year's end there had been no action resulting from the review. Workers have the legal right to strike over health and safety issues. Unions and members of the general public may file safety complaints on be-

half of workers. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Inspectors could issue notices of deficiencies and bring prosecutorial action to enforce workplace safety. Workers had the right to withdraw from a dangerous work situation without jeopardy to continued employment.

Labor laws were applied to foreign workers and citizens in the same manner.

f. Trafficking in Persons.—The country has been a destination for internationally trafficked persons and, to a lesser extent, a transit point for persons being trafficked to the United States and other countries. During the year, the Government passed new legislation to criminalize alien smuggling and trafficking in persons, with penalties of up to 20 years in prison and fines of up to \$240,385 (\$NZ 500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Trafficking in women and children (particularly from Thailand) to work in the sex industry has been a problem. In 1999 a number of women from Thailand coerced into working in the sex industry were identified, rescued, and repatriated. In 1999 and 2000, domestic NGOs and the Human Rights Commission assisted in the repatriation of six of these women. Also in 1999, seven Thai women were freed from slave labor conditions in an Auckland factory. The Government responded to these incidents with assistance programs for affected individuals, and, in January 2001, imposed a visa requirement for Thai nationals. Since that time, no new cases of internationally trafficked persons have been brought to the attention of the authorities; however, there were reports that undocumented Thai and Chinese were forced to work in the sex industry to repay debts to smugglers.

During the year, there was a credible report of a Niuean woman lured onto a cargo ship bound for Ecuador in 1987; she returned home in 2002 and indicated she had been forced into prostitution in Ecuador because of destitution.

The Government worked with an NGO, ECPAT NZ, to combat trafficking in children. There were no documented incidents of trafficking in children for sexual purposes during the year.

The Government provided funding for the Human Rights Commission to coordinate antitrafficking activities, for health services for trafficked persons, and for the New Zealand Prostitutes Collective to provide peer counseling and assistance to trafficked persons. The major urban areas have support networks for trafficked individuals, including mechanisms to provide safehouses and repatriation. Antitrafficking campaigns have included literature on how to escape from prostitution, translated into the Thai language and distributed throughout the commercial sex worker areas in Auckland.

PALAU

Palau, formerly a U.N. trusteeship administered by the United States, became an independent nation in free association with the United States on October 1, 1994. The democratically elected government is modeled after that of the United States. The Constitution provides for executive and legislative branches and free and fair elections. Members of the legislature, the Olbiil Era Kelulau, are elected for 4-year terms. The President and Vice President also are elected for 4-year terms. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr., won the presidential race and Senator Sandra S. Pierantozzi became the first woman Vice President. The country is organized politically into 16 states. The judiciary is independent.

The country has no security forces other than local police and civilian law enforcement personnel; all are under the effective control of the civilian authorities. The country also has a Marine Law Enforcement Division that patrols its borders with assistance from the Australian government. Under the Compact of Free Association, the United States is responsible for the country's defense.

The small, market-based economy was sustained largely by transfer payments from the United States. The country's population is approximately 19,100. The Government employed nearly half of the work force. Tourism and other service sectors accounted for most other paid employment. Tuna, harvested by foreign-operated fleets, was the dominant export. Several small-scale operations, employing foreign workers, assembled clothing from imported materials for export. Traditional subsistence agriculture and fishing diminished as persons moved to urban areas in search of employment. An increasing number of Chinese farmers operated vegetable farms

that competed with indigenous farmers; most indigenous farmers worked and sold what they produced from their own land.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Traditional customs sustain a value system that discriminates between persons on the basis of social status and sex. The loosening ties of the extended family and the increasing abuse of alcohol and other drugs were major contributing factors that led to instances of domestic violence and child neglect. Societal discrimination and some abuse against certain foreign workers, who accounted for nearly 30 percent of the population and 73 percent of the paid work force, were also serious problems. There were reports of persons being trafficked to the country from the People's Republic of China (PRC), the Philippines, and Taiwan. Palau was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Members of the Palau Red Cross Society, which is affiliated with the International Federation of Red Cross and Red Crescent Societies, have visited the country's sole prison. The prison also was inspected regularly by government health and sanitation officials. The prison has separate quarters for men, women, juveniles, and pretrial detainees.

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

Warrants for arrests are prepared by the Office of the Attorney General and signed by a judge. Detainees had prompt access to families and lawyers. If a detainee could not afford a lawyer, the Public Defender or a court-appointed lawyer was available. There was a functioning system of bail. Lengthy pretrial detention was not a problem.

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

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 the Supreme Court, the National Court, and the Court of Common Pleas. The President appoints judges to the Supreme Court and National Court from a list recommended by the Judicial Nominating Commission. Appointments are for life.

The Government has an independent special prosecutor and an independent public defender system. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right vigorously.

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. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

The Internet was easily accessible; the Government did not control or limit its use.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the 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 did not promote or restrain religious activities; however, it regulated the establishment of religious organizations by requiring them to obtain charters as nonprofit organizations from the office of the Attorney General. This registration process was not protracted, and the Government did not deny any groups registration during the year.

Employers complained to the Division of Labor in the Ministry of Commerce and Trade that the religious practices of Bangladeshi Muslims interfered both with activity in the workplace and with the living arrangements of the employing families. In response the Ministry decided in 1998 to deny work permits to Bangladeshi workers in the future. On July 21, the Ministry extended this policy to Indians and Sri Lankans, both Muslims and non-Muslims. Workers already in the country were not expelled.

For a more detailed discussion see the 2002 *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 Government has not formulated a policy regarding refugees, asylees, or first asylum, and government practice remains undefined. However, there were no reports of the forced return of persons to a country where they feared persecution or the expulsion of anyone having a valid claim to refugee status. The issue of cooperation with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees has never arisen. In late 2001, the Government denied a request by the Australian government that the country become a processing point for asylum seekers trying to reach Australia.

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 exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Constitution provides for executive and legislative branches. The legislature, the Olbil Era Kelulau, consists of 2 equal houses: The 9-member Senate and the 16-member House of Delegates. The President and Vice President are elected by popular vote and have no limit on the number of their terms, except that the President may only serve two consecutive terms. Although there have been political parties in the past, there were none during the year. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr., won the presidential race, and Senator Sandra S. Pierantozzi became the first woman Vice President.

There were no legal impediments to women participating in government and politics. Women constituted 18 percent of state government legislators, up from 11 percent in 2001. A woman is governor of 1 of the 16 states. No women were elected to the Olbil Era Kelulau in the 2000 election.

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 restraint, investigating and publishing their findings on human rights issues. Government officials were cooperative and responsive to their views.

The Palau Red Cross Society opened its office in 1996, and in 1997 it joined the International Federation of Red Cross and Red Crescent Societies.

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

The Constitution prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the Government observed these provisions.

Women.—There were many incidents of violence against women, mainly domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Attorney General's office, the Government's Public Health Office, and women's groups, only a few such cases are reported to the authorities every year. Although assault is a criminal offense, women were reluctant to prosecute their spouses.

The law prohibits rape, including spousal rape; however, such crimes were not common. The Bureau of Public Health and the Bureau of Public Safety have urged all victims of crime, including rape, to report offenses.

Prostitution was a problem; during the year, the Attorney General successfully prosecuted three cases of prostitution involving nine PRC citizens. All nine were de-

ported. A citizen accused of employing four of the PRC citizens was successfully prosecuted and sentenced to prison.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. Women serve by presidential appointment as bureau directors for human resources and clinical services. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Since 1993 local women's groups have organized an annual women's conference that focuses on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the President, Vice President, ministers, and traditional chiefs, have participated in the conference to discuss these issues. Women's group leaders and government officials agreed that changes were needed to improve the country's educational system and to reduce illegal drug use among youth. The women's conference held in March continued its focus on previous issues and problems.

Children.—The Government provided a well-funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities, or in the availability of scholarships to attend postsecondary education abroad. Education was mandatory from ages 6 to 17. It was free and universal. Ninety-four percent of school-age children attended school; of these, 97 percent finished elementary school, and 78 percent completed high school. Girls and boys received equal treatment in health care services.

There was no societal pattern of abuse directed against children. While there have been a few instances of child abuse, cases have been prosecuted successfully by the office of the Attorney General. While children's rights generally were respected, there were reports of several instances of child neglect, which was a byproduct of the breakdown of the extended family. Child prostitution was neither accepted within society nor practiced.

Government officials and representatives from nongovernmental organizations agreed that changes were needed to improve the educational system and to reduce illegal drug abuse among youth.

Persons with Disabilities.—The National Code includes a Disabled Persons Anti-discrimination Act and a Handicapped Children Act, and the Government enforced the provisions of these acts. No instances of discrimination against persons with disabilities were reported. The law requires building access for persons with disabilities, and most government and business buildings have access for such persons. The public schools have established special education programs to address problems encountered by persons with disabilities.

National/Racial/Ethnic Minorities.—Noncitizens are prohibited from purchasing land or obtaining citizenship. The rapid increase in foreign workers, who according to the May 2000 census constituted nearly 30 percent of the population and 73 percent of the work force, was viewed negatively by a majority of citizens. Foreign residents were subject to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Credible complaints were made by foreign residents that crimes against noncitizens were not pursued or prosecuted by authorities with the same vigor as crimes against citizens. Certain foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although such discrimination is prohibited by law. While precise data was lacking, there continued to be anecdotal reports regarding the abuse of workers' civil rights perpetrated against domestic servants, female bar workers, construction laborers, and other semiskilled workers, the majority of whom were from the Philippines, the PRC, and Taiwan. The most common abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and, at times, physical abuse (see Section 6.e.). In a number of instances, local authorities took corrective action when alerted by social service and religious organizations to which foreign workers had turned for assistance. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of all persons to assemble peacefully or to associate with others for any lawful purpose, including the right to join and organize labor unions. There were no active employee organizations.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning trade union organization, including collective bargaining, although there

were no legal impediments to either. Wages in the cash economy were determined by market factors.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue. There were no strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced and bonded labor by children; however, there were no reports that such practices occurred. Instances were reported of foreign workers, especially domestic helpers and unskilled laborers, who were forced to accept jobs different from those for which they were recruited. The freedom of foreign workers to leave employment situations not to their liking may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution states that the Government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small-scale family enterprises. By regulation no foreigner under the age of 21 may be admitted into the country for employment purposes, and the Government enforced this regulation effectively.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The law sets the minimum wage at \$2.50 per hour. Foreign workers are not included under the minimum wage law. The minimum wage appeared to be sufficient to provide a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only \$1.50 to \$2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. There were more than 7,500 foreign nationals with work permits in the country; over half were from the Philippines, followed by the PRC, Korea, Indonesia, and Vietnam. The Korean, Indonesian, and Vietnamese workers were employed by a Korean-based firm on a road project. Since 1998 the Philippine Embassy has been working closely with the Government's Labor Division to resolve problems created by falsified documents, and it interceded in several cases involving allegations of worker abuse during the year; it also assisted in the repatriation of several workers.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The Division may inspect the conditions of the workplace and employer-provided housing on specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

As the number of foreign workers increased, there continued to be increasing numbers of reports of mistreatment of such workers by their employers. These incidents of alleged mistreatment were common knowledge among the general public but were rarely reported to law enforcement authorities by the foreign workers due to fear of their employers. Some types of mistreatment that foreign workers consistently complained about included physical and verbal abuse; being required to work overtime and on days off without pay; employers withholding monthly salary; employers and recruiters deducting the amount of airfare from salaries; and substandard housing. Some workers also complained that they were not provided sufficient food. The foreign workers most likely to be abused were those who worked under contracts and earned between \$150 and \$300 a month as domestic helpers, construction workers, farmers, waitresses, beauticians, and hostesses in karaoke bars and massage parlors. Under the terms of their contracts, they also were to be provided room and board and air travel from their home country to Palau and back after the termination of their contracts. It was generally assumed that legislators specifically exempted contract workers in the 1998 minimum wage bill to ensure a continued supply of low-cost labor in industries that the legislators often control.

f. Trafficking in Persons.—Neither the Constitution nor the law prohibit specifically trafficking in persons; however, there are laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as host-

esses and prostitutes, as domestics in private homes, and on construction sites. Following complaints to police by several of the women, four PRC nationals were arrested, tried, convicted of conspiracy to commit prostitution (1-year sentence suspended), fined \$1,000, and deported in 2001. In 1999 six Russian women were lured to the country with promises of legal employment; however, upon arrival they were forced to engage in prostitution. The freedom of foreign workers to leave employment situations not to their liking or into which they were forced may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited (*see* Section 6.c.).

The Divisions of Immigration and Labor are involved in combating trafficking; however, the Government lacked funding and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. There were no NGOs that specifically addressed trafficking.

PAPUA NEW GUINEA

Papua New Guinea has a federal parliamentary system, based on universal adult suffrage with periodic free and fair elections. The most recent general elections were in June. The judiciary is independent.

The Government has constitutional authority over the Defense Force, the Royal Papua New Guinea Constabulary, and the National Intelligence Organization. Members of the constabulary committed serious human rights abuses.

The population is just over 5.1 million, and there are more than 800 distinct indigenous languages. The economy relies heavily on commodity exports, and low world commodity prices and lack of political will to implement sound economic policies resulted in persistent macroeconomic stagnation. Crime, especially in urban areas, was a critical problem. Approximately 85 percent of the population resided in isolated villages and engaged in subsistence and smallholder agriculture. For a majority of citizens, income and educational levels were low, and infant and maternal mortality rates were high.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police committed arbitrary or unlawful killings, used excessive force when arresting and interrogating suspects, and engaged in excessively punitive and violent raids. The Government on occasion investigated allegations of abuse and prosecuted those believed responsible. Prison conditions in several areas continued to be poor. Court understaffing reduced court hearings and increased pretrial detention periods. Police infringed on citizens' privacy rights. The Government continued to limit freedom of assembly in the form of marches or demonstrations. Extensive violence and discrimination against women were problems, and abuse of children appeared to be a growing problem. Discrimination against persons with disabilities persisted, and violence between tribes remained a serious problem. Papua New Guinea was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The police killed several persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. There were no deaths in custody during the year, but incidents of serious beatings were reported.

During the June elections (*see* Section 3), 35 persons were killed in election-related tribal fighting in the Southern Highlands.

In June 2001, police officers fired weapons during demonstrations organized by university students in Port Moresby (*see* Section 2.b.), killing 4 persons and injuring approximately 20 persons. The Government imposed a nighttime curfew in Port Moresby for the following 2 months. The Government also ordered an independent inquiry by a former judge into the shootings. At year's end, the results of the inquiry had not been released to the public.

In 2000 police beat a youth to death in front of bystanders in Port Moresby and, in another Port Moresby case, police apprehended an intoxicated man whose corpse subsequently was discovered in an isolated area. During the year, no action was taken against the police in these cases.

There were several cases of police shootings during the year, particularly during election-related violence in June and July. All police shootings are investigated by

the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police in such circumstances may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

No human rights violations were reported in connection with military operations during the year. Although four soldiers suspected of complicity in the 1996 killing of Bougainville Transitional government Premier Theodore Miriung were questioned in 1999, no arrests were made. In July the Government declared an amnesty for all combatants in the conflict; this ended any possibility of prosecution in this case.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids torture and other cruel or degrading treatment or punishment; however, police often beat suspects during arrests, interrogations, and in pre-trial detention. Although abuses such as citizens being permitted to beat suspects and the rape of female detainees by police reportedly did not occur during the year, no action was taken against offenders from previous years.

Prison conditions were poor. There were more than 3,300 detainees according to the Minister for Correctional Services, of whom 90 percent were male. There were 53 juvenile prisoners. During the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. Prisons closed in 2000 because of life-threatening conditions remained closed, and there has been no new construction. Some prisons in urban areas were seriously overcrowded. In rural areas, infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (*see* Section 1.d.). There were no reports of deaths in prisons. Male and female inmates were housed separately. Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison breakouts were common.

The Government permitted prison visits by human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The courts generally enforced constitutional protections against arbitrary arrest and detention. Under the law, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review.

Due to limited police and judicial resources and a high crime rate, suspects were often held in pretrial detention for long periods of time. Pretrial remand is subject to strict judicial review through continuing pretrial consultations, especially at the National Court level; the slow pace of police investigations and occasional political interference frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and funds, delaying both the trial process and the rendering of decisions. Some detainees have been held in jail for more than 2 years because of the shortage of judges. During the year, the Government increased the number of full-time judges and took steps to expand training of the judiciary.

Forced exile is prohibited by the Constitution and was not used.

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 is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district courts established at the provincial level. There also are village courts headed by lay persons, who judge minor offenses under both customary and statutory law.

The legal system is based on English common law. The Constitution provides for due process, including a public trial, and the court system generally enforced these provisions. Defendants have the right to an attorney. Legal counsel is provided by the Public Solicitor's office for those accused of "serious offenses" who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of 2 years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays both in the process of trials and in the rendering of decisions (*see* Section 1.d.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such action; however, there were instances of abuse. In Janu-

ary 2000, heavily armed police searched the home of a man accused of a nonviolent offense. Subsequently, the court agreed that the search was politically inspired and police methods were excessive and contrary to constitutional protections of privacy; however, no action was taken against the police. Although provisions in the Constitution require warrants, the police continued to conduct warrantless searches and raids. Paramilitary police units operating in highlands regions used intimidation and destruction of property to suppress tribal fighting (see Section 5). The extent of such tribal fighting was unknown, and many incidents were not reported. During the June elections, 35 persons were killed in election-related tribal fighting in the Southern Highlands (see Section 1.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, and the Government generally respected these rights in practice.

The media provided independent coverage and analysis of major issues, including accusations of corruption in government and excessive use of force by police officers.

The combined circulation of 2 daily English-language newspapers was less than 60,000. Two weekly newspapers, one in English and one in Melanesian Pidgin (the national lingua franca) were also published. All freely expressed a variety of editorial viewpoints and reported on controversial issues such as alleged abuses by police, cases of alleged corruption by government officials, and political opposition views.

The television broadcasting company, EMTV, is government controlled; however, two cable companies are independent. Television reception was limited mostly to the capital and provincial centers. The Government-owned National Broadcasting Corporation operated two radio networks whose effectiveness was limited by inadequate funding and deteriorating equipment. A privately owned radio network, NAU-FM, was popular in Port Moresby and was expanding to other areas of the country. There were local radio stations in cities other than Port Moresby.

Internet access was privately operated and becoming common in cities.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. Public demonstrations required police approval and 14-days' notice. Police asserted that they feared violence from unruly spectators and rarely gave approval. In June 2001, police fired on students during a demonstration (see Section 1.a.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

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

It was the policy of the Department of Education to set aside 1 hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and the students attended the class operated by the denomination of their parents' choice. Children whose parents did not wish them to attend the classes were excused.

For a more detailed discussion see the 2002 *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.

In August 2001, the Government signed a peace agreement with Bougainville militants. Persons displaced by the civil war have safely returned to their homes.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation. A reservation to the Convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of West Papua (formerly Irian Jaya) living in a refugee camp in the western part of the country. There were 340 persons from West Papua living in a camp in Vanimo, near the Indonesian border. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and has not forced any persons to return to countries where they feared persecution. During the year, the Government provided first asylum for several hundred persons who fled West Papua. Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. The Government cooperated with the UNHCR in assisting the West Papuans living in the East Awin refugee

camp in Western Province and has administered the camp since 1996, when the UNHCR office closed. The Government has a policy of limited integration for West Papuans with certain skills or other qualifications, who were accorded limited residency status and permitted to leave the refugee settlement. Those who violated conditions of their residency could be repatriated, but there were no known forced returns of West Papuans to Indonesia. Several thousand persons lived in tribes along the borders and moved freely between the two countries, although border tensions had increased at year's end. The Government, with UNHCR assistance, interviewed claimants in Vanimo for refugee resettlement or possible repatriation. At year's end, approximately 100 persons remained in the camp pending final determination of their claims. Approximately 50 migrants interdicted at sea whose refugee claims were not approved remained at the Manus Island camp pending final appeals and possible repatriation. NGOs were granted access to this population.

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.

Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the high number of candidates for Parliament, some members have won election with less than 10 percent of the total votes cast. The most recent general election was held in June. Of the 109 seats in Parliament, 77 changed hands. A coalition government, led by Prime Minister Michael Somare, formed following the election. Fraud, voter intimidation, theft of ballot boxes, and violence including rape and murder marred the election in some parts of the country. As a result, the polls were declared failed in six electoral districts in the Southern Highlands and new elections were projected for an unspecified date in 2003.

The law provides that a losing candidate may dispute the election of the winning candidate by filing a petition with the National Court. Such petitions may question actions of the candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the June election, 83 such petitions were filed against winning candidates.

A weapons-surrender program mandated in the August Bougainville peace agreement continued under U.N. supervision at year's end.

One woman was elected to the 109-member Parliament in the June elections, compared with two in the previous Parliament. She was named the Minister for Welfare and Social Development, the only Cabinet position held by a woman. There were no women Supreme Court Justices or Provincial Governors.

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

There were no official barriers to the formation of human rights groups. The Government cooperated with human rights nongovernmental organizations (NGOs), both domestic and international, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group formed in 1993, concentrated on human rights and the environment during the year.

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

The Constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination.

Geographic diversity prevents any one tribe or clan from dominating the country. The democratically elected government, based on loose coalitions, has consistently avoided favoring any group. Skirmishes and conflicts tend to be based on disputes between clans over issues such as boundaries, land ownership, injuries, and insults suffered by one clan at the hands of another; they are not ethnically based. In the past, clan and tribal warfare was ritualized and fought with traditional weapons; the availability of firearms has made such conflicts deadlier.

Women.—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, and few victims pressed charges, prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape was pun-

ishable by imprisonment, and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

The Constitution and laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional patterns of discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Village courts tended to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. Circuit-riding National Court justices frequently annulled such village court sentences. By law, orders for imprisonment must be endorsed by a district court before the sentence is imposed.

Polygyny and the custom of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women were also sometimes given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women's constitutional rights.

According to statistics published in the U.N. Development Program's 1999 report on human development, women were gaining rapidly in literacy and education. Adult literacy rose to 73 percent; 65 percent of women were literate, compared with 86 percent of men. However, there were 15 percent fewer girls in primary schools than boys. Maternal mortality levels remained relatively high at 930 deaths per 100,000 live births.

Prostitution is not legal; however, the laws were not enforced and the practice was widespread. Although sex tourism existed, it was not common.

Sexual harassment is not illegal, and it was a widespread problem.

There is an Office of Women's Affairs in the Office of Church and Family Services of the Ministry of Provincial Affairs. It was active during the year; however, it had little effect on the Government's policy toward women.

Children.—Most independent observers agreed that the Government did not dedicate significant resources to protecting the rights and welfare of children. Most programs to protect and develop youth and children were operated by NGOs and religious organizations. In the past, children were well cared for within the family and under traditional clan and village controls. However, preliminary, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood. According to a report prepared by the Government and UNICEF, sexual abuse of children was believed to be prevalent. Because of the geographic isolation and remoteness of many villages, malnutrition and infant mortality rates were very high. More than 60 of every 1,000 children born did not survive their first year.

Primary education was not free, compulsory, or universal. Substantial fees were charged. Approximately 80 percent of children attended primary school; many did not progress further. Boys and girls were represented equally; generally either all children in a family attended school or none attended.

The Government provided free medical care for its citizens, including children. However, facilities and resources were very limited, particularly in rural areas, and many children did not have effective medical care.

Persons with Disabilities.—Through the National Board for the Disabled, the Government provided funds to a number of NGOs that provide services to persons with disabilities. The Government did not provide programs or services directly. Apart from those provided by the traditional clan and family system, services and health care for persons with disabilities did not exist in several of the country's provinces. There was no legislation mandating accessibility. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure.

The Government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

National/Racial/Ethnic Minorities.—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement occasionally resulted in violent tribal conflict in the highland

areas. The number of deaths in the last few years has risen due to the availability of modern weapons.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form and join labor unions, subject to registration by the Department of Industrial Relations. The Government did not use registration to control unions. However, an unregistered union has no legal standing with the Department of Labor and Employment or before the courts and thus cannot operate effectively. About half of the 250,000 wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most of the unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was selectively enforced. Unions were independent of the Government and of political parties.

Unions may affiliate freely with international organizations, and they have done so.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to engage in collective bargaining and to join industrial organizations. These rights are exercised freely. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. This law was criticized by the International Labor Organization (ILO). The Department of Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

There were no government efforts to hinder either public or private sector unions from exercising their right to strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids slavery and all forms of forced, compulsory, or bonded labor, including that performed by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Employment Act establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. It has no comprehensive policy on the problem; however, child labor outside family subsistence agriculture or enterprises was rare.

e. Acceptable Conditions of Work.—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The adult minimum wage of \$5.74 (22.96 kina) per week did not provide a decent standard of living for a worker and family who live solely on the cash economy. During the year, the Minimum Wage Board recommended a large increase in the minimum wage, but the Government disagreed, and no increase was implemented. Minimum wage levels, allowances, rest periods, holiday leave, and overtime are regulated by law. Although the Department of Labor and Employment and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax.

Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Employment. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

Legal foreign workers were protected by law. The very few illegal foreign workers lacked full legal protection.

f. Trafficking in Persons.—While the Constitution does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, in 2000, 2001, and during the year, the Government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations centered on the organized circumvention of immigration controls; however, there were no announced results from the investigations. Nevertheless there was concern that the country may be used as a route for trafficking in persons and the smuggling of illegal immigrants to Australia.

PHILIPPINES

The Philippines is a democratic republic with an elected president, an elected bicameral legislature, and a weak but functioning multiparty system. Although the executive traditionally set the political agenda, the legislature played an active role in policy formation. The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency.

The President is Commander-in-Chief of the Armed Forces of the Philippines (AFP). The Department of National Defense directs the AFP, and the Department of Interior and Local Government has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for counterinsurgency operations, also has duties in traditional law enforcement efforts, including the pursuit of kidnapers, whose actions remained a chronic criminal problem. The civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses.

The country has a market-based, mixed economy. The service sector accounted for approximately 45 percent of gross domestic product, the industrial sector 35 percent, and agriculture 20 percent. However, agriculture accounted for approximately 40 percent of total employment. Overseas worker remittances, estimated at \$6–7 billion per year, and tourism were important sources of foreign exchange. The country had a high 2.36 percent annual population growth rate, and a population of nearly 80 million. According to the most recent Family Income and Expenditure Survey, the richest 30 percent of families earned 67 percent of national income, while the poorest 30 percent received approximately 8 percent. The incidence of poverty (measured as the ratio of those below the official poverty threshold to the total population) worsened during the year and approached 40 percent. Poverty was more severe in rural areas, with an estimated 54 percent of the rural population unable to meet basic needs. Poverty in urban centers was approximately 24 percent.

The Government generally respected the human rights of citizens; however, there were serious problems in some areas. Some elements of the security services were responsible for arbitrary and unlawful and in some cases extrajudicial killings, disappearances, torture, and arbitrary arrest and detention. Other physical abuse of suspects and detainees as well as police, prosecutorial, and judicial corruption remained problems. The Government's Commission on Human Rights (CHR), established under the 1987 Constitution, again described the PNP as the worst abuser of human rights. Police and local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. Prison conditions were harsh. Judges and prosecutors remained poorly paid, overburdened, susceptible to corruption and the influence of the powerful, and often failed to provide due process and equal justice. Case backlogs, limited resources, corruption, and a shortage of judges hindered the courts. Long delays in trials were common. Some persons committed abuses with impunity. The Supreme Court undertook efforts to ensure speedier trials and to sanction judicial malfeasance. Despite efforts by reformist leaders in all three branches of the Government to strengthen rule of law and protection of human rights a fundamental and pervasive weakness in the rule of law left citizens with the belief that official justice is beyond reach. Some local military and police forces harassed human rights activists. Violence against women and abuse of children continued to be problems. Discrimination against Muslims persisted. The law provides for worker rights, but implementation and enforcement were not always effective. Child labor continued to be a problem, although the Government and nongovernmental organizations (NGOs) gave the problem increased attention. The use of underage workers in domestic servitude persisted. Child prostitution continued to be a problem. Trafficking in women and children remained a serious problem. The Philippines was invited by the Commu-

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

A large well-funded Communist insurgency continued to operate in various regions of the country; its military arm, the terrorist New People's Army (NPA), committed numerous human rights violations, including political assassinations, kidnappings, and torture. The small, terrorist Abu Sayyaf Group (ASG) committed numerous kidnappings and killings, including summary beheadings of hostages and local residents. The NPA, ASG, and the Moro Islamic Liberation Front (MILF), an insurgent group that signed a cease-fire with the Government in 2001, continued to use children both as soldiers and as noncombatants.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Police forces committed a number of arbitrary and unlawful killings. The CHR investigated 55 complaints of killings for the first 6 months of the year, compared with 40 complaints through June 2001. The CHR included killings by antigovernment insurgents in its investigations. The NGO Task Force Detainees of the Philippines (TFDP) documented 10 summary executions of civilians by government forces and insurgents through July.

Approximately 90 persons (including several candidates) were killed in political violence related to the July local ("barangay") and youth elections. On March 12, a barangay captain shot and killed his opponent in Santa, Ilocos Sur. On July 13, a candidate for barangay chair of Pinukpuk, Benguet, was shot and killed while campaigning. The NPA claimed responsibility for this and many other election-related killings (see Section 3).

In combating criminal organizations, police personnel sometimes resorted to summary execution of suspects, or "salvaging." Police spokesmen frequently explained these killings as the unavoidable result of a shoot-out with suspects or escapees. The CHR suspected that PNP members were the perpetrators of 27 percent of the human rights violations involving deaths that it investigated through June.

In February during what the police described as an exchange of fire, police shot and killed 12 suspected members of a kidnap-for-ransom gang in Alcala, Pangasinan. The CHR reported that by year's end no arrests had been made.

On February 17, suspected PNP members summarily executed three suspected kidnapers in North Cotabato. In April 10 officers, including the regional police chief of central Mindanao and the North Cotabato police chief, were charged with murder.

In May an unidentified person shot and killed a former police chief in South Cotabato suspected of complicity in an Abu Sayyaf shopping mall bombing in 1994 and in the kidnaping of tourists in 1995. The case remained under investigation.

As in 2001, suspected AFP or paramilitary group members shot and killed several officials of the Bayan Muna political party and other leftist organizations. Bayan Muna claimed that 23 of its members have been killed since January 2001, with 12 of the killings in Oriental Mindoro Province. The AFP denied involvement.

In April militiamen connected to the AFP killed an activist associated with Karapatan, a member organization of an NGO umbrella group affiliated with the Communist Party, and her three companions in Cotabato City. The AFP claimed they were NPA members and were killed in an exchange of fire with the Government forces. A National Bureau of Investigation (NBI) report rejected the military's account.

On April 15, a paramilitary unit engaged in a firefight with suspected NPA members at a wedding in southern Mindanao. Six civilians were killed. The CHR investigated and concluded that the civilian deaths were not the result of a paramilitary "massacre" as survivors had alleged.

The authorities made some progress on earlier cases. In December 2001, the Department of Justice filed murder charges in a regional trial court against three suspected NPA members for the June 2001 killing of Cagayan Representative Rodolfo Aguinaldo and his bodyguard. No bail was recommended, and the suspects remained in custody.

On January 8, the Antipolo City prosecutor's office charged three army soldiers with murder for the December 2001 killing of an alleged NPA member. At year's end, the case was pending.

On January 15, NBI agents arrested a suspect in the May 2001 murder of Quezon Province Representative Marcial Punzalan. The NPA previously had claimed responsibility for the killing; the suspect reportedly was a paramilitary member and gun-for-hire with NPA connections. He remained in custody awaiting charges.

On May 10, the Court of Appeals ordered the indictment of three former police generals, all top officials in the now-defunct Presidential Anti-Organized Crime

Task Force, for the November 2000 murders of a publicist for former President Estrada and his driver. According to the Department of Justice, all three remained at large. Two reportedly fled the country and were believed to be in North America.

On June 4, the NBI said it had a new state witness in the 1995 murders of 11 suspected members of the Kuratong Baleleng kidnap-for-ransom gang and petitioned the courts to reopen the case. Senator Panfilo Lacson was implicated in these killings, which occurred when he was a special unit commander in the PNP, but at year's end there were no charges against him in this case.

The terrorist Abu Sayyaf Group kidnaped and tortured many civilians during the year and summarily beheaded many of its captives (*see* Section 1.b.). On June 7, the AFP attempted to rescue three ASG hostages—Martin and Gracia Burnham and Ediborah Yap. During the encounter, Martin Burnham and Yap, died in an exchange of gunfire between the AFP and their ASG captors. AFP forces reportedly shot and killed ASG spokesman Abu Sabaya, one of the individuals believed to be responsible for the kidnaping, during a maritime encounter on June 21.

On June 17, ASG members beheaded a farmer they suspected of being a government informer. On July 10, armed men believed to be ASG members seized and killed three fishermen in the waters off Isabela, Basilan. On July 13, ASG members beheaded an elderly farmer in the same region.

On October 2, a bomb exploded in Zamboanga City, killing a foreign person and two Filipinos. The AFP and PNP identified the perpetrator as a member of the ASG. He was killed when the bomb exploded prematurely.

Communist insurgents, mainly from the New People's Army, took part in killings of political figures, military and police officers, and civilians, including suspected military and police informers and foreign tourists. The NPA also targeted suspected military and police informers and foreign tourists. Peace negotiations between the Government and the political arm of the Communist Party, the National Democratic Front (NDF), made no significant progress.

In January, in two shootings, armed men believed to be NPA rebels killed two foreign tourists and wounded another while they were hiking in Pampanga Province.

In February suspected NPA members shot and killed a barangay official in his house near Ormoc City, Leyte. That same month, suspected NPA members also ambushed and killed a foreign hiker in Porac, Pampanga.

In separate incidents in March, suspected Communist gunmen killed four local officials apparently because they were running against NPA-backed candidates for local office. Also in March, suspected NPA rebels tortured (*see* Section 1.c.), then shot and killed a retired military man and his wife.

On March 29, the NPA violated a self-declared cease-fire by killing a militiaman in Camarines Sur, apparently to mark the NPA's 33rd anniversary.

On April 22, four men shot and killed the mayor of Jones, Isabela inside the municipal hall. The NPA claimed responsibility for the killing, accusing the mayor of corruption and human rights abuses. In June Isabela police charged seven NPA members with the murder, but the suspects had not yet been taken into custody.

On May 28, suspected Communist members shot and killed a former town mayor in Camarines Sur. The former mayor had been an active participant in the Government's counterinsurgency program and had survived three prior murder attempts.

On May 13, police filed murder charges against a member of the Alex Boncayo Brigade (ABB), a breakaway faction of the Communist Party, for the February 2001 killing of a Communist labor leader. As of May, the accused remained at large, and other suspects in the case had yet to be identified.

NGOs expressed concern over killings by vigilantes in several Mindanao cities. Since 1995 so-called death squads reportedly killed more than 180 persons, and NGOs criticized several local officials for encouraging vigilantism and extrajudicial violence. Through August death squads killed at least 18 children. Many reportedly were involved in narcotic sales and petty crimes. There were reports that mayors in Davao del Sur and Misamis Oriental Provinces supported death squads responsible for more than 20 killings of suspected drug dealers.

During the year, unknown persons killed several journalists (*see* Section 2.a.). In May a broadcaster and editor of a community newspaper was killed in Pagadian, in the southern province of Zamboanga del Sur. On August 14, a witness was killed after testifying to authorities that a senior police officer in the area had sought the death of the journalist because he had exposed police corruption. At year's end, the PNP had fired the senior police officer and his superior; however, no charges had been filed and the case remained open.

Reporters Without Borders accused police and military officers in Zamboanga del Sur of blocking investigations and threatening witnesses in the murders of four other journalists since January 2001.

On August 22, an assailant shot and killed a cable television newscaster and publisher of a community newspaper in San Pablo City, Laguna.

On December 24, an explosion at the home of a mayor in Maguindanao Province killed 13 persons and wounded 12 others. On December 31, a grenade explosion in Tacurong City Sultan Kudarat Province killed 6 and wounded 30. Government officials believe that these resulted from a dispute between two clans, at least one of which has links to the MILF.

b. Disappearance.—Government forces were believed responsible for disappearances. The domestic NGO, Families of Victims of Involuntary Disappearances (FIND), reported eight disappearances during the year. On February 4, two members of the Bayan Muna political party, which is closely linked to the Communist Party (CPP), disappeared in Aurora Province. FIND suspected the AFP. At year's end, the two remained missing. On February 9, elements of the AFP allegedly seized a Bayan Muna organizer and a former student activist in San Jose, Nueva Ecija. At year's end, the two remained missing. The AFP has denied involvement in these disappearances.

FIND reported that 1,015 cases of disappearance remained unsolved; the majority of these cases date from 1983–85, the peak of the agitation against the Marcos dictatorship, and 1987–89, the height of an Aquino administration crackdown on insurgents.

The courts and the police failed to address adequately complaints of victims' families concerning past disappearances in which government security forces were suspected. Disappearance itself is not a crime under the law; evidence of a kidnaping or killing is required in order for charges to be filed. FIND and Amnesty International's (AI) Manila office continued to support the efforts of victims' families to press charges, but in most cases evidence and documentation were unavailable. Convictions were rare; FIND reported that only 14 cases were pending in court. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity that undermined public confidence in the justice system.

There were no developments in the following disappearance cases: The April 2001 disappearance of a Bayan Muna coordinator from Laguna Province arrested by unidentified military units; the June and July 2001 disappearance of five farmers in Basilan; the September 2001 disappearance of two suspected NPA members who were arrested in Oriental Mindoro by paramilitary or military units; the October 2001 disappearance of three farmers arrested by AFP elements in Zamboanga del Norte.

The Abu Sayyaf Group again engaged in many acts of terrorism during the year. The ASG sometimes claimed that its motivations were political or religious in order to attract sympathy for its actions, but during the year it again used terror mainly for profit. Its victims again included Christians and Muslims, Filipinos and foreigners.

On June 7, a gun battle between the ASG and AFP resulted in the death of hostages Martin Burnham and Ediborah Yap, and the wounding of Gracia Burnham. These three were the last remaining hostages of a group kidnaped from a tourist resort in May 2001.

On June 17, suspected ASG members intercepted an Indonesian tugboat in Mindanao waters and abducted four of its crewmen.

On August 20, suspected ASG members abducted six individuals in Jolo, Sulu. The two men in the group were beheaded. At year's end, at least four persons remained in captivity.

The NPA also was responsible for kidnapings and hostage takings. On February 22, the NPA kidnaped 11 power company workers in Catanduanes Province. They were released several days later after their employers paid ransom.

Criminal gangs with no pretense of political or religious agendas also engaged in kidnapings for ransom.

The police solved some kidnapings and apprehended suspects. The PNP reported that 80 kidnapings have been solved between January 2001 and June 2002. On May 7, police in Zamboanga City filed charges of 52 counts of kidnaping against a high-ranking leader of the ASG who was captured the prior week. Fifty other ASG suspects were awaiting trial in Metro Manila.

On August 9, government officials charged the PNP chief of Sultan Kudarat Province in southwestern Mindanao and a town mayor with complicity in the kidnaping of a foreign national and a Filipino businessman. Several other men were in police custody while awaiting trial in the same case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and evidence obtained through its use is legally inadmissible in court; however, members of the security forces and police continued

to use torture and to abuse suspects and detainees. The CHR provides the police with mandatory human rights training, including primers on the rights of suspects, and higher level PNP officials seemed more receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate. Through September the PNP reported investigating 163 human rights complaints against its personnel, leading to the trial of 70 officers. The PNP reported that among the 163 complaints there were 13 allegations of rape. At year's end, 1 of these cases had been dismissed, 2 were under investigation, and 10 individuals were on trial.

TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. Less common forms included the placing of plastic bags over heads to deprive the detainee of air. TFDP reported that such beatings often were carried out in the early stages of detention, often by the arresting officer. During the year, police intensified efforts to dismiss abusive officers and investigate police units nationwide.

Within the AFP, the CHR observed greater sensitivity to the need to prevent human rights violations. Officers with human rights violations cannot be promoted. Nevertheless, abuses still occurred. Human rights activists complained of abuses by government security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP frequently beat ASG suspects.

The CHR documented one case of torture from January through June; TFDP reported seven cases from January through June. The AFP was implicated in many of these cases.

On March 31, AFP units reportedly beat 27 suspected ASG members in Zamboanga City. The 27 complained that they were tied, blindfolded, and punched until they admitted to membership in the ASG. As of July, the authorities still detained seven, including two minors, in the Basilan provincial jail. The rest had been released.

On April 23, a 19-year-old Muslim male while under police interrogation about the bombing of a department store in General Santos City on April 21 was blindfolded and punched in the stomach.

On May 1, a resident of Barangay Alfonso, Cavite, suspected of membership in an armed dissident group was reportedly kicked, struck with rifle butts, and suffocated with cellophane by PNP units.

The terrorist ASG kidnaped and tortured many civilians during the year. ASG members often beat their captives and handcuffed them to trees overnight. Food and water were inadequate. The ASG summarily beheaded a number of its captives (*see* Section 1.b.).

Prison conditions were harsh. Provincial jails and prisons were overcrowded, had limited exercise and sanitary facilities, and provided prisoners with an inadequate diet. The Government reported that jails in the metropolitan Manila area were operating at 123 percent of capacity. A significant percentage of the inmates were detainees unable to post bail. Administrators budgeted a daily subsistence allowance of about \$0.60 (30 pesos). Prison inmates often depended on their families for food because of the insufficient subsistence allowance, and the need to bribe guards to receive food rations. In February 162 inmates of the Pampanga provincial jail staged a hunger strike to protest inadequate and sometimes rotten food.

Overcrowding appeared to contribute to medical problems among inmates. During the year, at least 80 inmates died of various ailments in city and municipal jails nationwide, with 28 deaths at the Manila City Jail. The poorly ventilated city jail suffered at times from a lack of potable water. As of June, 3,709 prisoners occupied a facility built to accommodate 1,000 inmates.

In national prisons, male and female inmates were held in separate facilities, overseen by guards of the same sex. In provincial and municipal prisons, male guards sometimes supervised female prisoners, directly or indirectly. In Bureau of Immigration and Deportation (BID) detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes. Although prison authorities attempted to segregate children, in some instances they were held in facilities not fully segregated from adult male inmates. In 2001 the Supreme Court ordered the transfer of 12 minors from death row to a medium security prison. On August 19, after repeated delays, the Bureau of Corrections transferred them. Pre-trial detainees sometimes were not separated from convicted prisoners.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay in order to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TDFP reported that beatings by

prison guards and other inmates were common, but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Some prominent prisoners and jailed celebrities received preferential treatment. Favored inmates reportedly enjoyed access to outside contacts, enabling them to trade in prostitution and drugs.

There were reports that guards abused prisoners. In March 2001, AI reported that women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (*see* Section 5). Some detainees at BID detention centers reportedly gained their release by making cash payments to guards.

International monitoring groups and the International Committee of the Red Cross are allowed free access to jails and prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, police in a number of cases arrested and detained citizens arbitrarily. The CHR investigated 17 cases of illegal arrest and detention through March—a decrease from the number recorded during the first quarter of 2001. The TFDP documented 36 cases of politically motivated arrests by the Government through July. TFDP and the NGO Philippine Human Rights Information Center (Philrights) both estimated the total number of political prisoners in the country at about 200. Many of these individuals were charged with common crimes. There were allegations that some of these individuals remained in custody for periods longer than their stated jail terms. The Government denied that there were any political detentions or detainees (*see* Section 1.e.).

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime. Due to the slow judicial process, lengthy pretrial detention remained a problem (*see* Section 1.e.).

The Moro Human Rights Center reported a significant number of cases of harassment and illegal detention of Muslims by police and military officers. In many cases, police and military officials suspected the targets of belonging to the ASG, and searched them without warrants, and, in one instance, raided an Islamic school in Pampanga Province that authorities suspected had links to the Al-Qa'ida terrorist network.

In other instances, political activists from various parties were the targets of arbitrary arrests and detentions. In January police without warrants detained seven activists from Karapatan, a group linked to the CPP, in Cagayan de Oro, Misamis Oriental. Police released three of the detainees within days. On April 23, police and soldiers arrested three members of a party affiliated with Bayan Muna in General Santos City, South Cotabato. Police reportedly searched their offices without a warrant, and held them in custody at a police station in General Santos for 2 months.

On April 25, Ronald Lumbao, the leader of a group supporting deposed former President Joseph Estrada, was arrested after he was implicated in the May 1, 2001, violent political rally. As of December, he remained in jail charged with rebellion. His petition for bail had not yet been adjudicated and his trial was pending.

The terrorist NPA, as well as some Islamic insurgent groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for “crimes against the people” (*see* Section 1.e.).

During the year, police released some individuals allegedly detained for political reasons. On June 6, 31 alleged rebels belonging to the MILF were released from jail in Mati, Davao Oriental. They had been accused of murder and robbery and had been held since July 2000. A Regional Trial Court judge ordered the release because of insufficient evidence and allegations that the military subjected state witnesses to physical coercion.

Forced exile is illegal, and the Government did not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties, and sometimes venality, undermined the commitment of some government employees to ensure due process and equal justice. The result was impunity for some wealthy and influential offenders, and widespread skepticism that the judicial process would produce fair outcomes.

Low pay rendered both judges and prosecutors susceptible to corruption. There were many allegations that judges accepted money or other bribes. Legal experts in-

side and outside the justice system criticized relationships between some judges and individual or corporate litigants. Some lawyers acted as “case fixers,” gaining the favor of judges and other court officials and allegedly bribing some witnesses.

The President and the Chief Justice of the Supreme Court expressed their desire to root out corrupt practices, and both warned judges and prosecutors not to abuse their authority. A high-profile campaign against judicial corruption showed promise, but progress remained halting.

The national court system consists of four levels: Local and regional trial courts; a national Court of Appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The Sandiganbayan, the Government’s anticorruption court, hears criminal cases brought against senior officials. A Shari’a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, although poverty often inhibited a defendant’s access to effective legal representation. Skilled defense lawyers staffed the Public Attorney’s Office (PAO), but their workload was great and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the Constitution, cases are to be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. There are no time limits for trials.

The judicial system was unable to ensure expeditious trials for detained persons. Because of numerous technical delays and the frequent failure of judges and prosecutors to appear, many trials lasted for several months. Furthermore, there is a widely recognized need for more prosecutors, judges, and courtrooms. Of the more than 2,100 trial court judgeships nationwide, 32 percent remained vacant at year’s end due to a lack of qualified applicants. Vacancies in Mindanao and other poorer provinces were particularly unattractive to many jurists, and 38 percent of these judgeships were vacant. Also difficult to fill were the Shari’a court positions, in part because of the requirement that applicants be members of both the Shari’a Bar and the Integrated Bar.

Although Shari’a courts do not have criminal jurisdiction, the MILF asserts that its Islamic law courts do. There were no reports of executions resulting from MILF court decisions during the year. The terrorist NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for “crimes against the people.” The NPA executed some of these “defendants.”

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system does not ensure the rights of defendants to due process and legal representation. At times, defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or at trial. By law the Supreme Court reviews all death sentences. In April 2001, senior government officials announced a moratorium on the death penalty, which at year’s end remained in effect.

Various human rights NGOs maintained lists of incarcerated persons they allege to be political prisoners; estimates usually range from 75 to over 250. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted. Some face murder, kidnaping, and other serious charges, while others are charged with lesser offenses such as possession of drugs or firearms. Some NGOs asserted that it was frequent practice to arrest political detainees for common crimes and to continue to detain them after their sentences expired. Often it was difficult to distinguish between persons possibly incarcerated for political reasons and those for common crimes. The Government uses NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it does not consider the persons listed to be political detainees or prisoners. The Office of the President returned to the Board of Pardons and Parole approximately 6,000 requests for presidential action, with instructions to restudy the cases.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on

search and seizure within private homes, searches without warrants have occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of Communist organizations complained of what they described as a pattern of surveillance on their activities. Bayan Muna party members reported the ransacking of a clinic and an office in the Davao City area.

Forced resettlement of urban squatters, who make up at least 30 percent of the urban population, continued during the year, although to a lesser extent than in prior years. The law provides certain protections for squatters; eviction is often difficult, especially because politicians recognize squatters' voting power. However, NGOs complained that in many instances the Government did not adhere to its 2001 suspension of demolitions in urban poor areas. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited. Some squatters removed for flood control projects were relocated to areas far from their places of livelihood and from schools.

The Government did not use forced conscription; however, there were unconfirmed reports of forced conscription into local paramilitary units with links to the AFP. In August persons representing 13 minority tribes from Mindanao accused the AFP of forcing them to join Citizens Armed Forces Geographical Units to fight the NPA. The AFP rejected the claims.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Some citizens groups complained that the AFP, in confronting the terrorist Abu Sayyaf Group, illegally detained citizens, torched houses, and shelled villages suspected of being ASG strongholds. The AFP defended its actions (*see* Sections 1.a. and 1.d.).

The terrorist ASG kidnaped and tortured many civilians during the year and beheaded a number of its captives. There were reports that the ASG killed citizens whom it suspected of being government or military informants. AFP-ASG clashes occurred intermittently throughout the year, mostly in the Zamboanga peninsula and Sulu archipelago. AFP-ASG clashes displaced approximately 8,000 civilians. By year's end, the majority of these individuals had returned to their homes.

There were some clashes during the year between the AFP and the largest remaining Muslim separatist group, the MILF. However, there were fewer attacks than in 2000 or 2001. At year's end, the August 2001 cease-fire agreement remained in effect, despite sporadic clashes. The MILF recruited children to serve as reserve forces and to provide noncombat support (*see* Section 5).

In February an AFP-MILF encounter in Basilan reportedly affected seven barangays and 1,300 families. Also in February, AFP-MILF fighting in Maguindanao Province displaced 5,508 families, some of whom have returned to their homes. In March AFP-ASG engagements displaced 1,600 families on Basilan. That same month, in Sultan Kudarat, NPA-AFP clashes forced 345 villagers to flee their homes. In May an encounter between the MILF and another Muslim group, the Muslim National Liberation Front (MNLF), displaced 150 families in Maguindanao Province. That same month, military operations against the NPA led 840 residents to leave their homes in Magsaysay, Davao del Sur. In June a battle between the MILF and AFP led to the displacement of at least 150 residents in Datu Piang, Maguindanao.

Of the nearly 1 million persons displaced in 2000 during clashes in Mindanao between the AFP and the MILF, by May approximately 67,000 still had not returned to their homes, according to the Department of Social Welfare and Development (DSWD). Of these approximately 65,000 were living with friends and relatives, while approximately 2,000 remained in government-run evacuation centers. DSWD reported that all but 2 of its nearly 500 evacuation centers that were established in connection with the clashes had been closed.

During the year, the terrorist NPA killed political figures, mayors, military and police personnel, and civilians, including those it suspected of acting as informants for the Government or the AFP. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The NPA continued actively to recruit minors both as combatants and noncombatants (*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, and the Government generally respected these rights in practice.

Most print and electronic media are independent. A few television and radio stations are owned by the state. Broadcast and print media are freewheeling and sometimes criticized for lacking rigorous journalistic ethics. They tend to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom are close associates of present or past high-level political officials.

Journalists were the targets of several violent incidents during the year. In May a broadcaster and editor of a community newspaper was killed in Pagadian City, in the southern province of Zamboanga del Sur. On August 14, a witness to that murder was himself killed after testifying to authorities that a senior police officer in the area had sought the death of the journalist because he had exposed corruption in the police force. The NBI announced in May that it had identified one of the journalist's killers as a police officer. He was temporarily taken into custody for questioning and later fired from the police force. At year's end the case was still under investigation. Since 2000 four journalists had been killed in the Pagadian area.

On August 22, an assailant killed a cable television newscaster and publisher of a community newspaper in San Pablo City, Laguna. He was known as a crusading journalist and a vocal critic of political corruption.

Some journalists and broadcasters were subjected to occasional harassment. In separate incidents in February two mayors, one in northern Luzon and one in northern Mindanao, attempted to shut down radio stations, allegedly because the stations were critical of the local officials.

Many incidents of violence directed at journalists that date from earlier years remained unsolved. The international NGO Committee to Protect Journalists criticized the Government for its failure to prosecute those responsible for the murder of journalists in the country. The Philippine Press Institute stated that there have been no convictions for the murders of 38 journalists in the country since 1986. The international NGO Reporters without Borders accused police and military officers in Zamboanga del Sur of blocking investigations and threatening witnesses in the murders of four journalists since January 2001.

The Government did not restrict Internet use.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respected them in practice.

Although the law requires that groups request a permit to hold a rally, for much of the year the Government followed an unwritten policy of allowing rallies to occur without requiring the filing of a request; however, in August, in connection with the visit of a foreign official, police required protesters to request official permits. Leftist groups complained that they were not allowed to hold protests in places where the foreign official was scheduled to visit. Police permitted rallies in alternative locales.

Several NGOs also complained about government security forces violently dispersing rallies. Violence generally was limited, and at times some of these groups provoked security forces by shoving or throwing objects. In one instance, participants in a bus caravan in Mindanao claimed that the Government failed to protect them from objects hurled by fellow citizens along the travel route.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, is the predominant religion, there is no state religion, and under the Constitution church and State are separate.

At least 5 million Muslims, who constitute approximately seven percent of the population, reside principally in Mindanao and nearby islands. They make up the largest single minority group in the country. Historically, they have been alienated from the predominant Christian majority. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported that they have difficulty renting rooms in boarding houses or being hired for retail work if they use their real name or wear distinctive Muslim dress. Some Muslims therefore used a Christian pseudonym and do not wear distinctive dress when applying for housing or jobs. Muslims continued to be somewhat underrepresented in senior civilian and military positions. Provinces in Mindanao that are predominantly Muslim lag behind the rest of the country in most aspects of socioeconomic development.

While Christian-Muslim relations were generally free of violence, Muslims faced discrimination not because of their religious beliefs or practices, which they were free to celebrate without interference, but because they were culturally different. There also were reports of Muslim discrimination against Christians in areas where Muslims are the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continue to be underrepresented in senior civilian and military positions, and cited the lack of proportional Muslim representation in national government institutions (*see*

Section 3). Muslims welcomed the approval of a bill to declare the Islamic festival of Eid al-Fitr a national holiday. However, the Government's crackdown on the terrorist ASG led many human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention (*see* Section 1.d.).

The teaching of religious classes in public schools is permitted with the written consent of parents, provided that there is no cost to the Government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim students to wear their head coverings ("hijab") and not requiring Muslim girls to wear shorts during physical education classes.

About 14 percent of the school population in Mindanao attend Islamic schools. The Government's Education for Peace and Development in Mindanao program is working to integrate the Islamic school network into the country's national education system. As of August, less than 10 percent of Islamic schools were fully accredited by the Government.

For a more detailed discussion see the 2002 *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.

Citizens enjoyed the freedom to change their places of residence and employment. Travel abroad is limited only in rare circumstances, such as when a citizen's court case is pending. Government authorities discourage travel by workers deemed vulnerable, such as young women, to areas in which they face personal risk (*see* Section 6.f.). The Philippine Overseas Employment Administration (POEA) seeks to limit departures for work abroad to those persons whom the POEA certifies as qualified for the jobs. More than 7 million citizens worked overseas and remitted money home. Such remittances amount to approximately 10 percent of the gross national product.

The practice of forcible displacement of urban squatters to make room for infrastructure and commercial developments declined notably beginning in February when the Government suspended demolitions in poor urban areas (*see* Section 1.f.).

Of the nearly 1 million persons displaced in 2000 during clashes in Mindanao between the AFP and the MILF, approximately 67,000 were still displaced as of May due to a lack of housing or because of security concerns. The majority of these displaced persons were in the provinces of Maguindanao and North Cotabato (*see* Section 1.g.). The Government still operated two displaced persons centers in predominantly Muslim areas of Mindanao.

During the year, fighting between the AFP and MILF, ASG, or NPA displaced about 17,000 families according to the Ecumenical Commission for Displaced Families and Communities (ECDFC). The majority of armed encounters that led to displacements took place in Muslim areas of Mindanao. ECDFC estimated that 20 percent of these families remained displaced at year's end.

There is no comprehensive legislation that provides for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugee Unit in the Department of Justice determines which asylum seekers qualify as refugees; such determinations in practice implement many of the basic provisions of the 1951 U.N. Convention. The Government cooperated with the U.N. High Commissioner for Refugees and with other humanitarian organizations in assisting refugees. There were no reports of the forced return of persons to a country where they feared persecution. The Government has provided first asylum.

The Government continued to allow approximately 1,800 asylum seekers from Vietnam to remain in the country. All had been precluded from refugee status. Most live on Palawan Island or in major urban areas. There was significant popular support, particularly from the Roman Catholic Church, for allowing permanent residency for those asylum seekers who do not wish to repatriate and are ineligible for resettlement in other countries. The Government continued to encourage voluntary repatriation of such asylum seekers but has not ruled out forcible repatriation.

During the year, an estimated 80,000 Philippine citizens were deported from Malaysia. The Government protested the treatment of thousands of these persons who had been confined in camps in Sabah, Malaysia, while awaiting deportation and assisted in their return by providing naval vessels. Several children died of disease en route. The Government provided the deportees with food, shelter, and, in some cases, medical care following their arrival in the country.

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 that largely were free and fair and held on the basis of universal suffrage. At year's end, legislation was pending in Congress to establish an absentee voting system, which is required by the Constitution. The system would enfranchise those eligible to vote among the 7.4 million Filipinos who reside outside the country.

In July barangay elections were held nationwide. The elections were largely free and fair, but approximately 90 persons died and hundreds were injured in election-related violence. The victims included a number of candidates. The terrorist NPA claimed responsibility for several election-related killings, although political rivalries were also a major cause. There were reports that the NPA continued to charge "access fees" to candidates wanting to campaign in remote areas. The NPA also killed local government officials in other instances not related to the barangay elections (*see* Section 1.a.).

In May 2001, midterm elections were held for new senators, representatives, provincial governors, and local government officials. Approximately 100 persons were killed in election-related violence, including two sitting congressmen and a candidate for provincial governor (the NPA claimed responsibility for these and many other election-related killings), and another 140 persons were wounded in more than 200 incidents in the period preceding and following the voting.

In November 2001, elections were held on the question of expanding the Autonomous Region in Muslim Mindanao (ARMM). The elections were marred by violence thought to have been instigated by the outgoing governor, Nur Misuari. The Government filed rebellion charges against Misuari, who fled to Malaysia and later was returned to the Philippines. He remained in detention pending trial.

There were no restrictions in law or practice on participation by women and members of minorities in politics. There were a number of women in positions of leadership and authority, some in highly visible positions. There were 3 female Senators in the 23 member Senate and 39 women in the 216-member House of Representatives. The President was a woman, and there were five female cabinet-level officials. There were 2 women on the 15-member Supreme Court.

Along with many other citizens, Muslims argued that the method of election of senators from a nationwide list favors established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment; many Muslims and members of other disadvantaged groups who are underrepresented in the national legislature favor such an amendment. There was one Muslim cabinet member, and one Muslim senior presidential adviser. There were no Muslim senators. The House of Representatives had nine Muslim members, including some elected from Christian majority districts.

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

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials, including those of the CHR, were responsive to NGO views. Many domestic NGOs were critical of the Government's human rights record; these NGOs also criticized previous governments' human rights records. While acknowledging that respect for human rights has improved under President Macapagal-Arroyo, many NGOs criticized the Government for being overzealous in its efforts to defeat the ASG. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring ASG members. President Macapagal-Arroyo staunchly denied wrongdoing by the AFP.

Some NGOs expressed concern over what they perceived as increasingly hostile government rhetoric toward human rights activists. President Macapagal-Arroyo stated that certain leftist groups committed human rights violations themselves and implied that some groups were merely front organizations for terrorists and criminals. NGOs, including AI, also expressed concerns over statements by the mayor of Davao, whom Macapagal-Arroyo has tapped as an adviser on crime, that condoned extrajudicial killings as an acceptable means to fight crime.

In April a Senator called for an investigation into the killing of a member of a leftist human rights group and three companions during an army operation in Arakan, North Cotabato, on April 5 (*see* Section 1.a.). At year's end, Congress had yet to launch an investigation.

Member organizations of the Philippine Alliance of Human Rights Advocates (PAHRA), a leading NGO network, effectively monitored human rights problems and sought redress through their contacts with government agencies, the Congress,

and the Government's Commission on Human Rights. Human rights activists continued to encounter minor or sporadic harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. Members of TFDP reported incidents of intimidation and harassment, and one case in which allegedly false charges were filed against a TFDP staff member.

CHR monitoring and investigation of human rights complaints remained hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays had Human Rights Action Centers, which coordinated with CHR regional offices. However, the CHR's regional and subregional offices remained understaffed and underfunded, detracting from their effectiveness. The new CHR chair has significant experience in the field of human rights and expressed her strong commitment to improve the Commission's effectiveness.

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

The Constitution prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Violence against women, both in and out of the home, remained a serious societal problem. The law does not specifically address the problem of domestic violence; complaints are filed under the charge of "physical injury." The Government did not disaggregate statistics to indicate the number of physical injury cases that result from domestic violence. The Department of Social Welfare and Development assisted an average of 4 women per day who complained of domestic abuse, not including rape.

In June Cebu City legislators passed the country's first local ordinance that penalizes perpetrators of domestic violence and provides protection to victims. Under this law, witnesses may file complaints as well as victims.

The PNP and the DSWD both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Many PNP stations included female officers. Overall the Government spent an estimated \$1 million (53 million pesos) during the year for medical and psychiatric facilities and shelters for women who are victims of violence.

Rape continued to be a major problem. The PNP reported that it investigated more than 2,500 cases of rape during the year. Of that number, the PNP reported that 90 percent were "solved," that is a suspect was identified and charges were filed or cases were settled out of court between the parties. There were reports of rape and sexual abuse of women in police or protective custody. These often involved women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes. In April there were allegations of rape and abuse by members of the security force of the Witness Protection Program (WPP). The Department of Justice, which oversees the WPP, investigated the complaints and fired several members of the WPP security force who were alleged to be involved.

The law provides for the death penalty in cases of rape. Spousal rape and abuse also are illegal, but enforcement is ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibits some victims, particularly relatives of the accused, from pressing charges. During the year, of the eight prisoners sentenced to death, three were convicted of rape. Of all prisoners, those convicted of rape make up 60 percent of those sentenced to death.

Prostitution is illegal. Many women suffer exposure to violence through their recruitment, often through deception, into prostitution (*see* Section 6.f.). A 1998 International Labor Organization (ILO) study estimated that 500,000 women engaged in prostitution within the country. Penalties for the offense are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. Officials believed that this helped only a small percentage of victims. Local officials condoned a climate of impunity for those who exploited prostitutes.

Sex tourism was a serious problem. Trafficking in women and children for sexual exploitation and forced labor were problems (*see* Section 6.f.).

Sexual harassment in the workplace was thought to be widespread yet underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most are economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry work on 3- to 5-month contracts, and were reluctant to report sexual harassment for fear their contracts would not be renewed.

In this predominantly Roman Catholic country, the law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries. The process of annulment is cumbersome and costly, which precluded annulment as an option for many women. Many lower income couples simply separate informally without severing their marital ties. The Family Code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of 7 are placed in the care of the mother unless there is a court order to the contrary. Children over the age of 7 normally also remain with the mother, although the father can dispute custody through the courts.

In law but not always in practice, women have most of the rights and protections accorded to men. Unemployment rates for women are consistently higher than for men. Women's salaries averaged approximately 47 percent lower than their male counterparts'. Women continued to face some discrimination in employment. More women than men enter secondary and higher education.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 10 NGO leaders appointed by the President, acts as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children.—The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education had by far the largest budget of any cabinet department. Nevertheless, children faced serious problems.

Primary and secondary education is free and compulsory, but poor families often were unable to meet costs for uniforms, supplies, shoes, and transportation. Poverty forced many children throughout the country to drop out of school; during the year, 96 percent of school-age children were enrolled in elementary school and 70 percent in secondary school, but only about 66 percent of children completed sixth grade, and only 50 percent of all children finished secondary school. The overall graduation rate (students who start elementary school and graduate from secondary school) was 71 percent. The Asian Development Bank expressed concern over a growing inequity in educational opportunities for the poor as public spending per pupil declined. In the 1980s, public spending covered 80 percent of the cost of elementary education; however, according to government estimates, this share has declined to less than 60 percent.

According to government reports, 70 percent of children are well nourished and 90 percent are fully immunized. The child mortality rate was 48 out of 1,000 children before the age of 5 years. In 2000 an NGO estimated that 30 to 40 percent of preschool children in the five-province Autonomous Region in Muslim Mindanao suffered from malnutrition. Most of the children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi Provinces, areas of heavy insurgent combat. According to the latest UNICEF data, at the end of 1999, 28 percent of children under age 5 nationwide were moderately or severely underweight.

According to UNICEF and ILO studies, approximately 2 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (*see* Section 6.d.). Sexual exploitation and trafficking in children for the purpose of sexual exploitation were problems. NGOs estimated that approximately 60,000 children were involved in the commercial sex industry (*see* Section 6.f.).

The Government estimated that there were as many as 200,000 street children nationwide, half of them in the greater Manila area. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned children engaged in scavenging or begging. In September 2001, an ILO-sponsored report stated that children as young as 5 years old were involved in the production and sale of illegal narcotics.

Child abuse remained a problem. DSWD offices served nearly 5,900 victims of child abuse during the year, 71 percent of whom were girls. Some 60 percent of the girls were victims of sexual abuse, while the majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued to be reported in the press, and the Government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. There were reports that police struck minors, and in one case, poured an adhesive substance over the head of a 14-year-old girl.

There were reports of discrimination against children of single parents at some private Catholic schools. In April the Secretary of Education ordered all private schools to discontinue their practice of refusing admission to children of single or separated parents.

In November 2001, the Supreme Court upheld the conviction of a Congressman for statutory rape; the Congress declared his seat vacant, and a special election was held in August to fill the seat.

The family court system expedites juvenile and domestic relations cases and serves to strengthen safeguards against the sale and trafficking of children abroad. The Supreme Court promulgated rules designed to avoid trauma to child witnesses, which took effect in January 2001. The rules permit nonlawyers to pose questions, allow children to have companions of their own choosing present, provide for the exclusion of persons not having a direct interest in the case, and permit use of videotaped testimony and one-way mirrors.

Children were targeted for recruitment as combatants and noncombatants by the terrorist NPA and ASG, and by the MILF. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombat duties; however, there were reports that the NPA continued to use minors in combat. A high-ranking AFP official estimated that children make up 30 percent of the NPA's fighting force. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors. In August an AFP commander presented a list of almost 300 NPA members who had surrendered to his command since May 2001, at least 17 of whom were still minors when they joined the NPA.

The MILF also recruited children. In many instances, children were pressured by their relatives to join as part of family or clan obligations. Cultural perceptions sometimes play a role; teenagers as young as 13 or 14 are considered to be adults. In one town in North Cotabato, a teacher reportedly disclosed that boys as young as 12 disappeared from their classes when the MILF was engaged in encounters with government troops. The MILF responded that it used children for training but not for combat. The AFP disagreed, stating that many MILF members killed or captured were children, some as young as 12.

The ASG also recruited teenagers to fight and participate in criminal activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP said that some Islamic schools in Mindanao served as fronts to indoctrinate children, and that the ASG used children as couriers and spies. In February the DSWD reported that seven former "child warriors" ages 11 to 15 admitted to having fought with the ASG against the AFP on Basilan island.

In November 2001, the Government adopted a Comprehensive Program Framework for Children in Armed Conflict, encompassing prevention, advocacy, rescue, and reintegration. The Government noted that children accounted for many of the casualties and captured elements during military-insurgent clashes, that many of the children recruited by the NPA and by the MILF came from indigenous communities, that some of the children were forcibly recruited or abducted, and that girl recruits were at risk for sexual exploitation.

A number of NGOs actively promoted children's rights.

Persons with Disabilities.—The law provides for equal physical access for persons with disabilities to all public buildings and establishments and for "the rehabilitation, self development, and self-reliance of disabled persons and their integration into the mainstream of society." The law applies to both those with physical and mental disabilities. The Department of Labor and Employment's (DOLE) Bureau of Local Employment (BLE) maintains registers of persons with disabilities indicating their skills and abilities. BLE monitors private and public places of employment for violations of labor standards regarding persons with disabilities and also promotes the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of disabled persons in the country ranged from 1 million to 3½ million. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It is estimated that the majority of persons with disabilities are younger than 65 years of age and live at home with their families. Assisted living centers were understaffed and underfunded.

The Government has mandated the provision of accessibility to buildings for persons with disabilities. Advocates for persons with disabilities contend that equal-access laws have been ineffective because implementing regulations are weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lack functioning elevators, meaning that persons in wheelchairs must be carried up stairwells. Many schools have architectural barriers that make it difficult for persons with disabilities to attend.

In August civil society leaders and local government officials in Davao City formed a task force to survey all buildings without accessibility features.

Government efforts to improve access for persons with disabilities to transportation have been halting. Only one of Manila's metro lines is wheelchair-accessible,

and many stops have out-of-service elevators. Buses lacked wheelchair lifts, and there have been reports of drivers who failed to stop for passengers in wheelchairs. A limited number of sidewalks have wheelchair ramps, but garbage cans and street vendors often block access. Many of the sidewalk wheelchair ramps are crumbling or too steep. The situation was worse in many small cities and towns.

Indigenous Persons.—Indigenous people live throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They account for about 16 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of basic services, health, and education.

Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffered disproportionately from armed conflict. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people. The MILF reportedly has tried to recruit the Arumanen Manuvu tribe in central Mindanao. In May there were reports that the governor of a central Mindanao province was recruiting and arming indigenous people against the terrorist NPA.

The 1997 Indigenous Peoples' Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commission on Indigenous People (NCIP), which is staffed by tribal members empowered to award certificates of title to lands claimed by over 12 million indigenous people in the country. It awards such "ancestral domain lands" on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns the indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. Although the Government has been slow to implement the legislation, primarily because of strong opposition from mining and agribusiness interests, some limited progress has been made. As of July, the Government had distributed almost 73,000 acres of land to more than 2,500 indigenous families.

Indigenous people continued to face legal threats to their claims to ancestral lands from developers and mining interests. The 1995 Mining Act promoted mining operations, hydroelectric dams, and other large-scale projects that forced indigenous people to relocate and abandon farming and hunting land that they have used for generations. In April an expansion project for a commercial tree and coffee plantation near Lake Sebu, South Cotabato, reportedly drove more than a dozen indigenous families off their ancestral lands.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and laws provide for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

There were 171 registered labor federations and more than 20,000 private sector unions, a small increase over 2001. The 1.6 million union members represented almost 5 percent of the total workforce of 34 million. The number of firms using contractual labor, primarily large employers, continued to grow.

As of December, the Bureau of Labor Relations had registered 1,150 public sector unions, compared with 943 at the end of 2001. Total public sector union membership was nearly 237,000, up 13 percent from 2001.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasi-judicial National Labor Relations Commission (NLRC). However, unions maintain that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the Department of Labor and Employment provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union federations, the Trade Union Congress of the Philippines and the Federation of Free Workers, were affiliated with the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labor, respectively.

The ICFTU has claimed that a union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions before a federation or national center can be formed.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was freely practiced. The number of workers covered by collective bargaining agreements rose to 228,894 or about 15 percent of union members.

Subject to certain procedural restrictions, strikes in the private sector are legal. However, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must be exhausted. The Secretary of Labor and Employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary decides that the industry involved in the strike is vital to national security. A total of 36 strikes took place during the year compared to 43 in 2001. Three strikes were ongoing as of year's end.

The Labor Code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to 3 years. However, according to the DOLE, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contracting to avoid required benefits were common practices, including in the Government-designated special economic zones (SEZs), where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common, and there were reports that some workers were fired after merely speaking with union organizers. There were reports that some companies offered cash to employees who agreed to identify union organizers. Some companies reportedly ordered overtime to disrupt union meetings.

Labor law applies uniformly throughout the country, including the SEZs. However, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union free/strike free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection has created further obstacles to the enforcement of workers' rights to organize. Despite objections from the DOLE, SEZ local directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. In organizing efforts, union successes in the SEZs have been few and marginal. Some mainstream unions avoided a major unionizing effort in the lower wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who work on short-term contracts in the zones' many electronics and garment factories. There were reports that some companies in SEZs locked toilets during working hours, except at break time.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced labor, including forced and bonded labor by children; however, despite the Government's efforts, there were some reports of forced and bonded labor, especially by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see Sections 6.d. and 6.f.). The legal minimum age for employment as a domestic worker is 15; over 4 million children 17 years of age or younger, including many under 15, were so employed. Some recruiters reportedly brought girls between the ages of 13 and 17 to work in Manila or Cebu under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work (see Section 6.f.). The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see Sections 6.d. and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor, but forbids the employment of persons under 18 years of age in hazardous or dangerous work.

However, child labor remained a problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see Section 6.c.). The latest government survey reported at least 4 million working children, approximately 2.4 mil-

lion of whom were exposed to hazardous working environments, such as quarries and mines, at docksides, and on fishing boats.

Most child labor occurred in the informal economy, most often in family settings, and the Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. The Government made greater attempts to devote more resources to child labor programs, but resources remained well below what was needed.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor. DOLE worked with domestic NGOs to educate communities on child labor and provided counseling and other activities for children. DOLE and the Department of Education worked with NGOs, UNICEF, and ILO/International Program on the Elimination of Child Labor to assist children to return to school. The Government also implemented fines and criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to rescue exploited child workers, rescuing 252 minors in 63 different operations during the year. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages. A round of wage increases was implemented in most regions of the country in January and February. The highest rates were in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers was \$4.55 (243 pesos), which does not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$2.45 (131 pesos). The regional wage board orders covered all private sector workers except domestic servants and other persons employed in the personal service of another person. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, and involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Unions have filed complaints about the minimum wage exemption policies.

In practice violation of minimum wage standards was common, and large numbers of workers received less than the minimum wage set for their area. Many firms hired employees at below the minimum apprentice rates, even if there was no approved training in their production-line work. DOLE officials estimated that 60–70 percent of workers who should be covered by the minimum wage were actually underpaid. They acknowledged that the shortage of inspectors makes the law difficult to enforce. In addition to fines, the Government also makes use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime are particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates a full day of rest weekly. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE managed enforcement of workweek hours through sporadic inspections.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with only 260 positions allocated for inspectors nationwide, local authorities often must carry out enforcement. DOLE officials acknowledged that the number of inspectors was not adequate for the number of work sites to be inspected. DOLE launched a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's 7.4 million overseas citizens, most of whom are temporary or contract workers. The Government placed financial sanctions and criminal charges on domestic recruiting agencies found guilty of unfair labor practices. Although the Philippine Overseas Employment Agency registered and supervised domestic recruiters' practices successfully, the authorities sometimes failed to ensure workers' protection overseas. It

sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

f. Trafficking in Persons.—Trafficking was a problem. At year's end, there was no specific antitrafficking law; however, penalties are severe under other relevant laws.

The Government used five laws against related illegal commerce to address and prosecute trafficking. The penalty for illegal recruiting is 6 years in prison, plus fines. When the crime involves three or more victims, the perpetrators can be charged with economic sabotage, which carries a maximum penalty of life imprisonment. The maximum penalty for child trafficking under the child abuse law is life imprisonment. The penalty for violation of the mail-order bride law is not less than 6 nor more than 8 years in prison. The maximum penalty for promoting or facilitating prostitution or corruption of minors is life imprisonment. The penalty for violation of the Passport Law by travel or recruitment agents who make false representations is between 3 and 10 years in prison.

The Government investigated cases of trafficking-related offenses, but efforts were halting due to scarce resources. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration and Detention, and the PNP Criminal Investigation and Detection Group. The Government cooperated with international investigations of trafficking. The Government has not extradited persons charged with trafficking in other countries.

The Philippines was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. Reliable estimates on the numbers of individuals trafficked were not available, primarily because of limited government and NGO resources to maintain accurate information. The most serious problem appeared to be the trafficking of women across international borders to destinations in Asia, Europe, the Middle East, and North America. Many of these women were forced to work in the sex industry.

Both adults and children were trafficked domestically from poor, rural areas to major urban centers, especially metro Manila and other cities on Luzon. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the severe poverty and violence of their home areas. Women were far more at risk to be victims of trafficking than men, and girls were more at risk than boys.

There were reports of the sexual exploitation of children. Despite government efforts at law enforcement and expanded children's programs, NGOs estimated that some 60,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all have dropped out of school. Children in the "entertainment industry" work long (10 to 12), odd hours from evening until early morning. Typically they come from families with unemployed or irregularly employed parents.

Traffickers targeted the many persons seeking overseas employment. Most recruits were girls and young women ages 15 to 22, from poor farming families, with an average of 6 to 10 siblings. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns. The primary method used to approach victims was the promise of a respectable and lucrative job.

There was no credible evidence that government institutions facilitated or condoned trafficking in persons. However, there was considerable anecdotal evidence that some officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise assisted in their operations.

Victims faced special health risks, such as contracting sexually transmitted or other infectious diseases, as well as susceptibility to beatings, sexual abuse, and humiliation.

The Government devoted significant resources to assist and protect victims. The Government assisted victims by providing temporary (not permanent) residency status and relief from deportation, shelter, and access to legal, medical, and psychological services. Additional protective services included hot lines for reporting cases, and the operation of 24-hour crisis intervention units in 16 regions of the country to respond to victims.

The Department of Social Welfare and Development was the lead agency on protection of victims. DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential

care. The Department of Justice was responsible for protecting the rights of victims of trafficking.

The Government did not provide funding to foreign or domestic NGOs for services to victims. Religious groups, multinational donor agencies, and private foundations typically funded these NGOs. However, there were instances in which government agencies provided facilities to NGOs, such as a program in which the Philippine Port Authority built a shelter for victims of domestic trafficking operated by a local NGO.

The Government rarely deported or charged victims of trafficking with crimes, but police frequently charged alleged prostitutes with vagrancy. There were no reliable statistics to determine if these individuals were victims of trafficking. The concept of a trafficked person as a victim rather than a perpetrator was particularly strong.

Victims may file civil suits or seek legal action against traffickers. Most victims who choose to do so file charges of illegal recruitment. The Government lacked substantial resources to support this.

Numerous government agencies and officials, as well as NGOs and international organizations, launched vigorous public information campaigns against trafficking. The Government supported other programs to prevent trafficking such as the promotion of women's participation in economic decisionmaking, and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding, remained limited, and additional prevention activities were needed.

SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its legislative system. The Constitution provides for a head of state; a unicameral legislature composed of family heads, or "matai," who are elected by universal suffrage; the protection of land rights and traditional titles; and other fundamental rights and freedoms. In 2001 the Human Rights Protection Party won reelection to its sixth term and holds 30 of the 49 parliamentary seats. Executive authority is vested in the Head of State with the Government administered by the Cabinet, which consists of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State, Malietoa Tanumafili II, who holds the position for life. The Legislative Assembly is to elect his successors for 5-year terms. The judiciary is independent.

The country does not have a defense force. The small national police force is controlled by the Government, but it has little effect beyond Apia, the capital city. Enforcement of rules and security within individual villages is vested in the "fono" (Council of Matai), which settles most internal disputes. Judgments by the fono usually involve fines or, more rarely, banishment from the village.

The economy is market based with more than 60 percent of the workforce employed in the agricultural sector. Fish, kava, and coconut products are the principal exports. The small industrial sector is dominated by a foreign factory that assembles automotive electrical parts for export. The Government continued an effort to promote tourism. The country was heavily dependent on foreign aid and on remittances sent to family members by the more than 100,000 citizens living overseas. The Government reported a 6.5 percent gross domestic product increase in 2001 and a per capita income of \$1,600. The population is approximately 191,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The law and the courts addressed some of these problems. Political discrimination against women and non-matai, and violence against women and children were problems. Societal pressures and customary law may interfere with the ability to conduct fair trials. Those who do not conform to accepted societal values may face pressure, threats, violence, and banishment. Religious freedom was further extended when a court ruled that a village council could not banish a bible study group and that village rules restricting religious practices were illegal. Samoa was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 July 23, the authorities ruled that the death of Taliaoa Taamilosaga and three other persons was a homicide. Taamilosaga was a candidate in a parliamentary by-election and had refused to withdraw in favor of the village leadership's preferred candidate. At year's end, no one had been charged in the case.

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 there were no reports that government officials employed them.

Jail conditions generally appeared to meet international standards, although they were fairly basic with respect to food and sanitation. There were no known requests by independent human rights observers to visit prisons; however, the Government indicated that it would permit such visits. Prison visits by family members and church representatives also were permitted.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law provides for issuance by the High Court of an arrest warrant based on sufficient evidence, and the Government adhered to this provision in practice. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the Government provides a lawyer. There is a functioning system of bail.

Villages are governed by traditional law, and the fono may mete out banishment, one of the harshest forms of punishment in this collective society. In some cases, civil courts have overruled banishment orders. On July 19, the Lands and Titles Court ruled that the banishment of a bible study group by the Salailua village council was illegal (*see* Section 2.c.).

Exile is prohibited by law, and the Government did not use it.

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 magistrates' courts, coroners' courts, and the Lands and Titles Court, with the High or Supreme Court acting as the court of final appeal.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused must be charged within 24 hours. A trial judge examines evidence and makes a determination as to whether there are grounds to proceed. Trials are public, and defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

However, many civil and criminal matters were handled by village fono, which varied considerably both in their decisionmaking style and in the number of matai involved in the decisions. The 1990 Village Fono Act gives legal recognition to the decisions of the fono and provides for limited appeal to the Lands and Titles Court and to the Supreme Court. In 2000 the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (*see* Section 2.c.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides substantive and procedural safeguards against invasion of the home or seizure of property, including a requirement for search warrants, which are issued by the judicial branch. However, there is little or no privacy in villages. While village officials by law must have permission to enter homes, there can be substantial societal pressure to grant such permission.

In accordance with traditional law, village fono may impose a punishment of banishment (*see* Sections 1.d. and 1.e.); however, during the year, there were no instances of appeals courts upholding a village fono in imposing such punishment.

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. Unlike in past years, there were no instances of government officials attempting to use their authority to influence the press.

Two English-language newspapers and a number of Samoan-language newspapers are printed regularly. The law requires journalists to reveal their sources in the

event of a defamation suit against them. There has been no court case invoking this law.

The Government operates the sole television station. There are four private radio stations (one AM and three FM), and a satellite-cable system is available in parts of Apia. Television from American Samoa is readily available. Internet use is expanding rapidly, both as a news source and as a means of two-way communication; there was no government interference with its use.

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. In 2000 the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (see Sections 1.e. and 2.c.).

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

The Constitution acknowledges "an Independent State based on Christian principles and Samoan custom and traditions." Although Christianity is favored constitutionally, there is no official or state denomination. There are no requirements for the recognition of a religious group or for licenses or registration.

The Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others; however, in practice the matai often choose the religious denomination of the "aiga" (extended family). In recent years, despite the constitutional protection, village councils—in the name of maintaining social harmony within the village—sometimes banished or punished families that did not adhere to the prevailing religious belief in the village. However, during the year, there were no new cases of individuals being banished by villages due to their practicing religion differently from that practiced by the village majority.

On July 19, the Lands and Titles Court ruled that the banishment of a bible study group by the Saluilua village fono was illegal and further ruled that a village law restricting religious practice was illegal.

Missionaries operated freely, either as part of one of the established churches, or by conducting independent revival meetings. The major denominations that were present in the country all had missionaries. There is an independent Christian radio and television station.

The Constitution provides for freedom from unwanted religious indoctrination in schools but gives each denomination or religion the right to establish its own schools; these provisions were adhered to in practice. There were both religious and public schools; the public schools did not have religious instruction as part of their curriculum. There were pastoral schools in most villages to provide religious instruction following school hours.

For a more detailed discussion see the 2002 *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, in past years some citizens either were banned from village activities or banished completely from their villages.

The Government actively supported emigration as a "safety valve" for the pressures of a growing population, especially for potentially rebellious youths, and because it generated foreign income through remittances. There were an estimated 100,000 citizens living abroad, and their remittances made a significant contribution to the national economy.

The country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not enacted enabling legislation or formulated a policy regarding refugees, asylees, or first asylum. Nevertheless, the authorities have indicated that they would conform to international norms if such cases should arise. The issue of the provision of first asylum has never arisen. The Government was prepared to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees; however, the need did not arise during the year. 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 have the right to change their government through direct multiparty elections held on the basis of universal suffrage; however, women's political rights are restricted by the fact that few of them are matai. While all citizens above the age of 21 may vote, the right to run for 47 of the 49 seats in the Legislative Assem-

bly remains the prerogative of the approximately 25,000 matai, 95 percent of whom are men. Matai are selected by family agreement; there is no age qualification. Matai control local government through the village fono, which are open to them alone. The remaining two seats are reserved for citizens not of Samoan heritage.

The political process is more a function of personal leadership characteristics than of party. The Human Rights Protection Party (HRPP) has dominated the political process, winning six consecutive elections since 1982. Although candidates were free to propose themselves for electoral office, in practice they required the approval of the village high chiefs.

In elections in March 2001, the HRPP won 23 seats and declared victory 2 weeks later when 5 opposition party members switched to the HRPP. At year's end, the HRPP held 30 of the Parliament's 49 seats. The remaining seats were divided between the opposition Samoa National Development Party and the United Independents. The election was marred by charges of bribery, and 10 losing candidates initially filed election challenges. Following a series of trials from May through September 2001, the Supreme Court in September ordered four by-elections. In August 2001, the Attorney General ordered the High Court to consider no further challenges and thereby prevented as many as 40 additional challenges from being filed. The HRPP won all four court-ordered by-elections.

Retaliation was directed against witnesses who testified in bribery cases. In March 2001, the Afega village council banished 10 persons and their families for giving evidence in such a case; however, in June the High Court overturned the village court order, and the persons returned to their village. Other candidates who ran against the wishes of their village councils were banished. For example, in January 2001, Aeau Peniamina Leavai, former parliamentarian and former Speaker of Parliament, and his family were banned from entering his village of Falealupo, reportedly because he ran for Parliament against the wishes of the village council (see Section 1.f.). On July 23, the authorities determined that the deaths of four persons, including a candidate in a parliamentary by-election who had refused to give way to the village candidate, were homicides (see Section 1.a.).

There were no prohibitions on the formation of opposition parties, and there were a total of five political parties, two of which were represented in Parliament.

Approximately 51 percent of women in the country vote, and there are 3 women in the 49-member legislature. There is one woman in the 12-person Cabinet.

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

A number of 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 Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, disability, language, or social status. There are no significant ethnic minorities. Politics and culture reflect a heritage of chiefly privilege and power, and members of certain families have some advantages. While there was discrimination against women and non-matai, who only occasionally reached high office, women (and particularly the few female matai) played an important role in society.

Women.—While the law prohibits the abuse of women, social custom tolerates their physical abuse within the home; abuse was common. The role and rights of the village fono and tradition prevented police from interfering in instances of domestic violence, unless there was a complaint from the victim—which village custom strongly discouraged. While police received some complaints from abused women, domestic violence offenders typically were punished by village councils, but only if the abuse was considered extreme (that is, visible signs of physical abuse). The village religious leader also may intervene in domestic disputes. The Government punished persons responsible for extreme assault cases, including by imprisonment.

Many cases of rape still go unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Despite such discouragement, the authorities noted an increasing number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often were given relatively stiff sentences of several years' imprisonment.

Prostitution is illegal, but it was becoming a problem. The law prohibits sex tourism. Sexual harassment is prohibited by law; it was not a widespread problem but was believed to be underreported.

Women have equal rights under the Constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, especially in the more

conservative parts of society. The Ministry of Women's Affairs oversees and helps secure the rights of women; during the year, it was increasingly active on the problem of domestic violence. In order to integrate women into the economic mainstream, the Government sponsored literacy programs and training programs for those not completing high school. On July 31, the Government issued a detailed report on The Status of Women in Samoa.

Children.—The Government has made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Education and the Ministry of Health. Education was free and compulsory through age 16. Boys and girls were treated equally and attended school in approximately equal percentages, and the average educational level reached by most children was junior high school. The Government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children, but tradition tolerates corporal punishment. The police have noted an increase in reported cases of child abuse, which was attributed to citizens becoming more aware of the need to report the physical, emotional, and sexual abuse of children. There were no reports of child prostitution. The nongovernmental organization Mapusaga o Aiga (Women against Domestic Violence) provided limited educational programs on children's rights.

There was one behavior modification camp for foreign children with emotional or behavioral problems. A second camp closed in 2001 following allegations of mistreatment of some of the children in its care.

Persons with Disabilities.—The Government has passed no legislation pertaining to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of societal discrimination against persons with physical or mental disabilities.

Section 6. Worker Rights

a. The Right of Association.—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the workforce was unionized. There are two trade unions in the country. The Samoa National Union, organized in 1994, is a six-member association that includes workers from the three major banks. A second union represented members at the sole factory in the country. Both unions were independent of the Government and political parties. The Public Service Association, which represents government workers (an increasingly important sector of the work force), also functions as a union. There are no laws specific to union activity. The Commissioner of Labor adjudicates any cases of retribution against strikers or union leaders on a case-by-case basis.

The Public Service Association freely maintained relations with international bodies and participated in bilateral exchanges.

b. The Right to Organize and Bargain Collectively.—While workers have the legal right to engage in collective bargaining, they seldom have practiced it, due to the novelty of union activity and the inexperience of union leaders. The Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Any antiunion discrimination case would be reported to and adjudicated by the Commissioner of Labor. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike, but there were no strikes during the year.

Labor law and practice in the sole export processing zone are the same as in the rest of the country.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children; however, in this collective society, persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not (*see* Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment.—Under the law, it is illegal to employ children under 15 years of age except in "safe and light work." The Commissioner of Labor refers complaints about illegal child labor to the Attorney General for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. Although the practice constitutes a violation of the law, local officials mostly tolerated and overlooked it. There were no reports of bonded labor by children; however,

the law does not apply to service rendered to the matai, some of whom required children to work for the village, primarily on village farms (*see* Section 6.c.).

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage of \$0.55 (WS\$1.60). An advisory commission to the Minister of Labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. This minimum wage sufficed for a basic standard of living for worker and family when supplemented by the subsistence farming and fishing in which most families engage. The law provides that no worker should be required to work for more than 40 hours in any week.

The law also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. However, independent observers reported that the safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were protected inadequately from pesticides and other dangers to health. Government education programs were addressing these concerns. The law does not apply to service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from a dangerous work situation, a report of such a case to the Commissioner of Labor would prompt an investigation, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

Foreign workers are protected by law; minimum wage and working conditions standards apply equally to them. There were very few foreign workers in the country due to the high unemployment rate. Most foreign workers were educated professionals in technical and health services fields.

f. Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

SINGAPORE

Singapore is a parliamentary republic in which politics was dominated overwhelmingly by the People's Action Party (PAP), which has been in power since the country gained autonomy from the United Kingdom in 1959. Opposition parties existed, and there were regularly contested elections. However, the PAP held 82 of 84 elected parliamentary seats and all ministerial positions. Elections took place at regular, constitutionally mandated intervals. The judiciary was efficient and constitutionally independent; however, there was a perception that it reflected the views of the executive in politically sensitive cases. In the past, government leaders have used court proceedings, in particular defamation suits, against political opponents and critics.

The police were responsible for routine security within the country and for border protection, including action against illegal immigrants. Military forces were responsible for external defense. The Internal Security Department (ISD) in the Ministry of Home Affairs was authorized by the Internal Security Act (ISA) to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The Government maintained effective control over all security activities. Some members of the security forces committed human rights abuses.

The country has a free market economy. The country's population was approximately 4 million. Financial and business services industries, manufacturing of semiconductors and telecommunications equipment, and petroleum refining and petrochemical production were key sectors of the economy. The Government liberalized market access for telecommunications and some types of financial services. The economy grew by 2 percent, following a 2 percent decline in 2001. Wealth was distributed broadly, and the unemployment rate was low.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. The Government had wide powers to limit citizens' rights and to handicap political opposition. There were a few instances of police abuse of detainees; however, the Government investigated and punished those found guilty, and the media fully covered allegations of mistreatment. Caning, in addition to imprisonment, was a routine punishment for numerous offenses. The Government continued to rely on preventive detention to deal with espionage, terrorism, organized crime, and narcotics. The authorities sometimes in-

fringed on citizens' privacy rights. The Government continued to significantly restrict freedom of speech and freedom of the press, as well as to limit other civil and political rights. Government pressure to conform resulted in the practice of self-censorship among journalists. Government leaders continued to utilize court proceedings and defamation suits against political opponents and critics. These suits, which have consistently been decided in favor of government plaintiffs, chilled political speech and action and created a perception that the ruling party used the judicial system for political purposes. Following the 2001 general election, Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued an opposition leader, Chee Soon Juan, for defamation based upon comments Chee made during the campaign. In August a court ordered a hearing to set the amount of damages Chee would owe the Ministers. Chee, who said he could not find a local lawyer, was not allowed to bring in foreign counsel and represented himself in the hearing.

There was a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues. A Speakers' Corner continued to provide a public forum for persons to speak on a range of issues. However, government restrictions on its use, including prohibitions on sensitive ethnic or religious issues, inhibited free speech. The Government significantly restricted freedom of assembly and freedom of association. Jehovah's Witnesses and the Unification Church were banned; however, in general, freedom of religion otherwise was respected. There was some legal discrimination against women, which affected benefits for children and husbands in limited cases. The Government moved actively to counter societal discrimination against women and minorities, and recent legal changes improved treatment for women regarding spousal immigration and health benefits for civil servants. The Government was strongly committed to children's rights and welfare, and implemented a comprehensive program for barrier-free accessibility for persons with disabilities. Foreign workers were vulnerable to mistreatment and abuse. Violence and some discrimination against women and concern over possible trafficking in persons for the purpose of prostitution persisted. Singapore was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

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 Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture; however, there were occasional instances of police mistreatment of detainees, and there were a few reports of police abuse during the year. Persons who alleged mistreatment by the police were permitted to bring criminal charges against government officials who were alleged to have committed such acts. The media reports fully on allegations of police abuse of those arrested, and the Government took action against abusers. Approximately 10 law enforcement officers were imprisoned between 1995 and 1999 for using excessive force on prisoners and suspects. In 2001 four prison guards were sentenced to 9 months in prison for handcuffing and beating a prisoner in 2000. Also in 2001, a police corporal was sentenced to 9 months in prison for kicking a man in 2000.

The Penal Code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving the use of violence or threat of violence against a person, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of criminal force, such as kidnaping or voluntarily causing grievous hurt. Women and men over age 50 or under age 16, and those determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a commonly administered punishment within the stipulations of the law.

Prison conditions, while Spartan, generally were believed to meet international standards. However, an opposition member who served a 5-week prison sentence said after his release that he and other sick bay inmates had been chained to their beds at night. The Government responded that the inmates were restrained to minimize the risk of hurting themselves, medical staff, or other inmates. The Government did not allow human rights monitors to visit prisons; however, embassy officials were given consular access.

d. Arbitrary Arrest, Detention, or Exile.—The law provides that, in most instances, arrests are carried out following the issuance of an authorized warrant; however,

some laws provide for arrests without warrants. Those arrested must be charged before a magistrate within 48 hours. The majority of those arrested are charged expeditiously and brought to trial. Those who faced criminal charges were allowed counsel, and the Law Society of Singapore administered a criminal legal aid plan for those who could not afford to hire an attorney. A functioning system of bail exists. In death penalty cases, the Supreme Court appoints two attorneys for those defendants who are unable to afford their own counsel.

Some laws—the Internal Security Act (ISA), the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. Historically, these threats have been Communist-related; however, during the year, the ISA was employed against suspected terrorists. Opposition politicians have called for the abolition of the ISA, but the Government rejected these calls, claiming that citizens accept the act as an element of the nation's security. The CLA historically has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the Minister for Home Affairs to order detention without charge at the direction of the President, if the latter determines that a person poses a threat to national security. The initial detention may be for up to 2 years and may be renewed without limitation for additional periods up to 2 years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the President within 3 months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order but is not obligated to do so.

In 2000 the Government released a statement confirming that an individual detained by the ISA in 1998 was still in detention, however, it was not clear whether this was still the case at year's end. There were no further reports of detainees under the ISA until the end of 2001, when 15 suspected Islamic militants were detained, some of whom were alleged to have ties to the Al-Qa'ida terrorist organization. Thirteen of these were ordered subsequently to preventive detention for a period of 2 years; two others were released with restrictions on their travel and their contacts. In August, additional terrorist suspects were detained under the ISA. Three were subsequently released with restrictions.

The CLA comes up for renewal every 5 years, most recently in 1999. Under its provisions, the Minister for Home Affairs may order preventive detention, with the concurrence of the Public Prosecutor, for an initial period of 1 year, and the President may extend detention for additional periods of up to 1 year at a time. The Minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require detainees to be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the Committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA may have recourse to the courts via an application of a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel but may challenge only the substantive basis for their detention to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to official figures, approximately 400 persons were in detention under the provisions of the CLA as of June 2000, the most recent year for which information was available. Persons who allege mistreatment while in detention may bring criminal charges against government officials who are alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the CNB also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a 6-month period, which is extendable by a review committee of the

institution for up to a maximum of 3 years. Under the Intoxicating Substances Act, the CNB director may order the treatment for rehabilitation of a person believed to be an inhalant drug abuser for up to 6 months.

The Constitution prohibits exile and the country did not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision; however, in practice, laws that limit judicial review allow for some restrictions on Constitutional rights. Some judicial officials, especially Supreme Court judges, had ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister and in consultation with the Chief Justice. The President also appoints subordinate court judges on the recommendation of the Chief Justice. The term of appointment is determined by the Legal Service Commission, of which the Chief Justice is the Chairman. Under the ISA and the CLA, the President and the Minister of Home Affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the Constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (*see* Sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the executive in politically sensitive cases. Opposition leader Chee Soon Juan, charged with defamation by the Prime Minister and Senior Minister, stated he was unable to retain experienced local counsel (*see* Section 2.a.). Chee requested the judge hearing the case to allow a foreign lawyer to represent him. In April the judge ruled that he had not established that the complexity of his case merited foreign counsel and refused the request. In an August summary judgment proceeding, Chee represented himself unsuccessfully. He protested that the judge's bar against foreign counsel significantly had handicapped his ability to receive a fair hearing.

The judicial system has two levels of courts: The Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme Court Justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. The Constitution has a provision for the Prime Minister or the Chief Justice to convene a tribunal to remove a justice "on the ground of misbehavior or inability . . . to properly discharge the functions" of office, but it never has been used.

The judicial system provides citizens with an efficient judicial process. In normal cases, the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Defendants also have the right to confront witnesses against them, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials.

The Constitution extends these rights to all citizens. However, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (*see* Section 1.d.).

There is a two-tier military court system, which has jurisdiction over all military servicemen, civilians in the service of the Armed Forces, and volunteers when they are ordered to report for service. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted at a subordinate military court. The trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution does not address privacy rights. The Government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its wide discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a magistrate's court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest are at issue. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, had extensive networks for gathering information and conducting surveillance, and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants were required for such operations. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet; however, there were no confirmed reports of such practices during the year. The law permits government monitoring of Internet use. It was widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics; however, no such reports were substantiated during the year.

In pursuit of what it considered the public interest, the Government generally enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units. The policy was designed to achieve an ethnic mix more or less in proportion to that in society at large (see Sections 1.d. and 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the Government significantly restricted freedom of speech and freedom of the press. The Government's authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform resulted in the practice of self-censorship among journalists; however, there was some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues.

Under the ISA, the Government may restrict or place conditions on publications that incite violence, that counsel disobedience to the law, that might arouse tensions among the various segments of the population (races, religions, and language groups), or that might threaten national interests, national security, or public order. While the ISA rarely was invoked in recent years, political opposition, and criticism remained restricted by the Government's authority to define these powers broadly. Occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA; however, these limits are not codified, and journalists and others generally believed these limitations have shifted toward greater tolerance in recent years.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the Government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

Under the Public Entertainment and Meetings Act (PEMA), a permit is required for virtually any form of public speech or entertainment (see also Section 2.b.). In June Chee Soon Juan, Secretary-General of the opposition Singapore Democratic Party, after being denied a permit, was charged under PEMA for holding an unauthorized rally in May outside the Istana, the Government compound housing the offices of the President and the Prime Minister. Chee was fined \$2,500 (S\$4500) and his colleague was fined \$1,700 (S\$3000). Chee chose to serve a 5-week prison sentence rather than pay the fine.

In September 2000, a Speakers' Corner opened in a financial district park; however, government restrictions limit speakers' ability to speak freely. Prospective speakers must be citizens, must show their identification cards, and are required to register in advance with police. However, they do not need to obtain a public entertainment license. There is a ban on sound amplification at the Speakers' Corner. A list of registered speakers was posted on a notice board outside the police station. While speech topics were not required to be declared in advance, government regulations governing the Speakers' Corner stated that "the speech should not be reli-

gious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups." In early 2001, police issued a public notice stating that activities at the Speakers' Corner, including demonstrations and marches, required public permits; violators and persons engaging in "disorderly behavior" were subjected to prosecution. A variety of persons, including politicians, social activists, and ordinary citizens, availed themselves of the Speakers' Corner during the year. In February opposition figure Chee Soon Juan spoke at the Corner to criticize the Government's enforcement of a ban on schoolgirls wearing the "tudung," a headscarf that some Muslims considered a religious requirement. When he registered to speak, police called Chee's attention to the ban on discussion of sensitive issues, then did so again after he began his speech. Chee was allowed to finish his remarks. However, in July he was charged with violation of the PEMA and convicted. The \$1,700 (S\$3,000) fine imposed on Chee affected his ability to participate in politics. Under the Constitution individuals who are fined more than \$1,100 (S\$2,000) cannot stand in a parliamentary election for 5 years.

The Government strongly influenced both the print and the electronic media. Singapore Press Holdings Ltd. (SPH), a private holding company with close ties to the Government, owned all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. The Government must approve, and can remove, the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and coverage of sensitive foreign relations issues closely reflected government policies and the opinions of government leaders. However, columnists' opinions, editorials, and letters to the editor expressed a range of moderate opinions on public issues.

Government-linked companies and organizations operated all broadcast television channels and almost all radio stations. Only one radio station, the British Broadcasting Corporation (BBC) World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. However, households subscribing to cable had access to three foreign television news channels and many entertainment channels, including some with news programs.

An increasing number of foreign media operations were located within the country. The law requires foreign publications that report on politics and current events in Southeast Asia to register, to post a \$133,000 (S\$234,000) bond, and to name a person in the country to accept legal service. These requirements strengthen the Government's control over foreign media. Under the Newspaper and Printing Presses Act, the Government may limit the circulation of foreign publications that it determines interfere with domestic politics. The importation of some publications was barred, although a wide range of international magazines and newspapers could be purchased uncensored. However, newspapers printed in Malaysia may not be imported. The weekly circulation of the Asian Wall Street Journal (AWSJ) and the Far Eastern Economic Review (FEER), both foreign publications, was limited (or "gazetted"). Asiaweek also was subjected to circulation limits prior to ceasing publication. The Government gradually has raised the allowed weekly circulation of publications to correspond more or less to actual demand; this permitted the Government to maintain control over the press while still maintaining some flexibility. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. In 2001 Parliament passed an amendment to the Singapore Broadcasting Act that empowers the Minister for Information and the Arts to "gazette" any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted a broadcaster is required to obtain express permission from the Minister to continue broadcasting in the country. The broadcaster also is subject to restrictions on the number of households receiving its programming, under penalty of fines of up to \$57,000 (S\$100,000).

The country's defamation laws make it relatively easy for plaintiffs to win substantial judgments for damages and legal costs. Threats of defamation actions often persuade newspapers and others to apologize and pay damages for perceived slights, a situation which prompts general caution in expressing criticisms. Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade has fostered public caution about political speech and a culture of self-censorship within the news media, and has inhibited opposition politics. During the last decade, ruling party leaders sued opposition politicians J.B. Jeyaretnam, Chee Soon Juan, and Tang Liang Hong for defamation several times. The Government argued that these individuals had repeatedly defamed ruling party leaders, who then acted to clear their

names. At the end of 2001, Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation, based upon comments Chee made during a campaign stop prior to the November general election. During the 2001 campaign, Chee issued a public apology, which he later retracted, then countersued the Senior Minister for calling him a "liar" and a "cheat." In August a court ruled that Chee's earlier statements effectively had conceded the defamation charges, but ordered a hearing to set the amount of damages. Chee represented himself in the hearing after being refused permission to retain foreign counsel (*see* Section 1.e.). During 2001 J.B. Jeyaretnam, an opposition nonelected Member of Parliament (M.P.) from the Worker's Party (WP), lost an appeal and was declared bankrupt for failing to pay the defamation damages stemming from an earlier WP publication. The bankruptcy forced Jeyaretnam to resign his parliamentary seat (*see* Section 3). In April Jeyaretnam formally apologized to Senior Minister Lee Kuan Yew and nine other ruling party members for remarks made during the 1997 campaign; those same remarks had been the basis for a 1998 judgment in favor of the Prime Minister. In exchange for the apology, the 10 men dropped defamation lawsuits against Jeyaretnam, and agreed to forgo damages.

In August the Bloomberg news service publicly apologized and agreed to pay \$338,000 (S\$595,000) in damages to Prime Minister Goh and Senior Minister Lee Kuan Yew for an Internet-distributed Bloomberg column which accused them of nepotism. The column alleged that Ms. Ho Ching, Deputy Prime Minister Le Hsien Loong's wife, was promoted to the senior position in the main government investment holding company because of her relationship with the senior leadership. In July police seized the computers of two men as part of a formal investigation into whether their Internet postings the previous month had constituted criminal defamation. These postings also had raised the issue of nepotism. Conviction on criminal defamation charges can result in a prison sentence of up to 2 years, a fine, or both. One of the men, Zulfikar Mohamad Shariff, later left the country for Australia, asserting that the country's judicial system politically was biased. The other man complained that, 2 weeks after seizure of his computer, authorities had compelled him to stay in a mental facility for more than a week. In 2001 other criminal charges against the man for an Internet posting were dropped after a government consultant told the court he had longstanding mental problems, and his wife agreed to send him for treatment. No new information was available at year's end.

The Singapore Broadcasting Authority (SBA) censored broadcast media and Internet sites. The Ministry of Information and the Arts (MITA) censored all other media, including movies, video materials, computer games, and music. Both SBA and MITA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the ban, seizure, censorship, or restriction of written, visual, or musical materials by these two agencies if they determine that such materials threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. In June, under these guidelines, a local radio station was fined for adding personal comments to news items in violation of the censorship code. Polls indicated that there was strong public support for continued censorship of sex and violence in films. There was a list of banned films, which was not made public. Certain films that might have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating.

The list of banned English-language publications consisted primarily of sexually oriented materials, but also included some religious and political publications. In 2001 singer Janet Jackson's album "All for You" was banned officially by the Ministry of Information and the Arts due to the sexually explicit lyrics of one of its tracks; Jackson declined to delete the track from the album. The ban was upheld over an appeal submitted by the local distributor. In March Jackson reissued the album worldwide without the track; authorities approved this version for release.

The Films Act bans political advertising using films or videos, as well as films directed towards any political end. In 2001 police warned three lecturers at a local university that a documentary they made about an opposition politician might have violated the Films Act and that they could be charged in court if they went ahead with a planned screening of the film. They submitted written apologies for making the film and withdrew it from the Festival. Restrictions strictly controlled the types of campaign materials that might be distributed by or about candidates and parties during an election. In 2001 the Government amended the Parliamentary Elections Act to allow political parties to place some election materials on the Internet, while prohibiting nonparty Web sites from campaigning for candidates. Implementing regulations also were issued in 2001.

The SBA regulated access to material on the Internet, using a framework of Web site licenses to encourage accountability and responsible use of the Internet. It also regulated Internet material by licensing Internet service providers through which local users were required to route their Internet connections. Such services acted as a filter for content that the Government considered objectionable and could even block access to certain sites. While the Government did not consider regulation of the Internet to be censorship, the SBA directed service providers to block access to Web pages that, in the Government's view, undermined public security, national defense, racial and religious harmony, and public morals. The SBA was believed to have ordered the blocking of approximately 100 specific Web sites, most or all of which the Government considered pornographic. A SBA Internet Code of Practice further specifies what types of material are forbidden and specifies the responsibilities of Internet providers. The SBA indicates it does not intend to monitor the Internet or electronic mail use but to block access to material that contains pornography or excessive violence or incites racial or religious hatred. Those responsible for sites that violated the Code of Practice sometimes faced sanctions, including fines.

In 2001 the SBA ordered Sintercom, which ran an online discussion forum that included some political postings, to register with the authorities as a political Web site. Registration as a political site meant that the organizers had to ensure that site content complied with the Code of Conduct. After an unsuccessful appeal, Sintercom complied with the request. Soon thereafter the founder and sponsor of the site shut it down, citing fatigue after 7 years on the job. In May an anonymous editor resurrected the Sintercom website, hosting it on servers outside of the country.

All public institutions of higher education and political research institutions were linked closely to the Government. Although faculty members were not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely, and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security. In practice, the Government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission (*see* Section 2.a.). Spontaneous public gatherings or demonstrations were virtually unknown. The Government closely monitored political gatherings regardless of the number of persons present. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the Government, needed to obtain a public entertainment license from the police. However, in 2001 new regulations exempted some cultural events (such as Chinese operas or lion dances), substituting a requirement of a 7-day advance notification to police. In the past, opposition politicians routinely experienced delays before being notified of decisions on their applications, although the Government claimed that the delays came only when applications were submitted late.

In October Singapore Democratic Party leader Chee Soon Juan and a colleague were convicted of an unauthorized May rally at the entrance to the compound where senior government leaders maintained their offices (*see* Section 2.a.). In 2001 authorities approved two open air public rallies to raise money for defamation judgments against opposition politician J.B. Jeyaretnam, but required the hiring of security guards for crowd control, which organizers complained increased costs significantly.

In 2000 authorities denied approval for a forum on gays and lesbians on the basis that homosexual acts were illegal. Also in 2000, police arrested and charged 15 Falun Gong adherents for conducting a protest without a permit; of these, 2 were Singaporean citizens, 5 were Chinese nationals with permanent residence status, and 8 were Chinese nationals with shorter term immigration status. The group did not seek a permit and asserted that police had not responded to their previous efforts to obtain permits; the authorities stated that these assertions were untrue. Seven of the group were sentenced to 4 weeks in jail for refusing to hand over placards to the police. The other eight, who were charged with assembling without a permit, each were fined \$540 (S\$1000). Of the six imprisoned PRC nationals, authorities later cancelled the immigration status of five, including one permanent

resident, and required them to depart the country; the remaining PRC citizen already had departed the country.

Most associations, societies, clubs, religious groups, and other organizations with more than 10 members were required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed to assemble for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The Government has absolute discretion in applying this broad, vague language to register or dissolve societies. The Government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limited opposition activities, and contributed to restricting the scope of unofficial political expression and action (see Section 3). The prohibition affected the PAP less because of its long domination of the Government and its overwhelming parliamentary majority; the PAP was able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than opposition political parties. In 2001 two nongovernmental organizations (NGOs) that often took positions critical of the Government were declared political organizations, but their operations were unaffected. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations.

There were few NGOs, apart from nonpolitical organizations such as religious groups, ethnically affiliated organizations, and providers of welfare services. The limiting effect of the law on the formation of publicly active organizations was, in large part, responsible for this situation.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government banned some religious groups. The Constitution provides that every citizen or person in the country has a constitutional right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny and must be registered legally under the Societies Act. The 1992 Maintenance of Religious Harmony Act (MRHA) gives the Government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, “exciting disaffection against” the Government, creating “ill will” between religious groups, or carrying out subversive activities. The act was prompted by activities that the Government perceived as threats to religious harmony, including aggressive and “insensitive” proselytizing and the “mixing of religion and politics.” Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The Government played an active but limited role in religious affairs. It did not tolerate speech or actions, including ostensibly religious speech or actions, which affected racial and religious harmony, and sometimes issued restraining orders barring participation in such activities. The Presidential Council for Religious Harmony reviewed such orders and made recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examined all pending legislation to ensure it was not disadvantageous to a particular group, reported to the Government on matters that affected any racial or religious community, and investigated complaints. The Government also supported citizen access to traditional religious organizations by assisting religious institutions to find space in public housing estates where most citizens lived. The Government maintained a semiofficial relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advised the Government on the Muslim community’s concerns, maintained regulatory authority over Muslim religious matters, and oversaw a Mosque Building Fund financed by voluntary payroll deductions.

In January four sets of Muslim parents challenged the country’s ban on girls wearing the traditional Muslim headscarf (tudung) in school. When the parents refused to heed school warnings regarding the ban, the four 6-year-old girls were suspended. One subsequently returned to school in June, and another moved to Australia in July. The parents of the other two challenged the ban, and attempted to bring in longtime Malaysian opposition leader and lawyer Karpal Singh to present their case. However, the application for Singh’s employment permit was refused. At year’s end, the case was still pending.

Under the Societies Act, the Government bans meetings of Jehovah’s Witnesses and the Unification Church. The Government deregistered and banned Jehovah’s Witnesses in 1972 on the grounds that its approximately 2,000 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to

the State. The Government regarded such refusals as prejudicial to public welfare and order. While the Government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and did not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The Government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association, the Watch Tower Bible, and the Tract Society. In practice this has led to the confiscation of Bibles published by the group, even though publishing Bibles was not outlawed. A person in possession of banned literature can be fined up to \$1,100 (S\$2,000), and for holding a meeting a person can be fined up to \$2,300 (S\$4,000). In 2001 two persons were arrested for possession of banned Jehovah's Witness literature but were released by the authorities without formal charges being filed.

Since the beginning of 2000 public primary and secondary schools indefinitely suspended 22 students who were members of Jehovah's Witnesses for refusing to sing the national anthem or to participate in the flag ceremony. At year's end the suspension was still in effect. In 2001 a long-time public school teacher, who was a Jehovah's Witness, resigned after being threatened with dismissal and disciplinary action for refusing to sing the national anthem.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, to publish, and to distribute religious texts. However, while the Government did not prohibit evangelical activities in practice, it discouraged activities that could upset intercommunal relations.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides citizens the right to move freely throughout the country; however, while the Government generally respected this right in practice, it limited it in a few respects. For example, citizens' choice of where to live sometimes was limited by the Government's policy of assuring ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see Sections 1.f. and 5). The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA, a person's movement may be restricted. In December 2001 and in August, five persons who were detained and questioned for possible terrorist activities later were released under restriction orders; the exact nature of the restrictions was not disclosed.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law for the possible loss of citizenship by citizens who resided outside the country for more than 10 consecutive years seldom was used.

Males are required to serve 2 years of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad for less than 6 months and require an exit permit for trips over 6 months. In 2001 the Government significantly relaxed the regulations governing international travel prior to enlistment by boys aged 11 and above. Boys aged 11 to 16½ years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16½ until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the State's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to any restrictive conditions imposed on them.

The law does not include provisions for granting refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government does not grant first asylum. However, the authorities usually permitted persons claiming asylum to have their status determined by the U.N. High Commissioner for Refugees (UNHCR) for possible resettlement elsewhere. There were no reports that persons were returned to a country where they feared persecution. A small number of ethnic Chinese persons from Indonesia have

entered the country as visitors for temporary stays during episodes of racial or religious strife.

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 through democratic means. Opposition parties are free to contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than three decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents. In November 2001, a general election was held. The Prime Minister requested dissolution of Parliament more than 6 months before the end of its full term. The opposition contested only 29 of 84 seats and won only 2 seats. There were no opposition allegations of irregularities in the casting or counting of votes in the election. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to extensively handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters curtailed opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a Prime Minister. The parliamentary term is for no more than 5 years after the first sitting of Parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the Prime Minister. Elections must be held within 3 months of Parliament's dissolution. Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. A constitutional amendment allows at least three opposition members in Parliament even if fewer than three actually were elected. Following the elections, the Government allotted a nonconstituency seat to Singapore Democratic Alliance candidate Steve Chia, the opposition candidate who had obtained the highest share of the vote without winning a seat. In addition, a parliamentary committee nominated and the President appointed Nominated Members of Parliament (N.M.P.s) for 2-year terms. In July nine N.M.P.s were appointed by the President. The voting rights of nonconstituency members and N.M.P.s were restricted.

The PAP had an extensive grassroots system and a carefully selected, highly disciplined membership. The recent development of government-organized and predominantly publicly funded Community Development Councils (CDCs) to promote community development and cohesion and provide welfare and other assistance services has strengthened the PAP, which dominates these CDCs even in opposition-held constituencies and has used the threat of withdrawing benefits. During the last two election campaigns, the Prime Minister and other senior government officials warned voters that precincts that elected opposition candidates would have the lowest priority in government plans to upgrade public housing facilities. This statement heightened concerns among some observers about voters' genuine freedom to change their government.

The PAP completely controlled the political process through patronage, influence over the press, reported influence over the courts, and limited opposition political activities. Often these means were fully consistent with the law and the normal prerogatives of the Government, but the overall effect (and, many argued, ultimate purpose) was to disadvantage and weaken the political opposition. For example, the Government altered dramatically the boundaries of election districts only 17 days before the 2001 general election, abolishing some constituencies and moving many other constituencies' borders. Since 1988 it has changed all but nine single-seat constituencies into Group Representational Constituencies (GRCs) of three to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the Constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. However, these changes made it more dif-

difficult for opposition parties, all of which had very limited memberships, to fill multi-member candidate lists. The PAP did not suffer from this disadvantage.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (*see* Section 2.b.). Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, which puts opposition parties at a disadvantage. The ban, which ostensibly was to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applied to the PAP as well as to the opposition parties. Nonetheless it had the effect of denying opposition parties, which already received far less coverage than did the PAP in the Government-influenced press and media, a potential outlet for their political messages. A 2001 law limits the ability of political parties and others to use the Internet for political purposes during election campaigns (*see* Section 2.a.).

The threat of civil libel or slander suits, which government leaders often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the formal political opposition (*see* Section 2.a.). Large judgments in libel suits can lead to bankruptcy, and under the law, bankrupt persons are ineligible to sit in Parliament. The Penal Code also provides for criminal defamation offenses. In July police opened criminal defamation investigations against two individuals (*see* Section 2.a.).

In the past, the Government also used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders. Government entities also used libel or slander suits, and dismissal from positions in government-related entities, to intimidate prominent opposition politicians.

The Government placed significant obstacles in the way of opposition political figures' candidacy for the presidency, a largely ceremonial position that nonetheless had significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. For example, opposition members were much less likely to satisfy the requirement that they have experience in managing the financial affairs of a large institution, since many of the country's large institutions are government-run or linked to the Government. Opposition political figures asserted that such strict compliance requirements weakened opposition parties.

Voting was compulsory, and women and minorities voted at approximately the overall 95 percent rate in contested constituencies. There was no legal bar to the participation of women in political life; women held only 10 of the 84 elected parliamentary seats, an increase from 6 female M.P.s in the previous Parliament. During the year, there were no female ministers, but 3 of the 14 Supreme Court justices were women.

There was no restriction in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays made up approximately 15 percent of the general population and held approximately the same percentage of regularly elected seats in Parliament. Indians made up approximately 7 percent of the general population and held approximately 10 percent of the regularly elected seats in Parliament. Minority representation in Parliament was, in part, the result of a legal requirement that candidate slates in every multiseat constituency have at least one minority representative. During the year, there was one ethnic Malay minister and one ethnic Indian minister. Two of the 14 Supreme Court justices were ethnic Indian; there were no Malays on the court.

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

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions. The NGOs were subject to registration under the Societies Act (*see* Section 2.b.). In 2001 two organizations that criticized the Government on human rights grounds were declared "political" organizations by the Government, but their operations were unaffected (*see* Section 2.b.).

In recent years, the Government permitted international human rights organizations to observe human rights related court cases. In 2001 opposition politician J.B.

Jeyaretnam's bankruptcy appeal was witnessed by a Canadian observer, who acted as a representative of both Amnesty International and the Lawyers' Rights Watch in Canada.

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

The Constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally carried out these provisions in practice. The Constitution contains no explicit provision providing equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the Government took affirmative measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. However, men did not have the right to seek alimony from their wives in cases of divorce or separation. In October the Community Development Ministry denied a proposal that would have given men the right to seek such financial support.

Women.—The Penal Code and the Women's Charter criminalize domestic violence and sexual or physical harassment; however, violence or abuse against women was not seen as a significant problem. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. Court orders for protection against violent family members have increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave fairly prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research (AWARE) had a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development and Sports, documented physical and psychological abuse, and provided counseling and other support services to abused women. In 1999 the Council of Women's Organizations established a crisis center for abused persons. The Star shelter accepted children, women, and men, and could accommodate up to 30 persons. The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law, rape can only be committed by a man, and spousal rape is not a crime.

The country's laws neither ban nor authorize prostitution per se. However, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution, and arrested and deported foreign prostitutes, particularly when their activities took place outside of informally designated red light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes in such establishments were required to undergo periodic health checks and carry a health card. Sexual intercourse with girls under the age of 16 is illegal. There was no evidence that child prostitution was a problem.

Trafficking in women for the purpose of prostitution was a problem (*see* Section 6.f.).

Women enjoyed the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law fell under the administration of the Muslim Law Act, which empowers the Shari'a court to oversee such matters. Those laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing spouse or spouses and reviews financial capability. Of the 4,000 Muslim marriages registered in 2001, only 20 were polygynous. Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often prevented them from pursuing proceedings.

Women constituted 42 percent of the labor force and were well represented in many professions but held few leadership positions in the private sector. They still held the preponderance of low-wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. The average salary of women was 72 percent of that of men in comparable jobs. Observers noted that the wage differential was smaller in professional jobs, and that wage disparities could be attributed in part to differences in average educational levels and work experience. On December 5, the Government announced a change to the Medical

Registration Act, which is intended to eliminate a quota on female medical student admissions into the National University of Singapore.

There were no specific laws prohibiting stalking or sexual harassment, and sexual harassment was not viewed as a significant issue. However, the Miscellaneous Offences Act and laws prohibiting insults to modesty successfully were used to prosecute such offenses.

Women were unable to transmit citizenship to a child born abroad; the children of male citizens automatically acquired citizenship at birth. Women were able to sponsor noncitizen husbands for citizenship as of 1999. Legislation passed in 2001 expanded health benefits to cover the immediate family members of female civil service employees; only male civil service employees had previously been covered.

Children.—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Access to public education and medical care was equal for all children. In 2000 the Government enacted legislation making 6 years of education in public schools compulsory by 2003. Although school attendance has not been compulsory, virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, disabled, or troubled children, and created a juvenile court system. The Ministry of Community Development worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded up to 50 percent of all child costs, which included normal living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs. In some cases, the Government covered 100 percent of such costs.

There was no societal pattern of child abuse.

The Ministry for Community Development and Sports sponsored activities promoting children's causes, including family stability. This agency and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

Persons with Disabilities.—The Government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment. However, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. A tax deduction of up to \$57,000 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for visually impaired, deaf, and physically disabled students. There were 19 special education schools that enrolled 4,200 students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students.

The Government allowed a tax deduction of up to \$1,900 (S\$3,500) per individual for families caring for a sibling, spouse, or child with disabilities. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 15 percent of the total population. The Constitution acknowledges them as the indigenous people of the country and charges the Government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels, and, some assert, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The Government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as "Chinese speaker" or "physically strong" remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the

Government on matters that affected any racial or religious community and investigated complaints.

The Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that in society at large.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides all citizens with the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws, any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel. The Trade Unions Act prohibits government employees from joining trade unions but the President has the power to make exemptions from this provision. The Amalgamated Union of Public Employees was granted such an exemption, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants. The Trade Union Act restricts the right of trade unions to elect their officers, and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, exemptions could be granted by the Minister. The act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. According to government statistics, the national labor force was made up of approximately 2.2 million workers, approximately 340,000 of whom were represented by 71 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trades Union Congress (NTUC), an umbrella organization with a close relationship with the Government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General (SG), Lim Boon Heng, a PAP M.P., was a member of the Cabinet as Minister in the Prime Minister's Office. Young PAP M.P.s often were given leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. In November the branch chairman of a union affiliated with NTUC was elected secretary general of the Singapore Democratic Alliance, an opposition body. In December he was stripped of both his union position and his membership in the union. In response he filed an appeal that was pending at year's end. While the NTUC was financially independent of the PAP, with income generated by NTUC-owned businesses, the NTUC and the PAP shared the same ideology and worked closely with management in support of nonconfrontational labor relations. The NTUC was free to associate regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice employers did consult with unions on both issues, and the tripartite National Wages Council issued guidelines calling for early notification to unions of layoffs. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for a system of recourse to compulsory arbitration, which can put an end to collective bargaining at the request of only one of the parties. However, the compulsory arbitration clause has not been used since 1981. Agreements between management and labor were renewed every 2–3 years, although wage increases were negotiated annually. Yearly guidelines on raises and bonus pay issued by the National Wages Council (NWC), a group composed of labor, management, and government representatives, served as the starting point for bargaining agreements. In 1999 in response to the economic downturn, the Government adopted an NWC proposal in which, subject to negotiation in each enterprise, up to 10 percent of salaries would be considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems. The intent was to minimize job losses in a severe business downturn.

Workers in “essential services” were required to give 14 days notice to an employer before striking, and there was a prohibition on strikes by workers in the water, gas and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strik-

ers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot. In August Singapore Airline pilots came close to taking industrial action on a dispute over working conditions; the airline pilot union was the only significant union not affiliated with the NTUC. The strike was averted after the Ministry of Manpower intervened to mediate between the parties. Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation failed, the disputing parties usually submitted their case to the Industrial Arbitration Court, which had representatives from labor, management, and the Government. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy. In addition, the widely held view that labor conflict would undermine the country's economic competitiveness and attractiveness to investors, compounded with a cultural aversion to confrontation helped to maintain a harmonious labor situation.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and the Government generally enforced this provision effectively. Under sections of the Destitute Persons Act, any indigent person may be placed in a welfare home and assigned suitable work. The International Labor Organization (ILO) criticized the coercive terms of this act, which included penal sanctions not in compliance with the ILO Convention on Forced Labor. The Government maintained that the act was social legislation providing for the shelter, care, and protection of destitute persons, and that work programs were designed to reintegrate individuals into society.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 were rigorous and fully enforced. Children under the age of 14 generally were prohibited from employment in the industrial sector. Exceptions included family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers had to notify the Commissioner of Labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibited night employment of children and restricted industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The Minister of Manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work.—There were no laws or regulations on minimum wages or unemployment compensation. However, the National Wages Council, a tripartite body consisting of the Government, labor, and business, monitored the economy and made annual recommendations to the Government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While a worker had the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting about 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination. However, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the more than 100,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts,

their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. A 1998 amendment to the Penal Code, in response to concern about cases of maid abuse, increased the punishment for confining or sexually or physically abusing a maid. The authorities fined or imprisoned employers who abused domestics, often with great publicity. In April a woman who had severely abused her 19-year-old maid was sentenced to 5 years in jail. In July a man who killed his maid was convicted of manslaughter and sentenced to 18 years in jail and 12 strokes of the cane. Both cases highlighted the plight of maids and prompted local debate on possible preventative solutions. Substantiated cases of abuse of foreign domestics fell by almost 50 percent following the 1998 amendment strengthening legal penalties. During the year, cases declined with only 8 substantiated cases compared to 41 cases in 2001.

Most maids worked 6 days per week from very early morning until late in the evening. Many contracts allowed only 1 day off per month. Contracts often stipulated that, even when she was not working, a maid was required to remain on the premises unless on official duties or on her day off. According to Ministry of Manpower Statistics, wages averaged approximately \$250 (S\$456) per month, not including free room and board. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

Many lower paid foreign workers were not covered under the Employment Act and ineligible for limited free legal assistance from the Government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek legal redress.

f. Trafficking in Persons.—The law prohibits trafficking in persons; however trafficking in persons was a problem. The country was a destination for trafficking in women for the purpose of prostitution. Almost all sex workers were foreign; most originated in Thailand, the Philippines, Malaysia, China, Indonesia, Vietnam, India or Sri Lanka. Almost all foreign prostitutes were aware when they entered the country that they were going to be employed as prostitutes. However, some may have had their passports held by employers after their arrival, or were subject to other coercive treatment. In other cases, recruiters in source countries offered women jobs as maids, bar hostesses or waitresses, and sometimes offered up-front payment as inducement. On arrival these women were forced to work as prostitutes and subjected to threats and violence if they resisted. While prostitution was not an offense per se, public solicitation was illegal. Police periodically carried out crackdowns on prostitutes, particularly those operating outside of informally designated red light areas (see Section 5). Foreign prostitutes detained in these raids usually were deported quickly; on occasion some trafficking victims may become caught up among these deportees. Foreign prostitutes also were deported immediately if they tested positive for HIV/AIDS or other sexually transmitted diseases. Authorities prosecuted some cases of trafficking. In 2001 a court jailed a man for 24 months for trafficking 4 women from China with job offers as waitresses on a Singapore-based cruise ship. The young women learned they were expected to work as prostitutes after they arrived in the country.

The three major laws that governed trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the Penal Code. The law makes trafficking in women and children, whether or not it is related to prostitution, punishable by up to 5-years imprisonment, a \$5,700 (S\$10,000) fine, and caning. Traffickers could be prosecuted under the Penal Code's "wrongful constraint" provision, which carries maximum punishments of 10 years imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

In practice successful investigation and prosecution of trafficking in persons required that victims remained in or returned to the country to testify. Victims were urged by police to remain in the country until the case was prosecuted and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times, and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. NGOs did not provide assistance to trafficked victims. Laws requiring citizens to report immigration violators hampered assistance to trafficking victims. The authorities did notify embassies of the arrest of nationals, including for prostitution-related offenses, and allowed con-

sular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

SOLOMON ISLANDS

The Solomon Islands has a modified parliamentary system of government consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. A new Parliament was elected in December 2001 with Sir Allan Kemakeza as Prime Minister; elections were considered free and fair. Since 1998 conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—forced thousands of Malaitans residing on Guadalcanal from their homes, and in June 2000, armed Malaitan militants took over Honiara, the capital. The Malaitan militants forced the then-Prime Minister to resign. Subsequent governments had limited success in their efforts to restore peace, due to political and institutional weakness and public perception that their leaders were beholden to one of the conflicting parties. The Constitution provides for an independent judiciary; however, the judiciary was hampered by police ineffectiveness, lack of resources, and threats against judges and prosecutors.

A police force of approximately 1,000 persons under civilian control is responsible for law enforcement, internal security, and border security. However, since the 2000 takeover of the city of Honiara by Malaitan militants, the police force has become factionalized and has not functioned as an effective institution. Militant Malaitans rather than the Police Commissioner controlled the paramilitary Police Field Force (PFF). As many as 1,200 untrained former militants were taken into the police force and remained as “special constables,” operating under a loose command structure. Members of the PFF and the special constable group engaged in criminal activities, including extortion, robbery, vehicle theft, intimidation, and fraud; the police leadership did not sanction these abuses.

Approximately 75 percent of the population of 480,000 engaged to some extent in subsistence farming and fishing and had little involvement in the cash economy. With the breakdown of law and order, the formal sector of the economy was on the brink of collapse. The Government was insolvent and commercial export activities, which included some plantation production of copra, cocoa, and palm oil, a fish canner, a gold mine on Guadalcanal, and small resort and diving enterprises, ceased to operate; only the logging industry continued to operate, albeit at a reduced level. Electricity and telecommunications services faced severe difficulties, and there were frequent power blackouts in Honiara. Health and education services faltered as medical workers and teachers went on strike over the Government’s failure to pay salaries. The international airport occasionally closed due to strikes over similar issues.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Basic individual rights are provided for in the Constitution, but the armed conflict between Malaitan and Guadalcanalese militants in 2000 led to a serious deterioration in the human rights situation. Police and militants from both sides committed numerous human rights abuses in 2000, including killings, abductions, torture, rape, forced displacement, looting, and the burning of homes. The Government did not encourage any judicial or independent investigation of human rights abuses that occurred during the violence, which contributed to a climate of impunity. A team of international observers, present in the country since November 2000 to monitor implementation of the peace and verify that weapons were relinquished, was disbanded in June at the end of its mandate. All weapons were supposed to be surrendered during an amnesty period, which ended in May. Nonetheless, at year’s end, while there was no resumption of overt hostilities, hundreds of weapons had not been surrendered, and a stable peace had not been secured. The Red Cross and other volunteers were able to provide appropriate assistance to rural areas. Violence and discrimination 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.—Since June 2000, the police forces have been effectively disarmed, and the police no longer function on the islands of

Malaita and Guadalcanal; local militia leaders controlled security. In May 2001, a police patrol boat fired upon a village on South Guadalcanal and killed several persons. The Government has not investigated the incident.

In March 2001, there were police raids against Guadalcanal leader Harold Ke'ke; there were unconfirmed reports of deaths from these attacks.

There were reports of politically motivated killings by political rivals or local militants on Guadalcanal during the year. In August the Member of Parliament for South Guadalcanal was killed while in his constituency. Ke'ke claimed responsibility. In October the police mounted an armed operation to apprehend Ke'ke. At least six of Ke'ke's followers and one civilian reportedly aiding the police were killed during the operation. In November Ke'ke's followers allegedly killed a policeman and a civilian. At year's end, Ke'ke was still at large.

Approximately 75 percent of the country's 897 police officers in June 2000 were Malaitan. Many Malaitan police officers participated in abuses committed by Malaitan militants. In 1998 and 1999, police officers were involved in extrajudicial killings and unwarranted use of lethal force against civilians when battling the Guadalcanalese militants. In September 1999, several paramilitary police officers in a speedboat shot a man near shore, then dragged him back into the water and reportedly beat him to death with a paddle. The Government investigated this case, and the police officer wielding the paddle was charged and convicted.

There were reports that police in some areas of Guadalcanal declined to stop or investigate abuses by Guadalcanalese militants, cooperated with them, or fled militant attacks to protect their own security. Displaced persons stated that they fled their homes in 2000 because they feared police operations as much as they did the activities of Guadalcanalese armed groups.

Although violence attributed to the police diminished during the year, the Government did little to investigate or prosecute those responsible for previous killings and other abuses, which contributed to a pervasive atmosphere of impunity. There was almost no accountability for police officers involved in killings, and only one police officer has been charged and convicted in connection with events during the conflict.

The U.N Human Rights Office has reports of over 80 persons killed or missing and presumed dead as a result of attacks attributed to Malaitan and Guadalcanalese militants since 1999. Many of these victims were civilians. None of these cases has been investigated. In April 2000, unidentified gunmen entered a village south of Honiara's international airport and shot three persons, including a 7-year-old boy and a 20-year-old man, as they tried to flee. In April 2000, a Guadalcanalese man was reportedly abducted by Malaitan militants in Honiara and taken to a nearby Malaitan militant camp, where he was beaten and hung by the ankles and wrists with wire. His body was reportedly found later in a Malaitan suburb of Honiara. In late June 2000, Guadalcanalese militants outside Honiara captured two Malaitan men. Subsequently, the men, who showed signs of beatings, were paraded through the captors' villages, killed, and buried. In July 2000, Malaitan militants forced their way into Honiara's central hospital and killed two Guadalcanalese militants who were being treated for wounds sustained in combat the previous day. During the year, Harold Ke'ke's group killed 10 Malaitan men who were reportedly trying to capture Ke'ke to claim the reward for his capture. Also during the year, at least a dozen persons, mostly civilians and including children, died on Guadalcanal in militant-related violence.

In June 2001, there was an unsuccessful attempt to kill the Guadalcanal provincial premier, Ezekiel Alebua. Alebua's political rivals allegedly committed the attack. Neither Malaitan militants nor government officials were implicated in the attack. The Government did not investigate the attack.

b. Disappearance.—There were no reports of politically motivated disappearances due to the actions of government officials. However, many Malaitan police officers, joining the Malaitan militants, participated in disappearances allegedly committed by the militants in 1999 and 2000. Since the violence began in 1998, more than 50 persons have been abducted and possibly killed by militants. In July 2000, Catholic catechist Juan Bosco disappeared in Honiara after allegedly being abducted by Malaitan militants and taken to a Malaitan camp. Several persons reported seeing him brutally beaten. In July 2000, Walter Tavai, a Guadalcanalese villager, was reportedly abducted from his home near Honiara by Malaitan militants and taken to a Malaitan militant camp. Witnesses stated that militants at the camp beat him to death; his body has not been found.

In January 2000, the Government formed a Committee on Missing Persons. However, its work was hampered by the reluctance of witnesses to come forward and by ongoing threats of violence. The Committee's final report and recommendations to the Government were submitted in April 2000 but were not made public. The

Committee did no significant work on missing persons during the year, and apparently has ceased functioning. No action has been taken on its report.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were numerous reports that police tortured and mistreated persons. In 2000 the police office dealing with complaints about official police behavior, including excessive use of force, ceased to function as the national police force generally disintegrated.

There were numerous reports of acts of torture and mistreatment attributed to both Malaitan and Guadalcanalese militants, and to members of the police, although there were fewer reported instances than in the previous two years.

In 2000 Honiara residents reported that abducted Malaitans were taken to a camp widely known as a “panel beating shop,” where Guadalcanalese militants beat them. The Malaitan encampment near Honiara, as well as the former Guadalcanal provincial government headquarters, also reportedly was used for the torture of captured Guadalcanalese and the punishment of Malaitans. Twenty homes were burned in Independence Valley, Honiara, in late July 2000, according to press reports. This event followed the burning of homes in the Matanikau and Tasahe areas of Honiara. The Government took no action in any of these cases.

The only national prison complex in use during the year provided separate facilities for short-, medium-, and long-term prisoners, as well as for juvenile offenders, and generally met international standards.

Late in the year, the national Ombudsman visited the small provincial jail at the regional capital of Gizo and announced that conditions there were in breach of human rights standards. No action has been taken to correct these deficiencies.

In June 2000, Malaitan militants closed the prison in Honiara following the escape of approximately 20 Guadalcanalese inmates and the subsequent release of all remaining prisoners by the Malaitans. Police did not attempt to recapture the inmates, some of whom reportedly joined the militants. The Government permitted prison visits by human rights observers. An International Committee of the Red Cross (ICRC) team based in Fiji monitored the prisons regularly during the year.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest, detention, and exile, and the Government observed these prohibitions in practice. However, the work of the judiciary has been slowed considerably by the conflict. Delays in adjudication of the large number of cases before the courts have resulted in lengthy pretrial detention for some prisoners.

Militants from both sides have detained persons arbitrarily since June 2000; it is not known how many were detained arbitrarily during the year.

Forced exile is constitutionally prohibited, and it was not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the courts are hampered by a lack of resources and by threats against the lives of judges and prosecutors. During the year, the judicial system barely functioned.

The judicial system consists of a High Court, a Court of Appeals, and magistrates’ courts. Accused persons are entitled to counsel. In 1999 the Public Solicitor, who is charged with providing counsel to persons who cannot afford a private attorney, reported that due to limited resources, his office could accept only those cases in which persons faced serious charges or those involving the protection of children; this situation continued during the year. The law provides for a judicial determination of the legality of arrests. Officials found to have violated civil liberties are subject to fines and jail sentences.

Judicial trial procedures normally operated in accordance with British law, with a presumption of innocence, right of appeal, access to attorneys, and the right to confront witnesses. However, during the year, the entire judicial system barely functioned.

The Government has done little to investigate or prosecute those responsible for killings and other abuses, which contributed to an atmosphere of impunity. There was a lack of accountability for police officers involved in killings, and only one police officer has been charged and convicted in connection with events during the conflict (see Section 1.a.)

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. However, with the breakdown of law and order in 2000, there was widespread looting and burning of homes in rural Guadalcanal, including by police (see Section 1.c.).

In 1999 and 2000, militants from all sides forced long-time inhabitants from their homes. Many of those forced out were not affiliated with the militant movements,

and some were not even members of the combating ethnic groups. The forced expulsions ended during 2001, following the departure of virtually all non-Guadalcanalese from the areas of Guadalcanal Province adjacent to Honiara; none have returned.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Since ethnic conflict began in 1998, militants have blocked the free and safe passage of relief supplies, food, and fuel, as well as access by humanitarian organizations to Guadalcanal. Red Cross volunteers and relief workers reported being threatened, harassed, even shot at by both Guadalcanalese and Malaitan militants, although the incidence of such attacks declined during the year. Red Cross and other volunteers were able to provide appropriate assistance in rural areas.

Since the violent phase of the conflict on Guadalcanal began in 1998, some 30,000 Malaitans, Guadalcanalese, and Western Province persons living on Guadalcanal have been displaced from their homes (*see* Section 2.d.).

U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants during the ethnic conflict (*see* Sections 5 and 6.c.).

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. During the year, print and broadcast media continued to operate on a regular basis.

The country's media consisted of the Solomon Islands Broadcasting Corporation (SIBC), a statutory body that comes directly under the Prime Minister's office and whose radio broadcasts are heard throughout the country; two other AM stations; a privately owned FM radio station; and two privately owned weekly or semiweekly newspapers. Given the high rate of illiteracy, radio broadcasting was more influential than the print media. At least two nongovernmental organizations (NGOs) published periodic news journals; their environmental reporting was frequently critical of the Government's logging policy and foreign logging companies' practices.

During the year, militants occasionally threatened the print and broadcast media; however, no journalists were known to have been killed or injured.

Internet use is expanding, and a privately operated Internet café was available; the Government does not limit or control access to the Internet.

Academic freedom was not restricted; however, tertiary education has ceased functioning.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which generally were granted. However, in mid-June police authorities, citing a threat to public order, denied a permit for a planned protest march. The organizers appealed to the High Court, which upheld the police authorities. There were no further developments at year's end.

The Constitution provides for freedom of association, but at times the Government restricted this right. In February 2000, the Government formally outlawed the Malaitan militant groups; Guadalcanalese militant groups were outlawed in 1999, but this ban was suspended in May 2000, and during the year, militant groups continued operations but at a reduced level of violence. Other groups associated freely, and a government oversight group, Civil Society Network, which emerged in 2001, frequently criticized the Government (*see* Section 4).

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

In March the High Court upheld the right of a small evangelical church to establish facilities in an area where most persons were members of a large established church. In its ruling, the High Court stated that the coexistence of different religious groups in the same community was an accepted phenomenon in the country.

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose parents did not wish them to attend the class were excused. However, the Government did not subsidize church schools that did not align their curriculums with governmental criteria. There was mutual understanding between the Government and the churches but no formal memorandum of understanding. Although theoretically non-Christian religions can be taught in the schools, there was no such instruction in practice.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Government placed no restrictions on the movement of citizens

within or out of the country. However, the militants demanded that the people indigenous to each island be given authority to determine who might or might not enter their island. Native-born citizens may not be deprived of citizenship on any grounds.

During the year, non-Guadalcanese, especially Malaitans, were effectively barred from entering Guadalcanal Province for fear of being attacked, while many non-Malaitans, especially Guadalcanalese, were afraid to enter Honiara.

Since the violent phase of the conflict on Guadalcanal began in 1998, an estimated 30,000 Malaitans, Guadalcanalese, and Western Province persons living on Guadalcanal have been displaced from their homes as a result of armed conflict and intimidation. The U.N. estimated that in 1999 some 15,000 to 20,000 Malaitans (20 percent of the population of Guadalcanal) were displaced. The majority of these were evacuated to Malaita, while as many as 12,000 Guadalcanalese fled their homes for other parts of that island. The Government provided very limited help to internally displaced persons, who generally relied on their extended families and subsistence farming for survival. The national Red Cross Society, funded by the European Union, provided some assistance.

Police on Malaita were reportedly unable to offer protection to displaced Malaitans on the island after Malaitan militants raided a police armory in 2000, seized hundreds of weapons, and set up headquarters on the island. Malaitan militants have reportedly forced displaced Malaitan families to support the militants through contributions of money or food. Displaced persons on Guadalcanal also lacked effective police protection, since most local police were evacuated as a result of Guadalcanalese militant raids in 1999. During the year, there were a number of violent clashes between rival gangs of Malaitan militants on Malaita and Guadalcanalese militants on Guadalcanal.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted domestic legislation or procedures for making formal refugee determinations. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and the Red Cross in determining refugee status and has not returned persons to a country where they fear persecution.

The issue of first asylum did not arise during the year. The Government previously provided first asylum to persons from Papua New Guinea's Bougainville Island, who fled the conflict that started there in 1989. Following the 1998 peace settlement, many returned home. According to the UNHCR, fewer than 50 persons from Bougainville who met refugee status criteria still remained in the country.

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 exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Suffrage is universal for those 18 years of age and over. The Government is a modified parliamentary system consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. Since independence in 1978, there have been six parliamentary elections, the latest in December 2001, and several elections for provincial and local councils. National parliamentary elections held in December 2001 were regarded as free and fair. On four occasions, changes of government resulted from either parliamentary votes of no confidence or the resignation of the Prime Minister. However, in 1998 tensions between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—resulted in violence. Throughout 1999 Guadalcanalese militants forced thousands of Malaitans residing on Guadalcanal from their homes. Beginning in January 2000, Malaitan militants stole large quantities of weapons from the police and began actively to combat the Guadalcanalese. The conflict continued to escalate, and in June 2000, armed Malaitan militants, assisted by paramilitary police officers acting without authorization, took over the capital. After the takeover, the Malaitan militants forced Prime Minister Bartholomew Ulufa'alu to resign; Parliament selected a new Prime Minister, Manasseh Sogavare, under duress. Since June 2000, the police have not operated as an effective force, and there is no governmental institution that can effectively address the ongoing violence.

Traditional male dominance has limited the role of women in government. Although 15 women ran for Parliament in the December election, none was elected; no women were selected to be permanent secretaries in the new government.

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

There are no restrictions on the formation of local organizations to monitor and report on human rights. The Solomon Islands Development Trust has both development and human rights objectives. The ICRC periodically visited the country from its regional office in Suva, Fiji. The Government generally cooperated with human rights organizations, and requested assistance from the U.N. High Commissioner for Human Rights in formulating policies to restore peace and justice.

Numerous domestic NGOs operated freely; most were engaged in developmental or religious activity. However, in 2001 a number of NGOs and individual citizens established an umbrella organization, the Civil Society Network, to provide oversight of government activity. It regularly criticized practices such as remission of taxes and custom duties for associates of high-ranking government officials. The Government did not interfere in its operations.

During 2000 Red Cross volunteers and relief workers reported being threatened, harassed, shot at, and prevented from carrying out relief work by both Guadalcanalese and Malaitan militants; such incidents continued during the year, but at a reduced level.

The Constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. The Ombudsman's Office did not report any incidents involving interference with these rights during the year. While the Ombudsman's Office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

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

The Constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner in respect of access to public places. The Constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

Women.—While actual statistics were scarce, incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. The Government took no action during the year to address domestic abuse. In the rare cases that were reported, charges were often dropped by the victims before the court appearance or the case settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of a police force after June 2000, women and teenage girls in particular were vulnerable to abuse including rape, and many rapes have been reported since the ethnic conflict began in 1998. During the year, no charges were brought against militants in these cases; however, charges have been brought in other cases against persons regarded as criminals.

During the year, the country became a state party to the Convention on the Elimination of All Forms of Discrimination Against Women.

The law accords women equal legal rights. However, in this traditional society men are dominant, and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs inhibited the entry of women into the work force. The majority of women are illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The Government's Women Development Division also addressed women's issues.

Prostitution is illegal, but the statutes were not enforced. Although there is no law against sex tourism, none has been reported. Sexual harassment is not prohibited by law and was a problem.

Children.—Within the limits of its resources, the Government was committed to the welfare and protection of the rights of children. There was no compulsory education, and, according to some estimates, less than 60 percent of school-age children had access to primary education; the percentages of those attending secondary and tertiary institutions were much smaller. Few children proceeded beyond primary school, and a higher percentage of boys than girls attended school. School fees required of all students were very high relative to local incomes. Since 1999 the already poor state of education has worsened. Infrastructure has deteriorated and fi-

nancial resources have almost disappeared; the Government has not paid teachers regularly. Some schools have ceased to function.

Children were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services. As a result, virtually no children were homeless or abandoned. Although some cases of child abuse were reported, there was no societal pattern of abuse. The Constitution grants children the same general rights and protection as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect.

All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

In 2000 Amnesty International reported that Guadalcanalese militants included a number of child soldiers. U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants. Several hundred children (generally boys) under the age of 18 were active combatants or assisted in militants' camps. With the decrease in fighting, dozens of these underage militants remained in quasi-criminal gangs affiliated with their former militant commanders.

Persons with Disabilities.—There is no law or national policy on persons with disabilities, and no legislation mandates access for such individuals. Their protection and care are left to the traditional extended family and nongovernmental organizations. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The country had one educational facility for disabled children, which was almost entirely supported by the Red Cross.

Persons with mental disabilities were cared for within the family structure; there were no government facilities for such persons.

National/Racial/Ethnic Minorities.—The country is composed of over 27 islands with approximately 70 language groups. In the precolonial era, these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in late 1998 (see Sections 1.a., 1.b., 1.c., 1.g., and 2.d.). In 1998 Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Scores of Malaitans have been killed or injured by Guadalcanalese militants. Since 1998 approximately 30,000 persons, mainly Malaitans, have fled their homes as a result of the conflict. Civilians were the victims of abuses by both sides; such abuses reportedly included abductions, torture, rape, forced resettlement, looting, and the burning of homes.

Beginning in January 2000, Malaitan militants began seizing weapons from the police; many police officers (the majority of whom are Malaitans) joined the Malaitan militants. On June 5, 2000, Malaitan militants took over the capital of Honiara (which is largely populated by Malaitans), forced the Prime Minister to resign, forced Parliament to choose another Prime Minister, and precipitated a brief period of ethnic warfare.

During the year, tension and violence between Malaitans and Guadalcanalese continued. During the year, violence, including murder, between rival Malaitan groups on Malaita and rival Guadalcanalese groups on Guadalcanal emerged as a serious problem.

Section 6. Worker Rights

a. The Right of Association.—The Constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (90 percent of employees in the public sector and about 50 percent of those in the private sector).

Unions are free to affiliate internationally, and the largest trade union, the Solomon Islands' National Union of Workers, is affiliated with the World Federation of Trade Unions, the South Pacific Oceanic Council of Trade Unions, and the Commonwealth Trade Union Congress.

b. The Right to Organize and Bargain Collectively.—The law provides for the rights to organize and to bargain collectively, and unions exercised these rights frequently.

Wages and conditions of employment are determined by collective bargaining. If a dispute between labor and management cannot be settled between the two sides, it is referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. During the year, government employees conducted numerous strikes over the Government's failure to pay salaries on time and the payment of preferential "danger" allowances that excluded certain groups of government employees. Schools, medical facilities, and airports were among the institutions that suffered significant strikes. There were no significant private sector strikes. Private sector disputes were usually referred quickly to the TDP for arbitration, either before or during a strike. In practice, the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating. Since 1998 ethnic tensions and conflict on Guadalcanal, the most economically developed island in the country, seriously disrupted economic activity and resulted in the loss of many formal employment opportunities. In June 1999, Solomon Islands Plantation Ltd. closed its facilities following attacks on its workers. About 2,000 employees were evacuated. During the year, Guadalcanal militants prevented the return of the work force, 60 percent of which are Malaitan.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, and, normally, except as part of a court sentence or order, there were no reports that such practices occurred. However, there were reports of child soldiers with militant groups (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The Labor Division of the Ministry of Commerce, Trade, and Industry is responsible for enforcing child labor laws. Given low wages and high unemployment, there was little incentive to employ child labor.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. It does not have a comprehensive policy for the elimination of such abuses; there are no regulations defining the worst forms of child labor.

e. Acceptable Conditions of Work.—The minimum wage rate is \$0.31 per hour (1.50 Solomon Islands dollars) for all workers except those in the fishing and agricultural sectors, who receive \$0.25 (1.25 Solomon Islands dollars). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for premium pay for overtime and holiday work and for maternity leave.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the Public Prosecutor, and the police were responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. Their efforts were severely restricted by the conflict and ensuing political instability. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site.

f. 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.

THAILAND

Thailand is a democratically governed constitutional monarchy. Since 1992 there have been five national multiparty elections, which transferred power to successive

governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or to dissolve the elected bicameral Parliament. In February 2001, a coalition government, led by Prime Minister Thaksin Shinawatra's Thai Rak Thai Party, was formed following the January general elections. The election process was viewed as free and fair; however, it was marred by widespread vote buying, and the killing of some political canvassers during the campaign. The judiciary was independent, but sometimes was subject to corruption.

The armed forces were subject to civilian control and their influence in politics has diminished considerably in recent years. Elements of both the armed forces and the police had a reputation for corruption. Some members of the security forces committed serious human rights abuses.

The country has a population of approximately 62.3 million. It is a developing country with a market-based economy and a strong tradition of private enterprise, although state enterprises play a significant role in some sectors. Gross domestic product (GDP) growth was estimated to be between 4 and 4.5 percent for the year. Annual per capita income was approximately \$1,840. Approximately 60 percent of the population was employed in the agricultural sector, although agriculture only accounted for approximately 9 percent of the GDP. Although government regulation generally provides protection for individual economic interests, including property rights, there was a lack of transparency in bureaucratic decision-making and some areas of government remained subject to corruption.

The Government generally respected the human rights of its citizens; however, significant problems remained in several areas. Police officers killed a number of criminal suspects while attempting to apprehend them. Suspected narcotics traffickers and users were most often the victims of deadly police force. The Government remained reluctant to prosecute vigorously those who committed such abuses, contributing to a climate of impunity. Police occasionally beat suspects to coerce confessions. An ingrained culture of corruption persisted in many parts of the civilian bureaucracy and in some units of the security forces. Routine demands for bribes undermined the rule of law and permitted the continuation of various illegal activities including trafficking in persons, sexual exploitation, and prostitution. Conditions in prisons and some provincial immigration detention facilities were poor due to severe overcrowding. Lengthy pretrial detention and the prolonged detention of some aliens remained problematic. The judiciary suffered from corruption and at times security forces infringed on citizens' privacy rights. The Government threatened to revoke visas of two foreign journalists critical of public officials, and the media practiced some self-censorship and experienced some editorial interference by the Government. There were some restrictions on freedom of movement. The Government hindered the activity of some human rights groups. The 1997 Constitution increased legal protections for women and persons with disabilities; however, some inequities in the law remained. Violence and societal discrimination against women were problems. Societal discrimination against hill tribes and religious and ethnic minorities persisted. There were reports of forced labor and child labor. Trafficking in women and children and coerced prostitution were serious problems. Thailand was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 during the year by government agents; however, legal organizations, reputable nongovernmental organizations (NGOs), and the press continued to report that some police officers used unwarranted lethal force to apprehend criminal suspects. Armed alleged drug traffickers in particular continued to confront and threaten police officers and other security personnel. Officers used deadly force during such confrontations. According to government statistics, between October 2001 and September 2002, 112 persons were killed while being placed under arrest. However, NGOs alleged that government figures underestimated the true number of persons killed while being apprehended by security forces.

In the past, when the Government investigated extrajudicial killings, it prosecuted few of the accused police or military officers. Senior prosecutors and NGO legal associations claimed that most cases eventually were dismissed because regulations outlined in the Criminal Code required public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution. Routine exoneration of police officers contributed to a cli-

mate of impunity that was a significant factor in preventing any major change in police behavior. It also discouraged relatives of victims from pressing for prosecution. However, in June 2000, new procedures for investigating suspicious deaths, including deaths occurring in police custody, took effect as part of the amended Criminal Procedure Code. The code requires, among other things, that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. Thus far the effects of the reforms appeared limited. The most notable case reflecting a changed climate concluded in May 2000 before the reforms officially entered into effect; at which time 10 policemen were sentenced to life imprisonment for the 1994 killings of 4 municipal officials. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. If pursued by the family, the case is handled by the same office, in some instances by the same prosecutor, who already has ruled that no criminal action occurred. There was no information available to determine how many cases were settled out of court. However, in cases in which suits were filed, the official charged often compensated the family of the deceased, and the lawsuit was waived. Compensation paid varied widely, from as low as \$3,490 (150,000 baht) to \$69,770 (3 million baht).

During the year, Chiang Rai police allegedly killed villagers in Chiang Rai Province who were suspected of drug trafficking (*see* Section 5). Villagers recently told a media representative that a drug suspect was taken from his home in May 2001 and beaten to death by police. His wife said police demanded money in exchange for his release. In August 2001, another drug suspect reportedly was killed by Mae Chan district police. Although the Chiang Rai police stated they would investigate the allegations and urged the victim's families to file complaints, no one had done so by year's end.

According to the Government, between October 2001 and September of this year, 48 persons died while in police custody. In May a man arrested on rape charges in Suratthani died in detention. Relatives accused the police of beating him to death whereas the police maintained that other detainees held in the same cell killed him. In July a man arrested for theft died while in detention at the Suratthani police station. The police stated that he died of natural causes, but a forensic pathologist in Bangkok reported that he was beaten to death. The police officer in charge of the Suratthani station was relieved of duty and the National Human Rights Commission (NHRC) launched an investigation into both deaths.

Between December 2001 and August, at least 17 police officers were killed in a series of attacks on police checkpoints, booths, or patrols. Local authorities blamed the violence on drug traffickers and local gangs.

In December 2001, soldiers assigned to a counternarcotics unit in Chiang Rai Province physically abused at least five suspected drug addicts, all of whom were members of minority hill tribe groups (*see* Section 5). One of the victims died as a result of the abuse after being taken to the hospital by his interrogators. Two sergeants subsequently were convicted of brutality and sentenced to several months in prison by a military court. The Royal Thai Army (RTA) paid the victim's widow \$340 (15,000 baht) in compensation, and the soldiers involved were reassigned. While RTA authorities initially denied any wrongdoing, senior RTA officials, including the former Army Chief General Surayud Chulanont publicly acknowledged that mistreatment, including at least one death and an unknown number of beatings, had occurred at the military camp. A probe was launched by the former-RTA Region Three Deputy Commander Major General Pichanment Muangmanee. On December 7, 2001, relatives of hill tribe drug addicts reported that those addicts who arrived at a RTA sponsored drug detoxification camp were forced down a hole where water and ashes were poured on them. They were left in the hole for several hours. That night they were blindfolded and led off separately for questioning about their alleged connection with drug traffickers. The addicts told their families and reporters that soldiers used electrical shocks and beat at least one of them in order to extract a confession. The complaints gained credibility following General Surayud's admission of the mistreatment by the Third Army's Pha Muang Task Force. According to NGOs, many other suspected drug users and traffickers may have been beaten during interrogations conducted by soldiers and police officers.

During the year, human rights NGOs alleged that police in some provinces formed their own killing teams to target drug traffickers. There were also reports that police officers were ordered to kill drug traffickers in response to killings of police. There were 25 killings of political canvassers during the election campaigns leading up to the January 2001 general election and the March 2000 Senate elections. All of the victims worked for political parties; however, although some of the killings apparently were motivated politically, most appeared to be the result of personal

disputes. The police arrested several persons in connection with killings that were motivated by both political and private disputes. Investigations of these cases continued at year's end (see Section 3).

In past years, conflicts along all four of the country's borders as well as internal insurgency resulted in the placement of landmines in some border areas. At least 170 persons in border villages were killed or injured in landmine or unexploded ordnance incidents each year, although this figure likely underestimated the total number of mine casualties because of incomplete record-keeping at hospitals. Most landmine and unexploded ordnance victims were males between 20 and 40 years of age, who were collecting subsistence foods or forest products in forested or unused land. The Government was committed strongly to removing all landmines, unexploded ordnances, and destroying all remaining stocks of mines.

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

Early in the year, the Government released the results of two investigations into the 1991 disappearance of Labor Congress of Thailand President Thanong Po-an. The investigations were conducted by the House Justice and Human Rights Standing Committee and the Ministry of Interior, and were made public after activists filed a request under the Official Information Act in 2001. Unfortunately, the reports failed to provide any additional information about the fate of the disappeared labor leader. In August members of the parliamentary Labor and Social Welfare Committee held new hearings on the disappearance and pledged to conduct a new investigation into the case. However, there were difficulties obtaining police and army witnesses for committee hearings. In addition, by year's end, the RTG had not responded to a request for an explanation into Thanong's disappearance submitted by the U.N. High Commission on Human Rights (UNHCHR). In late January, the case formally was accepted by an independent committee chaired by former PM Anand Panyarachun, which has the power to provide compensation and recover remains, but not to bring perpetrators to justice.

In February 2000, following border clashes involving Burmese, Thai, and Karen forces, a large group of Karen crossed into the country seeking safety. Some of the Karen fighters were associated with a small splinter group, commonly referred to as God's Army. The Thai military reportedly separated 55 males from the group. The family members of those 55 males have had no word from them since that time. There were allegations that the 55 men were executed. However, no physical evidence was provided to support these claims. The Thai military stated that the group of 55 males voluntarily returned to Burma to continue their fight against the Burmese army.

In May 2000, as a result of a request made under the Official Information Act by the victims' families, the Government released the Defense Ministry's report on the military forces' suppression of political demonstrations in May 1992. The report provided no new information on the whereabouts of the remaining 38 prodemocracy protesters still listed as missing. In May activists marked the 10-year anniversary of the disappearances with renewed calls for the Government to provide more information on the fate of the 38 missing protesters. Most of those who disappeared, if not all of them, were presumed dead by family members and NGOs.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the Criminal Code prohibit such practices; however, NGOs and legal organizations continued to report that some members of the police occasionally beat suspects to coerce confessions. During the year, there were newspaper reports of 11 cases in which citizens accused police of brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the result of the internal investigation. Authorities also investigated and prosecuted police officers accused of raping and extorting sex from female suspects in detention.

There were reports of police beatings of Akha villagers in Chiang Rai and of the mistreatment of other hill tribe villagers by army personnel in an RTA sponsored drug detoxification camp (see Sections 1.a. and 5).

In March two female refugees from Burma accused three soldiers of raping them in the woods outside of a refugee camp in Mae Hong Son Province. One of the alleged victims was 15-years-old and the other victim was 20-years-old at the time of the assault. The accused were standing trial at year's end. In May a migrant laborer from Burma accused a Border Patrol Police officer of sexually abusing her while she was detained for trying to enter the country illegally. The police opened an investigation into the incident. The case was dropped when the victim withdrew her complaint. In September a female detainee at a Bangkok police station accused a police officer of raping her while she was in custody. The officer was suspended from duty

and detained without bail; the incident remained under investigation at year's end and was expected to be forwarded to the public prosecutor. In May 2001, two women accused a police officer of raping them in jail while they were serving a sentence on drug charges. The officer was suspended from duty and released on bail. The rape case against him was still being tried at year's end.

Police and prosecutors continued to investigate a November 2000 incident in which villagers allegedly paid by the Government violently dispersed a protest by the NGO Assembly of the Poor at the Pak Moon dam, seriously injuring 4 protesters and burning more than 500 temporary shelters. However, according to activists, the only charges filed in the matter were against the demonstrators for trespassing on state property. Some of these cases were dismissed during the year; others remained in trial at year's end (*see* Section 2.b.).

Corruption remained widespread among police officers. Police officials complained that low pay for members of the police force made them susceptible to bribes.

Some corrupt police and soldiers were involved in prostitution and trafficking in women and children (*see* Sections 5 and 6.f.).

In July a bomb exploded in an empty train car in Yala. No one claimed responsibility and the police made no arrests in the case by year's end. On June 4, at least two high school students were killed when a school bus driving in Ratchaburi Province near the Burma border was attacked by three gunmen dressed in military fatigues. A 36-year-old Karen man, who admitted to possessing illegal firearms and entering the country illegally, but who denied firing shots at the bus, was arrested. At year's end, he still was in custody and awaiting trial while two other suspects still were being sought.

Prison conditions were poor but in general they did not pose a serious threat to the life or health of inmates. Already severe prison overcrowding worsened during the year due to increased numbers of persons imprisoned for drug-related offenses. The total prison population of approximately 256,000 inmates was housed in 156 prisons and detention centers, with a total design capacity of 100,000 prisoners. Sleeping accommodations and access to medical care remained areas of concern. Medical care in prisons was inadequate. The Corrections Department employed only 10 full-time doctors and 6 full-time dentists. There were 10 part-time doctors and 47 full-time nurses who supplemented the permanent medical staff. Prison authorities sometimes used solitary confinement to punish difficult prisoners. They also used heavy leg irons as a means of controlling and punishing prisoners. Credible sources continued to report that prisoners captured in escape attempts were beaten severely. Male and female prisoners in official detention centers and prisons were segregated. Juveniles were held separately in 34 of the 76 provinces, but they were tried in the same courts as adults (*see* Section 5). Men, women, and children often were held together in police station holding cells pending indictment.

Conditions in Bangkok's Suan Phlu Immigration Detention Center (IDC) improved during the year; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were not administered by the Department of Corrections and were not subject to many of the regulations that govern the regular prison system. There were credible reports of physical and sexual abuse of detainees by guards in some of the nine provincial detention centers. Overcrowding was a serious problem at all of the facilities.

Access to prisons was not restricted, and the Government permitted visits by independent human rights monitors and the International Committee of the Red Cross.

d. Arbitrary Arrest, Detention, or Exile.—With few exceptions, including crimes in progress, the law requires police officers making an arrest to have judicial warrants, and authorities generally respected this provision in practice. Under the Constitution, persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. Detainees have a right to have a lawyer present during questioning, and the police generally respected this right in practice. Foreign prisoners sometimes were forced to sign confessions without the benefit of a competent translator.

Police are required to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest; however, the law also allows an extension period of up to 3 days. Police also may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. In addition, laws and regulations place any offense for which the maximum penalty is less than 3 years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that the police rarely brought their cases to court within the 48-hour period. There is a functioning bail system. In August several Bangkok-based NGOs reported that police raided offices

of two Burmese dissident groups. Several persons were detained. Most carried no documents of their nationality or immigration status. Some subsequently were released while others were released at the border. The police did not turn the dissidents over to the Burmese authorities. It remained unclear who ordered the arrest of the dissidents and whether it was a deliberate attempt to suppress anti-Rangoon political organizations operating in the country. During the year, several Burmese activists were arrested (*see* Sections 2.b. and 4).

The Anti-Communist Activities Act, which formerly provided the only legal basis for detention by the police without specific charges for long periods (up to 480 days), expired in June 2001.

Approximately 28 percent of the total prison population were pretrial detainees. Pretrial detainees usually were not segregated from the general prison population. Pretrial detention of criminal suspects for up to 60 days was common. Some foreigners from countries without diplomatic representatives in the country faced trial delays of up to 8 months (*see* Section 1.c.).

The Constitution prohibits forced exile and the Government did not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it sometimes was subject to corruption. In April the press reported that two judges were suspended from their duties on charges of abuse of power and malfeasance, and that a third was under investigation on similar charges.

The civilian judicial system has three levels of courts, as well as an independent Constitutional Court: courts of first instance; courts of appeal; and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law (last imposed in 1992). There is no right to appeal military court decisions. The Constitutional Court, charged with interpreting the Constitution, began operating in 1998. In August 2000, the courts became fully independent of the Ministry of Justice and responsible for their own administration and budget. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. Access to courts or administrative bodies to seek redress is provided for and respected.

There is no trial by jury. A single judge decides trials for misdemeanors, and two or more judges are required for more serious cases. Trials often require years to complete because they run sporadically, typically convening for a single day every few months. While most trials are public, the court may order a closed trial. This is done most often in cases involving national security or the royal family. Justices nominated to both the Constitutional Court and the Supreme Administrative Court must be confirmed by the Senate; judges at all other levels are career civil servants whose appointments are not subject to parliamentary review.

The Constitution provides for the presumption of innocence. Defendants tried in ordinary criminal courts enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants are not provided with counsel at public expense automatically. Most free legal aid comes from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Except for limited exceptions, the Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, the Constitution requires police to obtain a warrant from a court prior to conducting a search. During the year, the Criminal Procedure Code was amended to standardize procedures for issuing warrants. All warrants are issued by the courts rather than by the police.

NGOs concerned with the welfare of highlanders reported that police and military units carried out several warrantless searches of villages for narcotics in northern provinces during the year. Such operations are permitted under both the Constitution and the Narcotics Prevention and Suppression Act of 1976 in cases in which there is reasonable suspicion and an urgent search is deemed necessary. However, some academic groups claimed that the searches were arbitrary and violated the villagers' civil rights. The Anti-Communist Activities Act, which allowed officials to engage in "Communist suppression operations" to conduct searches without warrants, expired in June 2001 and was not replaced with a similar law (*see* Section 1.d.). In July an activist working to promote citizenship for hill tribe people was detained briefly by the police in Chiang Mai, who then searched her home and her mother's home for narcotics. The activist believed that the police actions were a form of official harassment intended to discourage her work on behalf of stateless hill tribe peo-

ple. The Chiang Mai provincial police commander and the NHRC launched separate investigations that were ongoing at the end of the year. In June 2001, the National Counter Corruption Commission found two Telephone Organization of Thailand technicians responsible for malfeasance in the June 2000 wiretapping of the residential telephone of Wira Somkhwamkhit, an anticorruption activist (*see* Section 4).

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

Section 2. Respect For Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for a large measure of freedom of speech and freedom of the press, and the Government generally respected these rights in practice, although several media outlets perceived to be critical of the current government came under pressure during the year. The Government may restrict freedom of speech and freedom of the press to preserve national security, to maintain public order, to preserve the rights of others, to protect public morals, to prohibit criticism of the royal family, or to prevent insults to Buddhism.

The Constitution makes it unlawful for the Government to censor, ban, license, or restrict print or broadcast media, except by specific legislation in times of crisis. While newspapers and periodicals practiced some self-censorship, especially with regard to the monarchy and issues involving national security, media criticism of political parties, public figures, and the Government was common and vigorous. During the year, there were no cases of violence or physical intimidation against members of the press.

Journalists generally were free to comment on governmental activities without fear of official reprisal, although there were attempts by the Government to suppress journalists or publications perceived to be critical of government officials or their families.

In February the Government revoked the visas of two resident foreign journalists who reported for the Far Eastern Economic Review, on the basis that their presence in the country was a threat to national security and social stability. The Hong Kong-based editor and the publisher of the magazine also were placed on an immigration “blacklist” following the January publication of an unattributed, one-paragraph piece that reported on alleged disagreements between the Prime Minister and the King. The police confiscated the edition of the magazine that ran the article from newsstands. The visa cancellation order was rescinded and the journalists were removed from the blacklist after the magazine’s editors issued a letter of apology to Parliament.

During the year, the Government’s Anti-Money Laundering Office (AMLO) ordered 17 banks to provide information concerning the financial activities of prominent journalists and leaders of some NGOs considered to be critics of the Government. Critics alleged that the AMLO, which has the authority to investigate persons suspected of money laundering, did not have probable cause to investigate the journalists or the activists. The AMLO dropped the controversial asset probes shortly before the Administrative Court issued an injunction to halt the investigations. A government panel established to investigate the scandal eventually exonerated the staff of the AMLO. Nonetheless, several of the journalists and activists targeted initiated civil suits against the AMLO and its top officials. The lawsuits were ongoing at year’s end. In March the publisher of Naeo Na newspaper revealed that the Prime Minister asked him to drop a popular column harshly critical of the Government. The publisher refused to drop the column, and the Government took no action against him or his newspaper.

During the year, the Police Special Branch did not issue any warnings to publications for violations of the 1941 Printing and Advertisement Act such as disturbing the peace, interfering with public safety, and offending public morals. However, the local distributor of the British publication *The Economist* voluntarily decided not to distribute the March 2 edition of the magazine, which featured a special survey on the country that included commentary on the Royal Family.

In March 2001, the *Nation* newspaper received a telephone call from the Special Branch, which accused the newspaper of endangering national security for printing a story critical of Foreign Minister Surakiart Sathirathai’s trip to Burma. In July 2001, the newspapers *Thai Rath* and *Krungthep Turakit* received warning letters from the Special Branch after they made reference to a Reuters wire service article that speculated on the consequences if Prime Minister Thaksin Shinawatra was found guilty of assets concealment by the Constitutional Court. The case of four noncommissioned army officers arrested in the April 2000 nonfatal shooting of the Editor in Chief of the Chiang Mai daily newspaper *Pak Nua* was being tried at year’s end. The editor believed that his repeated critical reporting on the local government led to the assault. NGOs criticized the Government for the slow pace of

the trial and the lack of followup in key areas of the investigation of the attempted killing. Two other civilian suspects wanted for questioning by police remained at large.

The Printing and Advertisement Act permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. No such closures occurred during the year. The Juridical Council approved the revocation of the act, but final revocation awaits approval by the Council of State.

The law allows police to restrict or to confiscate printed publications and other materials deemed obscene; the interpretation generally was limited to hardcore pornographic material.

Domestic publications continued to present a wide range of political and social commentary. Unless critical of the Royal Family or the Monarchy, foreign and domestic books normally were not censored and circulated freely. Police had the authority to ban the importation of publications but generally did not exercise it. In June 2001, the 1952 Anti-Communist Activities Act, which was created to counter the threat of communism through media restriction, expired.

Radio and television stations enjoy the same constitutional protections of freedom of expression and freedom of speech as the print media. The Government licenses all radio and television stations, and most are operated under the direct or indirect oversight of the Government or the armed forces. Radio and television station profits are retained by organizations that control frequencies, such as government ministries, universities, and the military services.

Ownership of media outlets by governmental and quasi-governmental entities undermined freedom of press provisions several times during the year. There was one cable television network that was owned by the Nation Multimedia Group and operates exclusively on cable television. In March Nation TV's broadcast of an interview with a strident critic of the Government was interrupted, although simultaneous radio broadcast of the interview continued. The Military Energy Department, which owned the radio frequency used by the Nation Multimedia Group, subsequently directed the concession holder to remove all Nation news programs containing commentary or talk programming from their radio station. The Mass Communications Authority of Thailand, the quasi-governmental corporation that owned the cable television broadcast syndicate the United Broadcasting Corporation (UBC) directed UBC officials to ban five journalists, all critics of the Government, from appearing on Nation Television.

The Constitution calls for fewer restrictions on broadcast media and the establishment of an independent National Broadcasting Commission (NBC) to oversee frequency management. The seven Commission members were expected to be selected from four broad categories: the Government, broadcasting, NGOs, and universities. Selection of the NBC was postponed due to a lawsuit filed in the Administrative Court in 2001 alleging conflict of interest and corruption in the nomination process. In March the Administrative Court ruled in favor of the plaintiff and ordered the rejection of all of the proposed candidates. The case remained under appeal at year's end. The NBC was to be authorized to redistribute frequencies previously controlled by the Government to eligible organizations or individuals in the country. The media criticized the proposed implementation regulations, arguing that they contained broad censorship powers and allowed the Government to retain a large number of its frequencies.

Repeated delays in the implementation of broadcast media reform contained in the 1997 Constitution resulted in attempts by some community radio broadcasters to establish their own small studios and transmitters. Because current broadcast regulations restrict radio frequencies to government entities, these independent community radio stations technically are illegal. During the year, several independent community radio broadcasters requested legislative intervention after receiving cease and desist notices from the Public Relations Department. Parliamentary hearings were scheduled for late in the year. At year's end, about 60 (of 200) community radio stations continued to operate. By year's end, there still was no implementing legislation for broadcast media reform.

The military services retain 40 to 50 radio and television frequencies for national security purposes, despite assurances by the civil authorities that the military services may use all broadcasting frequencies in the event of a national emergency without the need to own them.

Radio stations must renew their licenses every year, and their signals are broadcast via government transmitters. They are required by law to broadcast government-produced newscasts twice daily, 30 minutes each in the morning and evening.

There was one cable network which was autonomous. However, one of the principal owners maintained closed ties to the Prime Minister.

There was one independent, noncable television station, Independent Television (ITV); its managing shareholder was Shin Corporation, which was owned by the Prime Minister's family. Programmers generally were free to determine the nature and content of television broadcasts. Stations occasionally censored or "blacked out" portions of programming that they deemed politically sensitive or pornographic. Such self-censorship was more common at state-controlled stations. In February 2001, 21 ITV staff members were fired one day after they formed a union and publicly complained of political interference in the station's editorial content (*see* Section 6.a.). The station's management cited breach of company regulations and restructuring as the basis for the firings. In September the central labor court ordered that the 21 union members fired by ITV be reinstated (*see* Section 6.a.). In August 2001, the Thai Broadcast Journalist Association filed a lawsuit against the Prime Minister in the Administrative Court, accusing him of 14 instances of editorial interference that violated the constitutional provision of press freedom. The case was pending at year's end. A censorship board existed as part of the office of the Prime Minister; however, it rarely formally restricted television or radio broadcasts. It advised broadcasters either verbally or by letter of specific programs deemed inappropriate or offensive, and advised the programmer to be more careful in the future.

Under the 1930 Film Act, theater owners and broadcasters must submit films that they plan to show to the film censorship board for review. The board is composed of officials representing the Ministry of Education, the Ministry of University Affairs, the military, the Department of Religious Affairs, and the Ministry of Foreign Affairs. The board may ban films if its requirements that portions of the film be removed are not met. Reasons for censoring films include violating moral and cultural norms and disturbing the public order and national security. Theater owners and broadcasters frequently censor films themselves before submitting them to the board. According to the office of the Film Censorship Board, of the 185 films submitted for review in 2001, 2 were banned.

Activity on the Internet remained unregulated. As of the end of 2001, according to the National Electronics and Computer Technology Center, an estimated 3.5 million persons used the Internet.

The Constitution provides for the right to engage in academic pursuits, and academic freedom generally was respected. The Ministry of Education edits public school textbooks. No textbooks were censored during the year. However, in February, police officers and officials from the Ministries of University Affairs and Defense visited the office of Assumption University's ABAC Polls, a well-respected survey organization, following the release of public opinion poll results about leading political figures. The officials requested to see the results of future polls before they were released. ABAC Polls chose not to comply with the request and did not experience any subsequent ramifications.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Permits are not required for private meetings or gatherings unless held on public property or organized by foreign nationals; these are granted routinely.

In November 2000, in Ubon Ratchanthani Province, villagers allegedly paid by the Government's electric power authority violently dispersed a longstanding protest at the Pak Moon dam by the Assembly of the Poor, an NGO focusing on issues of poverty and the environment. The villagers seriously injured 4 protesters and burned more than 500 temporary shelters. The protesters argued that the dam displaced local residents and negatively affected their livelihoods and the environment. At year's end, charges were brought against the protesters, several of whom were charged with trespassing on state property. On December 20, several protesters and 15 police officers were injured during a protest in Hat Yai against building the Thai-Malaysia pipeline. Twelve protest leaders were arrested and subsequently released on bail. Human rights organizations, media, student groups, and NGOs criticized the alleged brutality and Prime Minister Thaksin's support of the police. On December 22, the Prime Minister said that the Government was willing to work with NGOs, but would blacklist and take serious action against any groups and "mob leaders" condoning the use of violence. On December 23, a Commissioner of the NHRC said that he would set up a sub-committee to investigate the incident. Also in December, 21 Burmese activists were arrested when police in Mae Hong Son broke up a meeting commemorating International Human Rights Day. Seven of the activists were released, while 13 others were tried and taken to the border for repatriation. At year's end, the organizer of the meeting remained in police custody (*see* Section 1.d).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Private associations must register with the Government; such registration was approved routinely.

c. Freedom of Religion.—The law provides for freedom of religion, and the Government generally respected this right in practice; however, it restricted the activities of some groups. The Constitution requires that the monarch be a Buddhist. The state religion is in effect Theravada Buddhism; however, it is not designated as such.

The Government played an active role in religious affairs. The Religious Affairs Department (RAD), which is located in the Ministry of Education, registered religious organizations. To register a religious organization first must be accepted into an officially recognized ecclesiastical group. There were seven such groups, including one for Buddhists, one for Muslims, one for Catholics, and four for Protestant denominations. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Although some activities of groups that were not accepted into one of the existing recognized groups were restricted, in general, unregistered religious organizations operated freely. There were no reports of the extortion of unregistered groups by local officials during the year.

Under the provisions of the Religious Organizations Act, the RAD recognizes a new religion if a national census shows that it has at least 5,000 adherents, a uniquely recognizable theology, and is not active politically. However, since 1984 the Government has maintained a policy of not recognizing any new religious faiths. This restricted the activities of some groups that were not accepted into one of the existing religious governing bodies on doctrinal or other grounds.

The Constitution requires the Government “to patronize and protect Buddhism and other religions.” The Government subsidized the activities of the three largest religious communities (Buddhist, Islamic, and Christian). Since mid-2001 the Government has provided more than \$52 million (2.2 billion baht) to support Buddhist and Muslim institutes of higher education; to fund religious education programs in public and private schools; to provide daily allowances for monks and Muslim clerics who hold administrative and senior ecclesiastical posts; and to subsidize travel and healthcare for monks and Muslim clerics. This figure also included an annual budget for the renovation and repair of Buddhist temples and Muslim mosques, the maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani.

During the year, the Government also provided \$66,000 (3 million baht) to Christian organizations to support social welfare projects. Catholic and Protestant churches may request government support for renovation and repair work but do not receive a regular budget to maintain church buildings nor do they receive government assistance to support their clergy. The Government considered donations made to maintain Buddhist, Muslim, or Christian buildings to be tax-free income; contributions for these purposes were also tax-deductible for private donors.

Religious instruction is required in public schools at both the primary (grades 1 through 6) and secondary (grades 7 through 12) education levels. Instruction is limited to Buddhism and Islam.

In February 2001, Falun Gong members voluntarily decided not to proceed with plans to organize an international meeting in Bangkok, originally proposed for April. Their decision was in response to unofficial indications from the Government that it did not favor such a conference. In the past, the Government has investigated religious groups alleged to be engaged in “cult” activities.

The Government permitted foreign missionary groups to work freely throughout the country, although it also maintained policies that favored proselytizing by citizens. The number of foreign missionaries officially registered with the Government is limited to a quota that originally was established by the RAD in 1982. The quota is divided along both religious and denominational lines, but religious organizations reported that unregistered missionaries were able to proselytize during the year. Activities of Muslim professors and clerics were subjected disproportionately to scrutiny on national security grounds because of continued government concern about the potential resurgence of Muslim separatist activities in the south.

Muslims, who represented between 5 and 10 percent of the country’s population nationwide and constituted the majority in four of the five southernmost provinces that border Malaysia, also experienced some economic discrimination. The Government continued to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities.

Muslim female civil servants were not permitted to wear headscarves when dressed in civil servant uniforms. Muslim female civil servants who were not required to wear uniforms were allowed to wear headscarves. In practice, most female civil servants were permitted by their supervisors to wear headscarves if they wished to do so, particularly in the country’s southernmost provinces.

Women were not permitted to be ordained as monks. In addition, many religious schools only accepted males (*see* Section 5).

Laws prohibiting speech likely to insult Buddhism remained in place. The police have authority under the law to issue written warnings or orders suspending the publication or distribution of printed materials considered offensive to public morals; however, they did not use it to restrict the publication or distribution of religious literature during the year.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of citizens to change their residence or workplace, and authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946, and Chinese who immigrated between 1953 and 1961, remained in place. In addition, other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of other tribal members, officially are required to seek permission from local authorities or the army for foreign and domestic travel. In practice authorities rarely enforced these restrictive measures. Registered resident aliens moved freely within the country.

The Government limited the sectors and provinces in which migrant workers may hold jobs. The Government deported thousands of migrant workers and families during the year. However, NGOs and the International Organization for Migration (IOM) reported that a large number of those deported later returned to the country (*see* Section 6.e.).

The Government did not extend displaced person status to the large number of members of the Shan ethnic minority who crossed the border fleeing the effects of forced relocation and sporadic fighting in Shan State, Burma. However, in May the Government granted temporary shelter to approximately 450 Shan who fled fighting in Burma across the border from Chiang Mai Province. In June the Government announced plans to repatriate the group. The Government later delayed the repatriation following an appeal by NGOs.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. There is no legislation regarding the treatment of refugees. However, the Government continued to provide first asylum to a small number of Lao asylum seekers. The Government continued to allow the U.N. High Commissioner for Refugees (UNHCR) to monitor and provide protection to 133,000 Burmese refugees designated by the Government and the UNHCR as displaced persons in 10 camps along its frontier with Burma. However, the Government prohibits the UNHCR from maintaining a permanent presence in the border camps.

Along the border with Burma, the Government generally followed its policy of providing first asylum to new displaced arrivals. In 1999 provincial screening committees were established to determine eligibility to enter the refugee border camps based upon very narrow criteria, limited to those who flee actual fighting rather than on broader grounds of persecution on the basis of race, religion, ethnic group, social class, or political opinion. However, Ministry of Interior officials in the border provinces opted not to convene new boards during the year, causing the unregistered population in the refugee camps to increase substantially.

In June and August 2000, the Government forcibly repatriated 116 Burmese deemed ineligible for assistance. The UNHCR unsuccessfully appealed on behalf of those asylum seekers. Most of those who returned to Burma reportedly returned to the camps. In January the Maneeloy Burmese Center located in Ratchaburi Province and which housed Burmese “student” refugees was closed and the residual population was transferred to the refugee camp Tham Hin located near the border with Burma. Tham Hin housed more than 9,300 persons from Burma, mostly Karen. A new section was created to receive the Maneeloy residual population.

The Government continued to allow NGOs to provide food, medical services, housing, and other services to Burmese refugees near the border. However, the Government did not allow NGOs to aid ethnic Shan refugees. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as “persons of concern” by the UNHCR. Those arrested generally were taken to the border and released.

The Government maintained a blacklist of persons who were not permitted entry into the country (*see* Section 2.a.).

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

The Constitution provides for the right of citizens to choose or change their government peacefully through free and fair elections based on universal suffrage. The country is a democratically governed constitutional monarchy. Since 1992 there have been five national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or dissolve the elected bicameral Parliament. Voting is compulsory. Eligible voters who fail to exercise their voting responsibilities, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. However, the Constitution prohibits Buddhist monks and nuns from seeking public office. Parliamentary elections were held in January 2001. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem. Exercising its constitutional mandate to prevent election fraud, the Election Commission dismissed polling results and held a total of 5 rounds of revotes in 72 constituencies due to "election irregularities." There also were 25 killings of political canvassers during the campaign leading up to the 2001 elections, at least some of which were motivated politically (*see* Section 1.a.). In February 2001, the coalition government of Prime Minister Thaksin Shinawatra's Thai Rak Thai Party was formed.

In August 2000, the first directly elected Senate took office. The Senate election required multiple rounds of voting for some districts because the Election Commission voided some results due to irregularities such as evidence of vote buying. In October 2000, the Constitutional Court ruled that the Election Commission could disqualify a candidate whom the Commission finds guilty of electoral irregularities.

While there were no legal restrictions on their political participation, the percentage of women in government or politics does not reflect accurately their numbers in the population, especially at senior levels in the national government. There were 45 women among the 500 members of the House of Representatives, and 20 women in the 200 member Senate. There were 3 women in the 36 member Cabinet. Although over half of civil service employees were women, relatively few held senior positions.

No laws prohibited the political participation of ethnic minorities, but few held positions of authority in national politics. Muslims from the south hold significant elected posts in the Government, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim Senators and 22 Muslim Members of House of Representatives, including Interior Minister Wan Muhamad Noor Matha. Two Members of Parliament were hill tribesmen.

Noncitizen members of hill tribes were barred from participating in the political process (*see* Section 5).

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

A wide variety of domestic and international human rights organizations generally work without government restriction, investigating and publishing their findings on human rights cases freely. Government officials generally were cooperative and responsive to their views; however, at times the Government hindered the activity of a few human rights groups.

There were several NGO human rights groups that were effective in drawing international attention to perceived human rights violations. In many cases they brought such violations to the attention of the NHRC as well as to the media. In general NGOs were allowed to operate freely. However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement, faced considerable harassment. In addition, Amnesty International and other NGOs were critical of what they alleged to be the Government's use of anti-money laundering laws to investigate and harass NGO leaders.

Very few NGOs were accorded tax-exempt status, and this sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

In August the police simultaneously raided three or four houses in the border town of Sankhlaburi which were being used as offices by NGOs working to promote democracy in Burma. Police detained 31 Burmese democracy activists and confiscated office equipment and files. All were taken to the border and released. The police did not hand them over to the Burmese authorities (*see* Section 1.d.).

The 11 member NHRC convened for the first time in July 2001. It operated as a separate government entity to prepare an annual evaluation of the human rights situation for the National Assembly, to propose policies and recommendations for amending laws to the National Assembly, to promote measures to educate citizens

on human rights, and to investigate human rights abuses. Although the Commission received over 300 petitions during its first year in existence, modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered its ability to carry out its mandate.

In June 2001, the National Countercorruption Commission found two Telephone Organization of Thailand (TOT) technicians responsible for criminal and disciplinary violations in connection with the wiretap surveillance of Wira Somkwamkhit, Chairman of the People's Rights Protection Group, an anticorruption NGO. Wira was investigating corruption charges against former Deputy Prime Minister Sanan Khrachonprasat, who was forced to resign after the Commission found that he falsified financial statements. Although the two technicians were fired by TOT, the Commission was unable to identify the person who ordered the wiretaps by year's end (*see* Section 1.f.).

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

The Constitution provides for equal treatment under the law without respect to race, sex, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Domestic abuse continued to be a serious problem affecting the welfare of many women; reliable reports indicated that domestic abuse occurred across all social classes. Specific laws concerning domestic violence have not been enacted. Spousal and child abuse are covered by assault provisions in the Criminal Code, but rules of evidence often made prosecuting such cases difficult. Police did not enforce laws against such violence vigorously, and domestic violence often went unreported, because many victims and law enforcement personnel continued to regard domestic abuse as a private matter rather than a legal one. NGO-supported programs designed to aid victims included emergency hotlines, temporary shelters, counseling services, and a television program designed to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The Government's "one-stop" crisis centers, located in state-run hospitals, continued to care for abused women and children, but faced budget difficulties.

Rape is illegal. However, a husband may not be prosecuted for spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies widely were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of teams of female police officers that operate in metropolitan Bangkok police stations, with a total of 20 female investigators. During 2001 the police expanded this program to three provinces by adding an additional nine female officers.

Prostitution is illegal but flourishes. It often was protected by local officials with a commercial interest in it (*see* Sections 1.c. and 6.f.). Trafficking in women and children for prostitution was a serious problem (*see* Section 6.f.). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered conservative. This figure included children under 18 years of age and foreigners. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. The majority of prostitutes were not kept under physical constraint, but a large number worked under debt bondage (*see* Sections 6.f.). The 1996 Prostitution Prevention and Suppression Act makes child prostitution illegal and states that customers who patronize child prostitutes are subject to criminal sanctions. Parents who allow a child to enter the trade also are subject to criminal sanctions, but the number of prosecutions remained low. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (*see* Section 6.f.).

The 1998 Labor Protection Act makes sexual harassment illegal, but covers only persons working in the private sector. NGOs claimed that the term was vague and that such ambiguity made the prosecution of harassment claims difficult. No sexual harassment cases were prosecuted under the law during the year. However, in September, a female journalist accused a senior political figure of sexual harassment. The politician in turn filed a libel lawsuit against her newspaper. The case was pending at year's end. Extensive media coverage of the case suggested that public awareness of the issue was increasing.

The Constitution provides women with equal rights and protections, but some inequalities in the law remained. A man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has acknowledged publicly another woman as his wife.

Women had equal access to higher education, and more than half of the university graduates this year were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 44 percent of the labor force and held an increasing share of professional positions. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and there was a significant gap between the average salaries earned by men and women, because women were concentrated in lower paying jobs. In practice women also received lower pay for equal work in virtually all sectors of the economy. According to the Legal Affairs Division of the Thai Civil Service Commission, a civil servant must "dress properly." In June a parliamentary committee ruled that women Members of Parliament were allowed to wear trousers while in Parliament.

The Constitution specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of 35 women's organizations, advocated legal reforms to address inequities in the treatment of women. It continued to play an important role in securing the inclusion of gender-equality clauses in legislation that created new government organizations mandated by the 1997 Constitution.

Children.—In recent years, the Government took steps to promote the rights and welfare of children. The Constitution provides for the right of access to free public education through grade 12, and the Government mandates 9 years of compulsory education. However, only an estimated 23 percent of children completed grade 6, and 10 percent completed grade 12. The Government's 1997 Social Welfare Plan for Underprivileged People doubled the budget for children's programs for 1997–2001, compared with the previous 5-year plan. Young girls were barred from religious schools which were often the only form of education for impoverished children. Although special juvenile courts and detention centers existed in 34 provinces, children were tried in the same courts as adults and detained with adults in the rest of the country (*see* Section 1.d.).

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties if the victim is a child. In May a police lieutenant colonel and a sergeant were arrested and charged with statutory rape in the case of a 12-year-old girl sold into prostitution by her mother (*see* Section 6.f.). During the year, police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse cases difficult. In September 2000, legislation designed to protect witnesses, victims, and offenders under the age of 18 came into effect. The procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, a psychiatrist, or another social worker. However, some judges refused to allow video testimony in their courts. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for prostitution, was a serious problem (*see* Section 6.f.). Pedophilia, both by citizens and by foreign sex tourists, continued. The Government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes under 18 years of age. The Prostitution Prevention and Suppression Act of 1996 made child prostitution illegal and provided for criminal punishment for those who use child prostitutes. Parents who allow a child to enter the trade also are punishable. In September the mother of two underage daughters, who provided them to sex tourists in Mae Sai in November 2000, was sentenced to 5 years in prison.

Child labor remained a problem, and some international organizations, government-funded research organizations, and news media continued to report on the large number of children leaving school for economic reasons (*see* Section 6.d.).

In late 2001, the Department of Public Welfare and the International Labor Organization-International Program for the Elimination of Child Labor (ILO-IPEC) estimated that as many as 20,000 children lived in the streets of the major urban centers. Many were thought to come from neighboring countries, including Cambodia and Burma. Although Bangkok authorities attempted to provide shelters, resources were inadequate and many of the children reportedly avoided the shelters for fear of being detained and expelled from the country.

There were many local NGOs that worked to promote children's rights in the country. Employers' organizations, such as the Employer's Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the Government.

Persons with Disabilities.—The Constitution provides for access to public facilities and prohibits employment and education discrimination against persons with disabilities; however, the Government did not enforce these laws effectively.

In May the Constitutional Court upheld a judicial personnel law blocking persons with physical disabilities from becoming judges. The case was brought to the highest court after two persons with physical disabilities were denied the right to sit for the examination to become judicial officials. The Constitutional Court ruled that the personnel law does not contravene the Constitution, which proscribes unjust discrimination against a person on the grounds of physical or health conditions. At year's end, activists were appealing to Parliament to amend laws that allowed employment discrimination against persons with disabilities.

During the year, an estimated 145,000 children with disabilities attended school, with approximately 130,000 of them enrolled in 4,000 regular public schools equipped to accommodate students with physical disabilities. Nationwide, there were 9 government operated and 16 NGO operated training centers for persons with disabilities. However, with little education, very few adults with disabilities were able to find employment. Many of those who did find employment were subjected to wage discrimination. The law requires that private firms hire 1 person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has not been enforced since it came into effect in 1991. Government officials estimated that between 20 and 30 percent of firms disregard the law. Some state enterprises had discriminatory hiring policies.

The Constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not yet been enacted. The 1999 regulation that makes compliance mandatory was not enforced during the year. Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches.

Indigenous Persons.—Members of hill tribes without proper documentation, who accounted for approximately half of the estimated 1 million members of hill tribes, still faced restrictions on their movement, may not own land, and were not protected by labor laws, including minimum wage requirements. They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction. As noncitizen residents, they also were barred from participating in the political process (see Section 3).

In May 2000, the MOI redefined the category of hill tribe residents eligible for citizenship to include previously undocumented tribal persons, now collectively called "highlanders." The new definition includes persons who formerly were defined either as indigenous or migrants. The new regulations were supposed to ease the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references, and empowering local officials to decide cases. However, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, caused the Government to miss the August deadline for citizenship processing for certain groups of resident alien hill tribe members. The Government extended the deadline to August 2003.

In March the Ministry of Interior revoked the citizenship of 1,243 persons in Mae Ai district, Chiang Mai Province. Government officials claimed that irregularities in the issuance of their identification documents invalidated their claim to citizenship. NGOs petitioned the Government to review each case on an individual basis to avoid penalizing persons entitled to citizenship. By year's end, several individuals had successfully regained their citizenship after proving their parents were Thai.

Societal discrimination against hill tribe members, arising from widely held beliefs that they were involved in drug trafficking and environmental degradation continued. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see Sections 1.a. and 1.f.). There were several allegations of mistreatment and abuse by the Third Army's Pha Muang Task Force, which jointly administers the hill tribe drug detoxification program with the Ministry of Public Health, the police, and the Ministry of the Interior. In Chiang Rai, provincial authorities require all drug addicts to register with village committees and to join the program. Those who registered were granted immunity from prosecution. The program was aimed at separating drug addicts from the traffickers. The army publicly acknowledged mistreatment occurred and promised to punish those found responsible for such abuses (see Section 1.a.).

National/Racial/Ethnic Minorities.—The Sino-Thai population was well integrated and did not face discrimination. However, about 50,000 former Chinese soldiers and dependents of the Kuomintang army who fled China after the Communist takeover and approximately 45,000 Vietnamese immigrants who resided in 5 north-

eastern provinces lived under a set of laws and regulations that restricted their movement, residence, education, and occupation; however, these laws rarely were enforced (see Section 2.d.). According to government sources, over 22,600 children of Vietnamese immigrants and 6,209 children of Chinese Kuomintang immigrants from these groups have been naturalized. The Ministry of Interior suspended the naturalization program in December 1999, leaving many cases unresolved.

Section 6. Worker Rights

a. The Right of Association.—The 1975 Labor Relations Act grants freedom of association to all private sector workers, who have the right to form and join unions of their choosing without prior authorization. However, the law did not explicitly protect workers who participated in organizing unions that were not registered officially from discrimination. Union leaders reported that employers often discriminated against workers seeking to organize unions. During the year, employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions.

In September the Central Labor Court ruled that 21 union members fired by ITV, a television station majority owned by the Prime Minister's family, be reinstated to their former positions. The ruling mirrored recommendations made in March by the International Labor Organization Committee on Freedom of Association (ILO/CFA). The workers alleged that they were fired for protesting political interference in news reports. The layoffs took place 1 day after the workers registered a new union in February 2001 (see section 2.a.).

In March ILO/CFA accepted its second-ever case from the country. Privatization of the state enterprise petroleum company resulted in a legal ruling dissolving the 200-member union at a subsidiary entity. The union rejected the Government's recommendation to re-register under the deficient law covering the private sector, citing concern that the ruling was an important precedent for other state enterprises scheduled for privatization. Loopholes in the 1975 LRA, which provide less legal protection to newly formed unions were of particular concern. CFA recommendations were pending at year's end.

Less than 2 percent of the total work force, but nearly 11 percent of industrial workers and over 50 percent of state enterprise workers, were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the Government to diminish union cohesiveness, and the majority share of total employment that is in the agricultural and informal sectors often were cited as reasons for low rates of labor organization.

State enterprise unions do not have the right to join private sector federations. However, unofficial contacts between public and private sector unions continued, and the Government did not interfere with these relationships.

Some corrupt private sector union leaders were exploited by politicians or employers, but public unions generally operated independently of the Government and other organizations. Internal conflicts, corruption, and a lack of influential leadership continued to weaken the labor movement.

Unions were free to associate internationally with other trade union organizations, and they maintained a wide variety of such affiliations.

b. The Right to Organize and Bargain Collectively.—The 1975 Labor Relations Act recognizes the right of private sector workers to organize and bargain collectively; to decide on the constitutions and rules of these associations and unions; to express their views without government or employer interference; to confederate with other unions; to receive protection from discrimination, dissolution, suspension, or termination by any outside authority because of union activities; and to have employee representation in direct negotiations with employers. The Labor Relations Act defines the mechanisms for collective bargaining and for government assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces and in most instances continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage, rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The Government sets wages for both civil servants and state-enterprise employees under the 2000 State Enterprise Labor Relations Act (SELRA).

The Government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year.

Labor law also forbids strikes in “essential services,” which is defined much more broadly than in the ILO criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state-enterprise workers. No strikes were disapproved during the year, and two legal strikes were held. There were 17 illegal strikes involving 4,065 workers during the year.

The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector. Workers also may seek redress for grievances through the Tripartite Labor Relations Committee. Redress of grievances for state-enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders who were dismissed unjustly usually were awarded only monetary compensation.

No separate labor legislation applied in the nine export processing zones, in which wages and working conditions often were better than national norms because of the preponderance of foreign based multinational firms.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor except in the case of national emergency, war, or martial law; however, while these provisions generally were enforced in the formal sector, forced labor in the informal sector remained a problem. The law specifically prohibits forced or bonded labor by children; however, such labor was known to occur (*see* Section 6.d.). During the year, there were reports of sweatshops in which employers prevented workers (primarily foreign migrants) from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of illegal aliens from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported thousands of underage boys and girls were brought into the country for labor on farms, in sweatshops, and very young children were used to work in street begging gangs.

In September the country’s central labor court awarded back wages amounting to \$46,600 (2 million baht) to a group of 33 Burmese migrant women and girls who were held in indentured servitude. The group, including 21 minors, was brought 2 years earlier from Burma to a clothing factory in Bangkok where they were physically confined and subjected to forced labor. Upon arrival in Bangkok their wages were withheld for the first year of 14-hour days/6-day weeks of labor. After the first year, wages were set at between \$52 and \$59 a month (2,235 baht and 2,535 baht), which was approximately half the legal minimum wage (*see* Sections 6.e and 6.f).

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum age for employment is 15 years of age. The law permits the employment of children between the ages of 15 and 18 only in “light work,” where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is restricted. The employment of children at night (from 10 p.m. to 6 a.m.), or in places in which alcohol is served, is prohibited by law. It was estimated that approximately 1 million children nationwide worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 years worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily at gasoline stations and restaurants. Child labor was not evident in larger foreign-owned or domestic export-oriented factories. However, there was no comprehensive survey of child labor in smaller enterprises, since NGOs did not have access to shop house factories. Although there was no accepted estimate, the ILO and NGOs believed there were significant numbers of child domestic workers in the country. Minimum wage and age provisions of the 1998 Labor Protection Act do not apply to domestic workers, some of whom were believed to be under 15-years-old. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation.

In July a child domestic worker from Burma suspected of theft was fatally beaten and burned, allegedly by her employers. NGOs also reported a case of a Burmese

child domestic worker who was sold by her employers into forced prostitution. In both cases, there were no prosecutions by year's end.

During the year, the Department of Labor employed 680 full-time inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior, rather than to seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In August 1999, the Government attempted to address the problem of child labor in August 1999 by promulgating the National Education Act. The act raised the compulsory educational requirement from 6 years to 9 years of age, and offers 12 years of free education. Enforcement of the new provisions began in August (*see* Section 5). Observers believe that the problem of child labor in industry diminished due to enforcement of recent laws and increased public scrutiny. However, according to local NGOs and the ILO, the problem of street children (often foreign) working as beggars for organized gangs appeared to be increasing (*see* Section 6.c.).

The Ministry of Education provided various scholarships to approximately 6 percent of the country's primary students to allow them to remain in school. Lunch programs, tuition assistance for poor rural students, and scholarships for girls at risk were included. Approximately 60,000 volunteers, comprised of community leaders, parents, and teachers were appointed in villages to address child labor problems at the grassroots level.

The Protection Act codifies the worst forms of child labor. Although not all child domestic workers fell under the worst forms, many were at risk due to their age, gender (predominantly female), legal status, and working conditions.

The law specifically prohibits forced or bonded labor by children; however, forced child labor was a problem (*see* Section 6.c.).

e. Acceptable Conditions of Work.—The minimum wage ranged from \$3.09 to \$3.91 (133 baht to 168 baht) per day, depending on the cost of living in various provinces. Minimum wages were set by provincial committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions, the minimum wage provided the basis for a marginally adequate overall standard of living. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum-wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. Unskilled migrant workers often worked for wages that were significantly lower than the minimum wage. An attempt to provide minimum wage protection to 580,000 migrants who registered in September 2001 largely failed due to weak enforcement.

The Government mandates a uniform maximum workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week. The petrochemical industry is excluded from these regulations.

Working conditions varied widely. The rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100,000 workers. These rates applied only to industrial sector workers, however, and the rate of incidents occurring in the larger informal and agricultural sectors was thought to be higher by labor and grassroots groups. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers with prohibitions on working night shifts, overtime, or holidays, as well as for those working with dangerous machinery or on boats.

The Ministry of Labor and Social Welfare promulgates health and safety regulations regarding conditions of work. Labor inspectors were responsible for enforcement of health and safety regulations; the maximum penalty for violations was 6 months imprisonment. Provisions in the Labor Protection Law include the establishment of welfare committees, which include worker representatives, in factories employing over 50 persons. These committees were to set and review health and safety

conditions in each factory. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Courts continued to hear testimony in the case of the 1993 Kader Toy Factory fire in which 188 persons were killed and 350 persons were injured.

Migrant workers, particularly those from Burma, faced significant hardships and physical danger during the year. In February, 17 migrant workers were killed and found in a stream along the border with Burma. Authorities believed the crime stemmed from an alien smuggling dispute. The following month, 13 more workers suffocated in a truck while being smuggled from the border to agricultural fields near Bangkok. Burmese labor activists alleged several incidents of Burmese commercial fishermen employed on Thai vessels who were killed at sea after disputes with their employers. Child domestic workers were at special risk of labor abuse (see Section 6.d.).

The Government deported 156,434 illegal workers during the year, most of them to Burma. NGOs reported that a large number of those deported returned soon thereafter. An attempt to inaugurate an orderly repatriation program for illegal Burmese migrants foundered when the border with Burma was unexpectedly closed between May and October. In late December, a small group of 20 illegal migrants, the first since the border closing, was repatriated to a Burmese government reception center in Myawaddy.

In September 2001, the Government undertook an open registration campaign directed at the estimated 1 million to 1.5 million illegal Burmese, Cambodian, and Lao workers already present in the country. Five hundred eight thousand migrants registered, and were allowed to remain in the country with specified employers for 1 year. Health care for the migrants (but not family dependents) was included in an imposed registration fee. Provisions of the 1998 Labor Protection Act technically were extended to this group, although lax enforcement meant that there was little real progress in improving migrant working conditions. In September the Government extended this program for 1 more year, but only for already registered migrants. The extension allowed workers to change employers.

f. Trafficking in Persons.—The law prohibits trafficking in women and children; however, trafficking in persons was a serious problem. The country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution (see Section 5). Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. The 1997 Prevention and Suppression of Trafficking in Women and Children Act increased the penalties for trafficking in women and children for the purposes of prostitution or slave labor, and provided for wide powers of search and for assistance to victims. There are also antitrafficking provisions in the 1996 Prostitution Prevention and Suppression Act. The authorities occasionally used these powers during the year, but the number of prosecutions remained small compared to the scope of the problem. A money-laundering law, which became effective in August 1999, included provisions to enable authorities to confiscate the assets of persons convicted of trafficking or engaging in the business of prostitution. In April the law was used for the first time in a major trafficking case in Chiang Rai. The outcome of the case still was pending at year's end.

Government and NGO estimates of the number of women and children engaged in prostitution in the country varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered a conservative estimate. This figure included children under the age of 18 years and foreigners. The number of victims of trafficking not involved in prostitution and including men, women, and children was unknown but believed to be substantial.

Within the country, women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. Women also were trafficked internationally to Japan, Taiwan, Australia, Europe, and the United States, chiefly for sexual exploitation, but also for sweatshop labor. Men were trafficked into the country for farm, industrial, and construction labor.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos into the country for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. Young children, either orphans or those sold by their families, were among them. For example, very young Cambodian children were employed by begging gangs in Bangkok. Occasionally entire families were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. Vietnamese citizens also reportedly were trafficked to the country in smaller numbers. According to domestic NGOs, girls between the ages of 12 and 18 years continued to be traf-

ficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the north. Generally victims from Yunnan Province were lured into the country with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The U.N. Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although this group was not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing the worst forms of trafficking.

Impoverished families sent or sold children to traffickers, often a neighbor, a local official, or some other respected local person. In May a police lieutenant colonel and a sergeant were arrested and charged with statutory rape in the case of a 12-year-old girl sold into prostitution by her mother. At year's end, the policemen had been suspended from duty and were awaiting trial (*see* Section 5). The victim was sent to the Government's main rehabilitation shelter.

Sometimes villagers saw the local traffickers as friends offering a way out of poverty. Typically, local traffickers fed persons into larger networks, after which they exercised no further control and heard no more of them. Traffickers sometimes misrepresented the type of work and working conditions, and victims subsequently found themselves forced to remain and work in the border areas. Some women who contracted for other kinds of work found themselves coerced into the sex trade. Indentured work, both sex work and other labor, was also a problem.

Trafficking through the country to onward destinations tended to be conducted by citizens of the PRC and other international organized criminals. Trafficking into and within the country generally was conducted by domestic criminal elements.

There continued to be credible reports that some corrupt police, military, and government officials were involved directly in trafficking or taking bribes to ignore it (*see* Sections 1.c. and 5). Police personnel were paid poorly, and widely accustomed to taking bribes to supplement their income.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their daughter's future earnings, frequently without the consent of the young woman involved. The women were obligated to work in a brothel to repay the loan. In 2000, 21 minors trafficked from Burma and physically confined and forced to work in a Bangkok factory won back wages in a court ruling during the year (*see* Sections 6.e. and 6.d.).

Many Thai women were trafficked to Japan for purposes of sexual exploitation. Traffickers promised victims lucrative legitimate employment, or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon their arrival in Japan the traffickers confiscated the victims' passports, demanded repayment for their "purchase," and charged the victims for living expenses, care, and fined them for misbehavior. Traffickers often restricted the women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they particularly were vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers, but ended up working as prostitutes. Illegal immigrants had no rights to legal counsel or health care if arrested (*see* Section 2.d.). The amnesty provisions available under the UNHCR auspices did not apply to such women. In June 1999, a Memorandum of Understanding (MOU) between the Government and several domestic NGOs provided for some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreement stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Rather than being deported, they become the responsibility of the Public Welfare Department. However, implementation of the MOU continued to be erratic during the year, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Illegal immigrants generally were repatriated as soon as possible; however, in order to implement the new policy of humane treatment for victims of trafficking, Department of Public Welfare (DOPW) officials tried to refer underage and foreign women arrested for prostitution to one of the Government shelter houses. Repatriation was delayed, but not canceled. Victims were encouraged to seek legal action against the traffickers, and they were told by DOPW personnel at the shelters that this was an option. Trafficking victims who provided evidence were repatriated back

to their home countries afterwards. However, in general, trafficking victims were reluctant to assist in prosecution. This was due to mistrust of the authorities and fear of the traffickers, as well as the victim's limitations in education and language, and a desire to return home rather than to participate in lengthy criminal proceedings.

NGOs and government agencies continued to provide shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry during the year. However, the Government faced severe budgetary limitations on its ability to fight trafficking and to aid its victims. Two national committees were directed and empowered to combat trafficking, and these committees coordinated and cooperated with NGOs as well. The National Committee on Trafficking in Women and Children (NCTWC) was concerned primarily with counter trafficking efforts within the country, while the National Project Committee on Trafficking in Women and Children in the Mekong Subregion focused on regional efforts. Local enforcement officers were sometimes ignorant of new laws and regulations designed to protect victims and ignorant of the special requirements of antitrafficking work. Also, police officers did not view antitrafficking as a path to advancement because their superiors did not emphasize it. Narcotics and serious crimes were the preferred career concentrations, while the attitude that trafficking also qualified as a serious crime was only slowly developing. Another barrier for stricter enforcement was the court system, which could be cumbersome and time consuming (*see* Section 1.e.).

TONGA

The Kingdom of Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The judiciary is independent.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The Minister of Defense controls a 430-man TDS force; the Minister of Police and Prisons directs the police force. Some members of the police committed human rights abuses.

The country has a population of approximately 105,000 and a per capita GDP of approximately \$2,200. The economy is based primarily on the cultivation of tropical and semitropical crops. The demand for imported goods and products has led to a substantial trade deficit. This deficit was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's 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 severely restricted, although a relatively small group of commoners vocally challenged the Constitution to argue for a more representative and accountable government. At times the authorities infringed on freedom of speech and of the press. Some women suffered from domestic violence; women also faced discrimination and very limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

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 forbids torture and inhuman or degrading punishment or other such treatment; however, there were some abuses by police.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits has not arisen.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventative detention or other lengthy pretrial detention. The law permitted unlimited access by counsel and family members to detained persons.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice. The last case of forced exile was in 1886.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose top judges historically have been foreign nationals, was independent of the King and the executive branch. Judges held office “during good behavior” and otherwise could not be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates’ courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeals is the highest court. The King’s Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason.

The law provides for the right to a fair public trial, and the Government generally respected this in practice. A court may not summon anyone without providing the person with a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

In past years, the police, in cooperation with government prosecutors, allegedly used repeated postponement of court dates and the filing of frivolous charges to intimidate government critics. In one case, a human rights activist was scheduled to appear in court in March 2001 as a witness to a theft. He wrote a letter to a newspaper criticizing the Police Ministry and was subsequently charged with abetting theft (*see* Section 2.a.). His hearing was postponed several times, and he was prevented from traveling out of the country until December 2001, when a magistrate permitted him to visit family members living outside the country. In February the case against the activist was closed.

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; however, at times the authorities infringed on these rights. In June police confiscated tape recordings of the “Niuvakai” television program, alleging that it was overly critical of the Government. Government-owned Tonga Television subsequently refused to broadcast further Niuvaki programs.

There were eight newspapers and newsmagazines in print: Three weeklies (one of which was government owned); three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The Government-owned radio station broadcasts on both AM and FM frequencies. There were three privately owned radio stations.

While there was little editorializing in the Government-owned media, opposition opinion appeared regularly in the form of letters to the editor along with government statements and letters. The national media, from time to time, carried comments critical of government practices and policies, including some made by prominent citizens. The law allows government officials to bring defamation suits, as well as suits by officials and other individuals against media outlets that publish allegedly defamatory remarks. This may have had the practical effect of limiting freedom of speech. During the year, government officials filed several defamation suits against the media. At year’s end, the Ministry of Police had appealed the decision in a wrongful imprisonment suit filed by a newspaper editor detained after publishing a political item. In another case during the year, authorities dropped charges of sedition and dealing with a forged document filed against a newspaper editor and a reporter who had published a letter with allegations against the King. However, these charges were still pending against an M.P. and his staff member allegedly involved in the incident (*see* Section 3).

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedoms 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 Tonga Broadcasting Commission (TBC) policy guidelines regarding the broadcast of religious programming on Radio Tonga stated that those who preach on Radio Tonga must confine their preaching “within the limits of the mainstream Christian tradition.” This policy applied to all religions. The TBC did not allow members of the Baha’i Faith to discuss the tenets of their religion, or to refer to the founder, Baha’ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter Day Saints to discuss its founder, Joseph Smith, or the Book of Mormon by name. Mormons and members of other faiths utilized Radio Tonga for the announcement of church activities and functions. Members of the Baha’i Faith utilized a privately owned radio station for program activities and the announcement of functions. A government-owned newspaper occasionally carried news articles about Baha’i activities or events, as well as those of other faiths.

For a more detailed discussion see the 2002 *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 will within the country and abroad. However, in March 2001, a government critic was prevented from traveling abroad by the repeated postponement of the court case in which he was involved (see Section 1.e.). In December 2001, following special representations to a magistrate, he was permitted to visit relatives residing outside the country.

The Government is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 protocol. No person was known to have applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

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

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch’s endorsement, the King at times permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is made up of nine ministers and two governors; it included both nobles and commoners, who served at the King’s pleasure.

The unicameral Legislative Assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Cabinet members and nobles usually voted as a bloc. In September a proposal for political reform was submitted by the Tonga Human Rights and Democracy Movement (THRDM) to the Legislative Assembly. The proposal advocated the creation of a bicameral assembly, with the nine noble members moved to an upper house. The lower “House of Commoners” would consist of 21 popularly elected members. At year’s end, Parliament had not yet addressed the proposal. In 2000 the King appointed his son, Prince Ulukalala Lavaka Ata, as Prime Minister. As Prime Minister, the Prince also held five other ministerial portfolios, including those of defense and foreign affairs.

Elections held in March resulted in a strong showing for prodemocracy candidates on the main island of Tongatapu. Shortly before the elections, a royalist political group, “Kotoa” (“Together”) emerged as a serious movement. Kotoa received the support of the King’s eldest daughter, Princess Pilolevu.

In June the Government publicly launched an economic and public sector reform program led by a Cabinet Reform Committee and composed of five teams, including a team dealing with private sector reform that included members of the Chamber of Commerce. Otherwise, there was no opportunity for participation by civil society. Very few citizens challenged the retention of the monarchy; the King was greatly respected. However, in recent years, a number of persons both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability.

A prodemocracy movement continued during the year, although it lacked formal structure due to differences of views among its leaders. All nine representatives of the general population advocated various degrees of democratic reform. Proposals for constitutional revision tended to center on the popular election of all parliamentarians, with the parliamentarians selecting their speaker. In January 2001, the Prime Minister announced that the King had directed the formation of three Cabinet committees to examine the core governmental functions under the Constitution

and the law, to examine the Government's other functions, and to review the structure of the civil service. No public input was solicited, and the results of the review (which were to have been completed in March 2001) had not been announced by year's end.

In February the police raided the offices of THRDM, briefly detained three staff members, and impounded a computer hard drive. The police detained another staff member for several days in connection with an allegedly forged letter regarding the King's personal wealth. Three members of THRDM faced trial on forgery charges at year's end, including leading figure Akilisi Pohiva. Pohiva was not imprisoned and was allowed to travel abroad. Other members of THRDM, including lead staffer Lopeti Senituli, admitted the letter was indeed a forgery.

No woman has ever served as a government minister. There are no female Members of Parliament, although there have been in the past.

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

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups, and no known requests for investigations during the year.

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

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

Women.—Societal violence against women seldom was publicized, but it was a growing problem. Incidents of wife beating were generally addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence could be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters for abused and troubled women, most church affiliated, and the Free Wesleyan Church ran a hot line for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. However, the law does not recognize spousal rape and specifically states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, pimping, operating a brothel, and trading in women are criminal offenses. Prostitution was reportedly increasing. Sexual harassment as such is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several prestigious posts in government, including Secretary to Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the Ministry of Police were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for many years, and a royal princess was one of the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those dealing with land, discriminated against women. Women could lease but not own land. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock took precedence over the claim of the deceased's widow or daughter.

The Women and Development Center (formerly the Women's Affairs Unit) in the Prime Minister's office was established in 1993. Although some NGOs initially viewed this unit with suspicion, it appeared to be functioning cooperatively with them. Its objectives included the promotion of full and equal participation of men, women, and children in economic, social, and cultural development, and the enhancement of women's economic status and role in the national economy. However, many young, educated women still considered the unit ineffective. A government-sponsored National Council of Women conducted training workshops, especially in rural areas, and contributed to women's social and economic needs.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and offered counseling for women in crisis.

Children.—The Government was committed to children's human rights and welfare and provided commensurate funding for children's welfare given available re-

sources. Education was compulsory from ages 6 to 14. Although it was sometimes criticized as being of poor quality, education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare and the extended family generally participated in child rearing.

Persons with Disabilities.—There are no mandated provisions for accessibility to buildings and services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

National/Racial/Ethnic Minorities.—Early in the year, the Tonga Department of Immigration created a list of occupations that would be available only to citizens. Individuals currently on work visas in those professions would not have their permits renewed, and would be given a year to depart the country. The list focused on professions currently dominated by Chinese, particularly retailing. New legislation granting permanent resident status to foreign nationals under strict English-language, economic, and residency criteria would effectively exclude many ethnic Chinese immigrants.

In June, storeowners in the Vava'u group of islands submitted a petition to the legislature requesting a ban on Chinese nationals operating stores on the islands. There had been no response from Parliament at year's end.

Section 6. Worker Rights

a. The Right of Association.—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act. However, they had no formal bargaining rights under that act.

The 1963 Act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no strikes during the year.

b. The Right to Organize and Bargain Collectively.—Since there were no unions, collective bargaining was not practiced.

Labor laws and regulations were enforced in all sectors of the economy, including in the two small export zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—Although there is no legislation prohibiting child labor, it did not exist in the wage economy.

The country was not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work.—There is no minimum wage law, although there were government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Industrial accidents were rare, since few industries exist that would expose workers to significant danger; thus, the Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

f. Trafficking in Persons.—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

TUVALU

Tuvalu is a parliamentary democracy. The Head of State is Queen Elizabeth II, represented by the Governor General, who must be a citizen of Tuvalu. In July citizens elected a 15-member unicameral Parliament in free and fair elections. A Constitutional Review Committee report presented to Parliament in 2001 called for a referendum on whether to maintain the country's current status or establish a republic; however, the referendum had not taken place at year's end. The judiciary is independent.

A 70-member police constabulary, the only security force, is responsible to and effectively controlled by civilian authority.

The country has a population of approximately 10,000 persons on 9 atolls in the central South Pacific Ocean. The primarily subsistence economy relied mainly on coconuts, taro, and fishing. Remittances from citizens working abroad, the sale of postage stamps, and the sale of fishing licenses to foreign vessels provided additional foreign exchange. The country's isolation limited opportunities for economic development.

The Government generally respected the human rights of its citizens. However, traditional customs and social behaviors considered as important as the law led to some social discrimination. Women traditionally occupy a subordinate role, with limits on their job opportunities. Tuvalu was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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. Local hereditary elders exercised considerable traditional authority, including the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, such corporal punishment was seldom invoked.

The country has one minimum-security prison facility, located near the airport and segregated by sex. Adults are held at this facility, and children are remanded to their family's custody. The men's section can accommodate 35 inmates, the women's section 20. During the year, the number of prisoners was far below the maximum capacity; there were no female prisoners at year's end. There was also a single holding cell at the police station for detentions of less than 24 hours. Pretrial detainees were usually released on their own recognizance. Pretrial detainees charged with a serious crime, such as homicide, could be held in the prison; in practice, this has not occurred.

Detentions longer than a week were rare; more commonly, a person was jailed overnight on charges of inebriation. While prison conditions were somewhat Spartan, complaints were minimal or nonexistent. Prison conditions generally met international standards.

The question of prison visits by human rights groups did not arise. Visits by church groups and family members were permitted.

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

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

There is a two-tier judicial system. Higher courts include the Privy Council, the Court of Appeal, and the High Court. Lower courts consist of senior and resident magistrates, the island courts, and the land courts. The Chief Justice, who is also Chief Justice of Tonga, sits on the High Court approximately once a year.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides that the accused must be informed of the nature of the offense with which they are charged and provided the time and facilities required to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. The services of an independent People's Lawyer (public defender) are paid by the Government and available to all citizens without 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.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic

political system combine to ensure freedom of speech and of the press, including academic freedom.

In 2001 the country's sole radio station, formerly controlled by the Government, was sold to a private owner. The Government exerted no overt control over content during the year, but did voice objections to some comments made on the station. The sole television station, which was government owned and operated and broadcast from the capital only 3 hours a week, went off the air in 2001 for financial reasons and has not resumed broadcasts. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

The Office of the Prime Minister and the Department of Telecommunications in the Ministry of Works manage Internet services. There were no government restrictions on 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.

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 *2002 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 Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person has applied for refugee status, and the issue of the provision of first asylum has never arisen. The Government has not formulated a policy regarding refugees, asylees, or first asylum. 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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens freely and directly elect a 15-member unicameral Parliament whose normal term is 4 years. Each of the country's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament, and four other ministers, appointed and removed from office by the Governor General with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Elections held on July 25 were free and fair. Of the 15 members elected to Parliament, 6 were serving their first term. In August the new Parliament elected Saufatu Sopoanga, a former civil servant, as Prime Minister. He replaced Koloa Talake, who had replaced Faimalaga Luka after the latter received a vote of no confidence in 2001. There are no formal political parties.

Participation by women in government and politics was limited, largely due to cultural traditions. There were no female Members of Parliament or Cabinet Ministers.

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

While no known barriers block their establishment, there are no local nongovernmental organizations (NGOs) concerned solely with human rights. Some political and human rights advocates operated under the aegis of the Tuvalu Association of Nongovernmental Organizations (TANGO), which was composed primarily of religious organizations. The People's Lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution was supported by the Government, which frequently sought its advice. At times, it has been critical of the Government; however, there have been no allegations of human rights violations by the Government and no known requests for investigations.

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

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government observed these prohibitions. However, a scarcity

of wage-paying jobs and the traditional culture has limited women's job opportunities.

Women.—Violence against women was rare. Domestic violence was relatively infrequent and has not become a source of societal concern. Rape is a crime punishable by a minimum sentence of 5 years imprisonment; however, spousal rape is not included in the legal definition of this offense. The People's Lawyer sought to broaden public knowledge of women's rights, particularly in regard to spousal rape and domestic abuse.

Prostitution and sex tourism are illegal; legislation in 2000 abolished phone sex companies, which had used the country's international telephone dialing prefix. While there are no laws prohibiting sexual harassment, the Penal Code provides specific recourse against indecent behavior, which requires lewd touching. There were some cases of indecent behavior during the year.

Women increasingly held positions in the health and education sectors and also were more active politically. In an economy with few wage-paying jobs, women held the clear majority of clerical and retail positions. In 2000 the Government established a women's department in the Ministry of Internal Affairs to recognize officially the importance of women in society; however, it took no significant action during the year.

Children.—The Government provided commensurate funding for children's welfare within the context of its total available resources. Education was compulsory for children through age 13. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. During the year, an NGO human rights advocate convinced Vaiputu secondary students to end a protest against a teacher perceived as too strict. The teacher retained her job.

The Government provided free medical care for children through age 18.

There were no reports of child abuse.

Persons with Disabilities.—There were no known reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no mandated accessibility provisions for persons with disabilities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses, who total fewer than 1,000 employees, are members of professional associations that do not have union status. The only registered trade union, the Tuvalu Seamen's Union, has approximately 600 members who work on foreign merchant vessels. Unions may affiliate with international bodies, and the Seamen's Union is a member of the International Transportation Workers' Federation.

The country is not a member of the International Labor Organization.

b. The Right to Organize and Bargain Collectively.—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice, private sector employers set wages. Both private and public sectors generally used nonconfrontational deliberations in a local multipurpose meeting hall to resolve labor disputes rather than legal procedures.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including forced or bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children under the age of 14 from working. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 years are not allowed to enter into formal contracts, including work contracts. Children were rarely employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work.—The minimum wage, set administratively by the Government, was sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public

(government) sector was \$75.66 (\$A130), regardless of sex and age. In most cases, the private sector adopted the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. By law, the workday is set at 8 hours. The majority of workers are outside the wage economy. The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but in practice, it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

f. Trafficking in Persons.—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

VANUATU

Vanuatu, a small South Pacific island nation that gained independence from Britain and France in 1980, has a parliamentary form of government. The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may freely change their government. The 52-member Parliament elects the Prime Minister as the Head of the Government and the President, who is the Head of State. The latter's powers are largely ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. Political legitimacy is based on majority rule. Parliamentary majorities have been unstable. The judiciary is generally independent of executive interference.

The civilian authorities generally control the small police force and its paramilitary wing, the Vanuatu Mobile Force (VMF); however, police officials have on occasion acted peremptorily. The Police Commissioner commands the entire force, including the VMF.

Subsistence farming and fishing were the principal livelihoods for more than 80 percent of a population of approximately 200,000. There was also cattle farming and some production of cash crops such as copra and cocoa. The service sector represented the largest component of the country's gross domestic product (GDP) and provided most formal employment, primarily in government, tourism, and an offshore financial sector. Per capita GDP was estimated at \$1,300, an amount some academic observers believe has not increased since independence.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, including poor prison conditions, arrests without warrants, an extremely slow judicial process, and violence and discrimination against women. Vanuatu was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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.—Constitutional provisions prohibit such practices, and there were no reports that government officials employed them.

Prison conditions were poor. Approximately 30 prisoners were held in the dilapidated central prison in Port Vila; security at this facility was poor. The sole female prisoner was held at the barracks for female police officers.

Inmates were treated humanely to the extent allowed, given the meager resources of the prison system. The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. The constitutional provision that suspects must be informed of the charges against them and given a speedy hearing before a judge is observed in practice. A system of bail operates effectively and lengthy pretrial detention was not generally

a problem. A warrant issued by the court is required for an arrest; however, there were some arrests without warrants during the year.

On August 4, 15 senior government officials—including the Police Commissioner and the Attorney General—were arrested without a warrant on charges of seditious conspiracy in connection with the appointment of a new Police Commissioner. They were released that same day. The Chief Justice of the Supreme Court subsequently ruled that the appointment procedure had been unfair and that recruitment should recommence. The Prime Minister condemned the police action as illegal, and courts issued arrest warrants for the Deputy Police Commissioner, who had ordered the arrests, as well as 26 other police officers, on charges of mutiny. The Deputy and three other senior police officers were convicted of mutiny. In 2001 the Government deported a leading newspaper publisher without notice; however, the Supreme Court overturned the deportation (*see* Section 2.a.).

The Constitution does not prohibit forced exile, but the Government did not employ the practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Judges cannot be removed without cause. There were no reports of interference with the judiciary by this government. The judiciary generally provided citizens with a fair judicial process. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result.

Magistrates' courts deal with most routine legal matters. There is a Supreme Court; however, an Appeals Court is the highest national court. This Appeals Court has three judges, two appointed by the President and one chosen from among the Supreme Court judges of other South Pacific nations.

The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and the police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial. Procedures were changed during 2000 to allow the Public Prosecutor more frequent presentation of new cases to the magistrates; however, this procedural change did not significantly expedite judicial processing.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution (or the law) prohibits such actions, and the Government generally respects 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.

The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station that broadcasts only to the capital of Port Vila. The television station provided English and French news service three times weekly. There was one independent newspaper published semiweekly, a privately owned weekly newspaper, and another weekly newspaper published by a political party.

During the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, in January 2001 the Government ordered the deportation of a leading newspaper publisher, Mark Neil-Jones of the *Trading Post*, charging that he had revealed state secrets in his political coverage of government corruption. The Ombudsman and the leader of the opposition criticized the deportation, which was overturned by the Acting Chief Justice a week after Neil-Jones departed. The Acting Chief Justice ordered the Government to allow the publisher to return and resume his work, and he has done so. At times some individual politicians and their supporters have threatened the media, but with no apparent effect on press freedom.

The Government did not limit access to the Internet; however, few citizens could afford computers or 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.

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

Missionaries of various Christian denominations worked without restriction. The Government provided some financial help for the construction of churches for Vanuatu Christian Council members, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence in 1980. These benefits were not available to non-Christian religious organizations. Government schools also scheduled time each week for religious education conducted by representatives of Council churches. Students whose parents did not wish them to attend the class were excused. However, non-Christian religions were not permitted to give religious instruction in the public schools.

In 1995 in response to concerns expressed by some established churches regarding the activities of new missionary groups, such as the Holiness Fellowship, Jehovah's Witnesses, and the Church of Jesus Christ of Latter-Day Saints, Parliament passed a Religious Bodies Act that required religious organizations to register with the Government. However, the President never signed the act, and it has never been enforced. While there has been no effort to repeal the act, it was not regarded as inhibiting religious practice. A few churches registered with the Government voluntarily, and a few church representatives believe that the Religious Bodies Act had a chilling effect on new missionary activity.

For a more detailed discussion see the 2002 *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 Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen. There were no refugee cases reported during the year. The Government has no association with the U.N. High Commissioner for Refugees. 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

The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may freely change their government. The 52-member Parliament elects the Prime Minister as the Head of government and the President, who is the Head of State. The President's powers are largely ceremonial except when appointing judges and acting on the advice of the Council of Ministers. Parliamentary majorities have been unstable, with frequent votes of confidence. National elections held in April were considered generally free and fair. A total of 256 candidates contested the 52 seats. Voter turnout was 63.5 percent. Incumbent Prime Minister Edward Natapei of the Vanua'aku Party assembled a coalition parliamentary majority and formed the Government.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were no women in the previous Parliament; however, voters elected two women in the last general elections.

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

There are no restrictions on the formation of local human rights organizations. Some nongovernmental organizations (NGOs), such as the National Council of Women and the Family Health Association, included human rights education as part of their programs.

A number of domestic and international human rights groups, such as Transparency International, operated without government restriction; they investigated and published their findings on human rights cases. Government officials tolerated their views.

In 1998 Parliament passed an Ombudsman's Act in the wake of parliamentary anger over the previous Ombudsman's vigorous investigations of official corruption. Among other provisions, the new act required that the Public Service Commission, not the Ombudsman, appoint members of the Ombudsman's staff and authorized the presence of legal counsel during interviews with the Ombudsman.

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

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women.—Violence against women, particularly wife beating, was common, although no accurate statistics exist. There are no specific laws against wife beating; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Spousal rape is not a crime, and police were frequently reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited.

Prostitution is illegal, and was not regarded as a serious problem. Although there is no law against sex tourism, none has been reported. Sexual harassment is not illegal, and was a problem. However, it was not a priority for the police and judiciary.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. During 2000, a disproportionate number of women's positions were abolished during downsizing of the public service sector. During 2000, as part of the Government's reform program, policies were drafted to guide the Department of Home Affairs in protecting and furthering the rights of women; however, these have not been implemented.

The majority of women entered into marriage through "bride-price payment," a practice that has encouraged men to view women as property. Women also were barred by tradition from land ownership, and at least one women's advocate believed this restriction reinforced their secondary status. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

Children.—Access to education was limited, and school attendance was not compulsory. Few children advanced beyond elementary school. Boys tended to receive more education than girls. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate.

Medical services were free, and there was a program of immunization; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years but no statistics were available.

Children generally were protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, played an active role in a child's development. As a result, virtually no children were homeless or abandoned.

Persons with Disabilities.—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. Their protection and care is left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities.

Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

National/Racial/Ethnic Minorities.—Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it is sometimes leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There was no evidence of ethnic discrimination in the provision of the limited basic services that the Government provided.

Section 6. Worker Rights

a. The Right of Association.—The law provides workers with the right to organize and join unions. There are no restrictions on this right.

Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. All five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). There were no categories of workers who were not permitted to join unions.

The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without referring the matter to arbitration. Complaints of antiunion discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized.

Membership in the Vanuatu Public Servants Union fell dramatically following the Government's dismissal of hundreds of full-time public servants during a protracted general strike in 1994.

The law prohibits retaliation if a strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There was no significant strike activity during the year.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Labor Department effectively enforced these laws.

The country has not ratified ILO Convention 182 on the worst abuses of child labor.

e. Acceptable Conditions of Work.—A legislated minimum wage was enforced effectively by the Labor Department. Since 1995 it has been a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming.

Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department could not fully enforce the law. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

There were few foreign workers. Those present in the country were primarily managers, professionals, and entrepreneurs.

f. Trafficking in Persons.—The Constitution and the law do not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

VIETNAM

Vietnam is a one-party state, ruled and controlled by the Vietnamese Communist Party (CPV). The CPV's constitutionally mandated leading role and the occupancy of all senior government positions by party members ensured the primacy of party Politburo guidelines and enabled the Party to set the broad parameters of national policy. In recent years, the Party gradually reduced its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. The National Assembly remained subject to party direction;

however, the Government continued to strengthen the capacity of the 498-member National Assembly and to reform the bureaucracy. The National Assembly, chosen in May elections, in which most candidates were approved by the Party (approximately 90 percent of delegates were party members) played an increasingly independent role as a forum for local and provincial concerns and as a critic of local and national corruption and inefficiency. The Assembly was active in revising legislation, criticizing officials' performance, and screening ministerial and other senior candidate appointments. The judiciary remained subservient to the CPV and to external pressure and government influence.

The military services, including the border defense force, were responsible for defense against external threats. The military forces assumed a less prominent role as the ultimate guarantor of internal security, which primarily was the responsibility of the Ministry of Public Security (MPS). However, in some remote areas, the military forces were the primary government agency, providing infrastructure and all public safety functions, including maintaining public order in the event of civil unrest. Since 2001 the military has played a large role in the Central Highlands by enforcing restrictions on gatherings, by detaining individuals, and by enforcing travel restrictions. The MPS controlled the police, a special national security investigative agency, and other units that maintained internal security. The MPS enforced laws and regulations that significantly restricted individual liberties and violated other human rights. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities. However, this system has become less obvious and pervasive in its intrusion into most citizens' daily lives. Members of the public security forces committed numerous human rights abuses.

The country of approximately 80 million persons is undergoing transition from a wholly centrally planned economy to a "socialist-oriented market economy." The GDP growth for 2001 was 4.8 percent. In 2001 inflation increased primarily due to an increase in food prices, approximately 2.9 percent. Agriculture, forestry, and fishery employed 62.5 percent of the labor force, and accounted for 23.6 percent of total output. Industry and construction contributed 37.8 percent, while services accounted for 38.6 percent. During the year, official development assistance was over \$1.5 billion, roughly 5 percent of GDP. Overall poverty levels decreased significantly; approximately 37 percent of the population live below the poverty line although only 15 percent live below the food poverty line. Particularly in Ho Chi Minh City (HCMC) and Hanoi, economic reforms have raised the standard of living and reduced party and government control over, and intrusion into, citizens' daily lives. However, many citizens in isolated rural areas, especially members of ethnic minorities in the northern uplands, Central Highlands, and the central coastal regions continued to live in extreme poverty. There was a growing income/development gap between urban and rural areas and within urban areas. Employment opportunities were lacking; 25 million persons were underemployed or unemployed.

The Government's human rights record remained poor, and it continued to commit serious abuses. Police sometimes beat suspects during arrests, detention, and interrogation. Several sources also reported that security forces detained, beat, and were responsible for the disappearances of numerous persons during the year. Incidents of arbitrary detention of citizens, including detention for peaceful expression of political and religious views, continued. Prison conditions remained harsh, particularly in some isolated provinces, and some persons died as a result of mistreatment in custody. Prisons reportedly required inmates to work for little compensation and no wages. The judiciary was not independent, and the Government denied some citizens the right to fair and expeditious trials. The Government continued to hold a number of political prisoners. Although the Government amnestied over 9,500 prisoners during the year, it was unknown whether any political or religious prisoners were among them. The Government restricted citizens' privacy rights, although the trend toward reduced government interference in the daily lives of most citizens continued. The Government significantly restricted freedom of speech, the freedom of the press, freedom of assembly, and freedom of association. The Government continued its longstanding policy of not tolerating most types of public dissent and stepped up efforts to control dissent on the Internet. Security forces continued to enforce unusually strict restrictions on public gatherings and travel in some parts of the country. Unusual restrictions on public gatherings and travel primarily pertained to the Central Highlands and the Northwest Highlands.

The Government allowed elected officials and ordinary citizens in approved forums somewhat greater freedom of expression and freedom of assembly to express grievances. The Government prohibited independent political, labor, and social organizations; such organizations existed only under government control. The Govern-

ment restricted freedom of religion and operation of religious organizations other than those approved by the State. Some Buddhists, Hoa Hao, and Protestants, in particular, faced harassment by authorities. The Government imposed some limits on freedom of movement of particular individuals whom it deemed threatening to its rule. Access to the Central Highlands by foreign observers improved from 2001, but travel to and within the area remained more restricted than most other parts of the country. The Government continued to restrict significantly civil liberties on grounds of national security and societal stability. Although the CPV continued its efforts to strengthen the mechanism for citizens to petition the Government, authorities continued to deny citizens the right to change their government. The Government did not permit human rights organizations to form or to operate. Violence and societal discrimination against women remained problems. Child prostitution was a problem. Government and societal discrimination against some ethnic minorities continued to be problems. The Government restricted some core worker rights, such as freedom of association, although the Government cooperated with the International Labor Organization (ILO) and international donors to improve implementation of the existing Labor Law. There were reports that children worked in exploitative situations. The Government recognized child labor as a problem and attempted to address it. Trafficking in women and children for the purpose of prostitution within the country and abroad continued to be serious problems, and there were reports of the trafficking of women to China and Taiwan for arranged and forced marriages.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—During the year there were reports of killings by authorities. In January local newspapers reported that Khong Van Thoi, who was suspected of attacking the home of a village police chief with a grenade, was tortured to death while in police custody in Vinh Phuc Province. Two police officers were charged in Thoi's death and were awaiting trial at year's end. On September 10, a prison inmate in Hai Duong Province, Pham Van Dung died enroute to a medical facility after two prison guards stabbed him and then bound him for 2 hours. At year's end, the guards were reportedly suspended and under investigation (*see* Section 1.c.).

b. *Disappearance.*—During the year there were credible reports of persons who were either arrested or detained and then possibly released; however, these persons reportedly did not return to their families (*see* Section 1.b.).

In July a United Buddhist Church of Vietnam (UBCV) monk, Thich Tri Luc, who had fled to Cambodia reportedly was forced to return to the country. His whereabouts were unknown at year's end.

On August 28, according to a credible report, in M'Drak district, Dak Lak Province, police confronted 120 villagers attempting to prevent the detention of an ethnic minority Protestant pastor, Y Su Nie, and his two adult sons. After a confused altercation in which police shot one villager in the foot, the police arrested all 120 persons. Most of those who were arrested were released after a few days, but 20 to 30 of the villagers did not return to their villages. Police reportedly did not acknowledge detaining them. On August 28, the 3 individuals police attempted to detain reportedly escaped. At year's end, their status was unknown, although police reported that they had detained Y Su Nie and one other person on October 24 (*see* Section 1.d.).

Also in late August in Dak Lak, there were reports that the police detained 240 persons at a house church meeting. Most of the detained were released within a few days, but 47 persons allegedly did not return to their families. Police did not admit to having detained them.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse; however, police sometimes beat suspects while in the process of arresting them or while they were in custody.

On August 26, according to a news report, an inmate at a prison in Hai Duong province was beaten by two guards and subsequently taken to a provincial health facility where he was treated for his injuries.

In 2001 in the course of suppressing ethnic unrest in the Central Highlands, security personnel reportedly responded to instances of violent demonstrations with beatings, tear gas, water cannons, and electric prods to put down the demonstrators (*see* Section 2.b.).

Prison conditions were harsh, but generally did not threaten the lives of prisoners. However, in January news reports disclosed that a prisoner was beaten to death during interrogation in Vinh Phuc Province. In January the Government inves-

tigated the two policemen suspected of torturing the prisoner to death. On September 10, one prisoner died after two prison guards stabbed him repeatedly, tied him up, and left him exposed to the sun for 2 hours in over 100 degree Fahrenheit heat (see Section 1.a.). An official from the Supreme People's Procuracy, in comments to journalists, admitted systematic beatings and overworking of inmates occurred at Hoang Tien prison, which previously was listed among the most meritorious prisons under the management of the Ministry of Public Security.

Men and women were housed separately in prisons. Juveniles were housed separately from adult populations. Overcrowding, insufficient diet, and poor sanitation remained serious problems in at least some, and probably most, prisons.

Some inmates punished with solitary confinement were stripped and locked in a small windowless shed for days or even weeks at a time. They were given one small bowl of rice for lunch and dinner and a single bucket of water each day. Other forms of solitary confinement were less harsh.

Conditions in pretrial detention reportedly were particularly harsh, and there were credible reports that authorities sometimes denied inmates access to sunlight, exercise, and reading material. The pretrial detention system provided few rights. Prisoners awaiting trial and remaining "under investigation" sometimes experienced harsher conditions than those who were convicted and sentenced. Most prisoners had access to basic health care. Some political and other prisoners were denied visitation rights. Prisoners generally were required to work, but received no wages (see Section 6.c.). Prisoners sentenced to hard labor complained that their diet and medical care were insufficient to sustain good health, especially in remote, disease-ridden areas. Although political and religious prisoners often were held under harsh conditions and with limited medical care in remote prisons, such as Z30a at Xuan Loc in an isolated part of Dong Nai Province, there was no evidence to suggest their conditions were significantly different than those for the regular prison population.

During the year, the Government permitted selected diplomatic observers to visit two of its prisons on at least two occasions. It also permitted foreign officials to investigate prison labor conditions. The Government did not allow the ICRC to visit prisoners.

d. Arbitrary Arrest, Detention, or Exile.—The Government continued to arrest and detain citizens arbitrarily, including arrest and detention for the peaceful expression of their political and religious views. In addition, during the year there were reports of several persons who either were arrested or detained and then possibly released; however, these persons reportedly did not return to their families (see Section 1.b.). The Criminal Procedure Code provides for various rights of detainees, including the right of the accused to have a lawyer present during interrogation; however, in practice the authorities sometimes ignored these legal safeguards. Moreover, a directive on administrative probation gives security officials broad powers if they believe that a suspect is a threat to "national security."

The Criminal Procedure Code places a 12-month time limit on investigative detention. It also limits the time a judge's panel (a body consisting of at least one judge and one lay assessor) has to rule on a case (see Section 1.e.). Prior to being formally charged, a detainee has a statutory right to notify family members. However, in most cases the police inform the family of the detainee's whereabouts. Prior to being charged the detainee may contact a lawyer if permitted by the head of the investigating office. Following a formal charge, the detainee has a statutory right to contact an attorney, although it is not clear that this right was respected in practice.

The Procuracy (the office which investigates cases and initiates public prosecutions) issues arrest warrants, generally at the request of the police. However, police may make an arrest without a warrant on the basis of a complaint filed by any party alleging the commission of a crime. In such cases, the Procuracy must issue retroactive arrest warrants. Unless specifically authorized by an investigator, the MPS usually prohibited contact between a detainee and his lawyer as long as the procurator's office was investigating a case, which may last up to 1 year and may not entail any formal charges. Likewise, family members may visit a detainee only with the permission of the investigator. In general, time spent in pretrial detention counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention for a period up to 5 years after release from prison. These provisions were enforced unevenly. The MPS used administrative probation to place persons under house arrest without trial for up to 2 years (see Section 2.d).

Persons arrested for the peaceful expression of views opposed to official policy were subject to charge under any one of several provisions in the Criminal Code that outlaw acts against the State. During the year, at least two persons—Pham Hong Son and Nguyen Vu Binh—who peacefully had expressed political views, were detained and continued to be under investigation at year's end (see Sections 2.a. and

2.b). At least two others—Le Chi Quang and Nguyen Khac Toan—were arrested and convicted during the year. In August, several villagers from the Central Highlands were detained and/or arrested (see Section 1.b.). On September 25, police arrested former journalist and writer Nguyen Vu Binh. Nguyen wrote articles that called for political reform and criticized government policy. His whereabouts, and the charges against, him were unknown at year's end. On November 8, Le Chi Quang was convicted of disseminating anti-state information and sentenced to 4 years in prison and 3 years of administrative probation. On December 28 and 29 police detained two other political activists, Pham Que Duong and Tran Van Khue, for unknown reasons (see Section 2.a.). In addition, up to 19 Hmong Protestant leaders may still be detained, including: Vang Sua Giang, Mua A Ho, Cu Van Long, and Sua Song Vu. In addition, it was unknown whether several persons detained in previous years ever have been tried, including: Vo Tan Sau, Phan Thi Tiem, and Tran Thi Duyen, Le Huu Hoa, Ma Van Chinh, and Lu Seo Dieu.

The Constitution does not provide for forced exile, and the Government did not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for the independence of judges and jurors; however, in practice the Party controls the courts closely at all levels, selecting judges at least in part for their political reliability. Constitutional safeguards are significantly lacking. The CPV had strong influence over high profile cases and cases in which a person was charged with challenging or harming the CPV or the State. During the year, CPV and government officials may have exerted influence over court decisions by making clear their wishes to both the lay assessors and the judges who sat on a panel together to decide cases. The National Assembly votes for judicial nominees presented by the President of the country for the Supreme People's Court (SPC) President and Supreme People's Procurator. The National Assembly also controls the judiciary's budget, including judges' salaries, just as it controls the budgets and salaries of all other parts of the Government. Provincial and district governments disburse judges' salaries at their respective levels, just as they disburse the salaries of other local officials. The State President appoints all other judges not the President of the SPC. This power is granted in the Constitution. On September 30, the Government transferred local courts from the Ministry of Justice to the SPC, in an effort to increase judicial independence.

The system of appointing judges and lay assessors also reflected the lack of judicial independence. Court panels at all levels include judges and lay assessors. People's councils appoint lay assessors at the district and provincial levels. Lay assessors are required to have high moral standards, but legal training is not necessary. District and provincial people's councils appoint the lay assessors at the lower levels. The Standing Committee of the National Assembly appoints and discharges the SPC lay assessors. The Vietnam Fatherland Front (VFF), an umbrella group for the country's mass organizations, must approve candidates for SPC lay assessors. The President appoints the District People's Court and Provincial People's Court judges to 5-year terms. The President also appoints SPC judges from candidates approved by a judicial selection panel under the influence of the CPV. The CPV's influence over the courts is amplified both because the people's councils appoints the lay assessors, and because the judges serve limited terms and are subject to review.

The judiciary consists of the Supreme People's Court, the local people's courts, military tribunals, and other tribunals established by law. Each district throughout the country has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a Provincial People's Court, which serves as the appellate forum for district court cases, as well as courts of first instance for other cases. The SPC is the highest court of appeal and review. The Ministry of Justice administered most district and provincial courts until September 30, when they were transferred to the SPC. The SPC reports to the National Assembly. On November 15, a new law gave military courts jurisdiction over all cases involving military entities including military owned enterprises. The military has the option of using the administrative, economic, or labor courts for those specialized cases.

The judiciary also includes military tribunals, economic courts, labor courts, and administrative courts that resolve disputes in those specialized fields. Administrative courts deal with complaints by citizens about official abuse and corruption. Military tribunals operate under the same rules as other courts, but the Ministry of Defense (MoD) provides their funding. Tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MoD, whose function is supervised by the SPC. The MoD is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. The VFF did not have any legal standing to settle legal issues itself. In addition, the CPV and the Government set up special committees to help resolve local disputes.

The Supreme People's Procuracy brings charges against the accused and serves as prosecutor during trials. A judging council, made up of a judge and one or more lay assessors, determines guilt or innocence and also passes sentence. The relevant people's council appoints lay assessors, who are required to have high moral standards but who do not need to have legal training. The legal institutional framework and legal culture, which favors the Procuracy over the judiciary and preserves a presumption of guilt in criminal cases, constitutes a major obstacle to free and fair trials. Although the Constitution asserts that citizens are innocent until proven guilty, a foreign legal expert who analyzed the court system during 2000 found that more than 95 percent of the persons who were charged with a crime were convicted. The country's lawyers also complained that judges generally presume guilt.

The Criminal Code provides two or three levels of punishment for most crimes, depending on the crime's seriousness and circumstances. The code also provides "punishment brackets" (a range of possible fines or prison sentences) for a large percentage of crimes. The punishment brackets are intended to discourage abuse by law enforcement officials, allow courts to render verdicts and punishments more appropriate to the particular offense, hinder arbitrary sentencing by judicial panels, and allow crime to be punished more uniformly.

District courts may adjudicate cases for 346 of the 672 crimes defined in the country's legal statutes. The other 326 types of crimes (which are generally more serious) are adjudicated at the provincial level. In June 2001, the National Assembly rejected a bill that would have given district courts authority over more crimes because legislators reportedly were concerned that the change could have led to miscarriages of justice and an increase in the prison population (*see* Section 3).

There was a shortage of trained lawyers and judges and no independent bar association. At the Supreme Court level, there was a 20 percent shortage of qualified judges. According to a U.N. official, the shortage ranged from 30 to 40 percent at the provincial level. Low salaries hindered the development of a trained judiciary. The few judges who had formal legal training often studied abroad in countries with socialist legal traditions. Young educated judges usually had little influence within the system.

The Government conducted training programs to address the problem of inadequately trained judges and other court officials. A number of foreign governments and the U.N. Development Program provided assistance to strengthen the rule of law and to develop a more effective judiciary. However, the lack of openness in the judicial process and the continuing lack of independence of the judiciary undermined these efforts.

Although the Constitution provides for legal counsel for persons accused of criminal offenses, the scarcity of lawyers made this provision impossible to enforce. With few qualified attorneys, the procurator often handles both the prosecution and the defense, resulting in legal counsel that frequently provided little help to the defendant. Consistent with its Marxist-Leninist political system, the Government required that the Bar Association be a member of the VFF. At the provincial level, the Bar Association was subordinate to representatives of the central government, the VFF, the provincial people's council, and the people's committee.

Trials generally were open to the public; however, judicial authorities sometimes closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer. The defendant or the defense lawyer have the right to cross-examine witnesses. However, there were credible reports that defendants were not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. Those who were convicted had the right to appeal. The courts did not publish their proceedings.

The Government continued to imprison persons for the peaceful expression of dissenting religious and political views. There were no reliable estimates of the number of political prisoners, because the Government usually did not publicize such arrests, and sometimes conducted closed trials and sentencing sessions. Informed sources estimated that there were up to 150 political prisoners. However, many of the names included on these lists were difficult to verify. The number of confirmed political prisoners was much lower than 150 persons. Among those believed to be imprisoned for peaceful political and religious activities were political activists Nguyen Dinh Huy, who reportedly was suffering from Parkinson's disease, Le Chi Quang, and Nguyen Khac Toan; journalist Pham Thai; and religious persons, Truong Van Thuc, Nguyen Chau Lan, Le Van Nhuom, Vo Van Buu, Ha Hai, Nguyen Duy Tam, Le Van Tinh, Le Van Son, Nguyen Van Dau, Thich Nhu Dat, Thich Hai Tang, Thich Phuc Vien, Thich Thien Minh, Thich Tien Tan, Thich Thanh

Tinh, Thich Tri Tuu, Pham Minh Tri, Nguyen Thien Phung, Nguyen Minh Bao, Nguyen Van Ly, and Ly A Cho.

The Government claimed that it did not hold any political or religious prisoners and that persons described as political prisoners were convicted of violating national security laws. On September 2, the Government amnestied 6,110 prisoners and on October 17 the Government amnestied 3,069 additional prisoners. It was unknown whether any political or religious prisoners were among them. In late April, local level authorities amnestied at least 419 prisoners. The Tin Nhan newspaper, in an apparent departure from government policy, reported that 5 prisoners from a "political" prison were among those amnestied in April, however, they were not identified by name (*see* Section 1.c.).

The Government did not allow access by humanitarian organizations to political prisoners (*see* Section 1.c.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens, but were used with less vigor and thoroughness than in the past, and usually did not intrude on most citizens. The authorities largely focused on persons whom they regarded as having views critical of the Government, or whom they suspected of involvement in unauthorized political or religious activities. Citizens formally are required to register with police when they leave home, remain in another location overnight, or when they change their residence, although this usually was honored in the breach. However, the Government appears to have enforced these requirements in some districts of the Central Highlands and northwestern provinces. Most citizens who wished to move around the country to seek work or to visit family and friends were able to do so without being monitored, and most families who sought employment moved to other locations without prior government permission (*see* Section 2.d.). There continued to be reports that some "spontaneous migrant" families were unable to obtain household registration or residence permits in their new locations, which created legal and administrative problems. In urban areas, most citizens were free to maintain contact and to work with foreigners. In theory the Government requires that citizens who work for foreign organizations be screened and hired through a government service bureau. Laws governing foreign business enterprises are more lenient. In practice, many foreign organizations and enterprises hired their own personnel and only "registered" them with the service bureau or employment bureau.

In theory forced entry into homes is not permitted without orders from the Procuracy. In practice security forces seldom followed this requirement, usually "asking," with an implied threat to enter. In some cases, individuals refused to cooperate with such "requests." In urban areas security forces generally left when faced with non-cooperation.

The Government opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, electronic mail, and facsimile transmissions. The Government cut the telephone lines of some targeted individuals and also repeatedly interrupted their cellular phone service. However, this practice appeared to be sporadic and was not applied consistently. The Government monitored e-mail, to search for sensitive key words, and regulated Internet content (*see* Section 2.a.).

The Government did not exercise forced resettlement; however, there were credible reports that the Government forced ethnic minority Protestant believers in some northwestern provinces to leave their homes without providing them alternative places to live. The Government also resettled some citizens to make way for infrastructure projects. By law citizens are to be compensated in such cases, but there were widespread complaints, including from the National Assembly, that compensation was not fair. The Government has acknowledged problems in past resettlement programs.

The Government enforced universal male conscription, although medical waivers were available. Students generally received deferments, as did others in numerous special cases. Individuals who received deferments rarely were drafted. It is unknown whether there were differences in conscription rates between ethnic groups.

Citizens' membership in mass organizations remained voluntary, but often is important for career advancement. Membership in the CPV remained an aid to advancement in the Government or in state companies and was vital for promotion to senior levels of the Government. At the same time, diversification of the economy made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement. Other political parties were not permitted.

The Government continued to implement a family planning policy that urges all families to have no more than two children; this policy emphasizes exhortation rath-

er than coercion. In principle, the Government can deny promotions and salary increases to government employees with more than two children and local regulations permit fines based on the cost of extra social services incurred by a larger family. These penalties rarely were enforced and implementation of this policy appeared to have declined during the year. There was anecdotal evidence that party members were more likely to be penalized than nonparty members.

In 2001 relatives of some individuals holding political viewpoints at variance with the Government lost their jobs with state-owned enterprises. However, most, if not all, found equivalent or better positions with private sector employers.

The Government interfered with distribution of foreign periodicals and access to satellite television (*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 freedom of the press; however, the Government significantly restricted these freedoms, especially with respect to political and religious speech. Both the Constitution and the Criminal Code include broad national security and anti-defamation provisions that the Government used to restrict severely such freedoms. During the year, reporters and editors practiced self-censorship. A press law provides for monetary damages to be paid by journalists to individuals or organizations harmed by reporting, even if the reports are true. This law poses a threat to investigative reporting. Several media outlets continued to test the limits of government press restriction by publishing articles that criticized actions by party and government officials; however, the freedom to criticize the Communist Party and its highest leadership remained restricted. Nonetheless, there were press reports about topics that generally were considered sensitive.

The Party and government tolerated public discussion on some subjects and permitted somewhat more criticism than in the past. The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. Senior government and party leaders traveled to several provinces to try to resolve citizen complaints. However, the Government imposed limits in these areas as well.

The Government required officials to obtain approval from their ministry before providing any information to foreign journalists. Journalists must receive approval from their editorial offices before providing information. In June 2001, police confiscated approximately 180 pages of war hero and expelled party member General Tran Do's writings. Do was hospitalized afterwards, and while friends were allowed to visit him, they said authorities discouraged such visits. On August 9 Do died. The Government did not permit his family and friends to display many of his honors at his funeral. Funeral attendees rejected government statements at the funeral that General Do had made mistakes later in life. The Government did not intervene when Do's family and friends spoke critically of the Government and the Party during the funeral (*see* Section 2.b.).

The Government continued to prohibit free speech that strayed outside narrow limits to question the role of the Party, to criticize individual government leaders, to promote pluralism or multiparty democracy, or to question the regime's policies on sensitive matters such as human rights or the border agreement with China. There continued to be an ambiguous line between what constituted private speech about sensitive matters, which the authorities would tolerate, and public speech in those areas which they would not tolerate. On January 8, police detained democracy activist Nguyen Khac Toan. Toan had distributed leaflets advocating reforms and had spoken to demonstrators outside of the National Assembly during its December 2001 session. On December 20, a court convicted Toan for espionage and sentenced him to 12 years' imprisonment followed by 4 years' administrative detention (*see* Section 1.d.). Le Chi Quang authored several articles and essays advocating democracy and criticizing the border agreement with China. He posted a number of these writings to the Internet and was detained in an Internet cafe on February 21 in Hanoi. On November 8, he was tried and sentenced to 4 years in prison and 3 years' administrative detention for disseminating anti-state documents. In February and March, Pham Hong Son translated a number of English-language articles about democracy into Vietnamese and posted them on the Internet. On March 29, he was detained and placed under investigative detention for espionage-related charges. In July and August, police repeatedly summoned democracy activist Nguyen Vu Binh, a former journalist, for questioning. He was under close police surveillance for several weeks afterwards before being summoned for questioning again for several days in September and finally arrested on September 25. In February 2001, biologist Ha Sy Phu, who was cleared on earlier charges of treason, was placed under administrative probation for writing articles calling for democracy (*see* Section 1.d.).

Since September 2001, other democracy activists have had their telephone service disconnected. In September former Colonel Pham Que Duong was called in for questioning for several consecutive days and had his cell telephone service cut at least three times during the year. Nguyen Dan Que continued to call for democracy and respect for human rights, but authorities interfered with his ability to communicate by cutting off his cell telephone intermittently, shutting off his land line, as well as his access to the Internet and e-mail for more than 2 years. Police continued to monitor him closely and questioned him periodically (*see* Section 1.d.). In September authorities came to his home to demand that he go to the local police station with them for questioning, but he refused to accompany the police without a proper legal summons. In October foreign officials visited Que at his residence. Subsequently he has experienced less harassment from the authorities. During the year, Duong, Que and some other activists were able to receive visitors, including foreigners. On December 28, police detained Duong in Ho Chi Minh City just after he concluded a visit to fellow activist Tran Van Khue. On December 29, police came to Khue's house, detained him, and took away his computer and other materials. Khue and Duong had identified themselves as spokespersons for a number of other activists.

In February 2001, Catholic priest Father Nguyen Van Ly submitted written testimony critical of the Government to the U.S. Commission on International Religious Freedom (CIRF) and frequently spoke out for political pluralism and complete religious freedom. In October 2001, a district court sentenced Father Ly to cumulative sentences of 15 years for "damaging national unity" and violating an administrative detention order. The Government restricted persons who belonged to unofficial religious groups from speaking publicly about their beliefs.

In January 2001, members of the editorial board of the Tuoi Tre daily were ordered to write self-criticisms after the newspaper published the results of an opinion poll that showed government leaders trailed behind some Western leaders (*see* Section 2.d.). Security forces continued to harass novelist Duong Thu Huong intermittently, and authorities have not allowed her to travel abroad since the early 1990's, although it was unknown whether she attempted to travel overseas during the year. In October the Government press criticized her for publishing an article critical of the Government in an Australian periodical. However, Huong was allowed to meet with some foreigners and Vietnamese colleagues. Some persons who expressed alternative opinions on religious or political issues also were not allowed to travel abroad (*see* Section 2.d.).

The Party, the Government, and the party-controlled mass organizations controlled all print and electronic media. The Government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. The Government officially requires all religious publishing be done through one government owned religious publishing house.

Published reports on high-level government corruption and mismanagement became more common during the year. Local newspapers devoted extensive coverage to the Government's investigation of an organized crime gang with links to three high-level government officials, two of whom were members of the Communist Party Central Committee. On June 20, the Government reigned in coverage when it deemed that the scandal was receiving too much publicity and revealing too many sensitive points. Many newspapers ignored the party's instructions not to report on the case, resulting in a stronger party rebuke and a subsequent sharp reduction, although not a complete halt, to the press' reporting. On December 31, the Ministry of Culture and Information announced a decision to revoke the press identity cards of four reporters. Three, Tran Ngoc Tuan of Tien Phong magazine, Dang Thanh Hai of Thanh Nien, and Nguyen Minh Son of Nguoi Lao Dong had filed what the Government claimed were inaccurate reports about Danang police beating citizens to the point of severe injury. The fourth reporter, Bui Ngoc Cai of Gia Dinh Va Xa Hoi newspaper, reported that a police major general had said that the Government might punish higher level (above the Vice Minister) government officials for corruption.

Newspapers and magazines also printed articles on contentious economic policy issues. In May the Government unexpectedly blocked press access to a foreign-funded, scientific conference. The Government did not allow foreign journalists to attend sessions and restricted domestic journalists to the opening and closing sessions.

Foreign language periodicals were widely available in cities; however, the Government occasionally censored articles about the country. Twice the Government blocked newsstand sale of a foreign periodical apparently because of articles on sensitive topics (*see* Section 1.f.).

The Government generally did not limit access to international radio, except to Radio Free Asia, which it jammed (*see* Section 1.f.).

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. The number of foreign staff allowed each foreign media organization was limited, and most local staff who worked for foreign media were provided by the Foreign Ministry. The Press Center monitored journalists' activities and decided on a case-by-case basis whether to approve their interview, photograph, film, or travel requests, all of which must be submitted 5 days in advance. The Press Center refused several travel requests, particularly for travel to the Central Highlands. By law, foreign journalists are supposed to address all of their questions to other government agencies through the Foreign Ministry, although it appeared that this often was not followed in practice. Foreign journalists generally received visas valid for 6 months. Those who reported on sensitive issues sometimes experienced difficulty when renewing their visas. One journalist was unable to renew his visa during the year, and two journalists received visas for shorter than usual terms in 2001.

In past years, the Government censored television footage and sometimes delayed export of footage by several days. During the year, this was not known to have occurred, although regulations continued to allow the Government to screen such footage. The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press. However, the law was not enforced uniformly, and many persons in urban and some in rural areas had access to censored television footage via home satellite equipment. On June 24, following a visible increase in individual satellite dishes set up in conjunction with the World Cup soccer competition, the Government issued a new decree in an attempt to enforce this requirement more stringently; however, its success was unknown at year's end.

The Government generally allowed artists broader latitude than in past years in choosing the themes for their works, although artists were not allowed to exhibit works of art that censors regarded as criticizing or ridiculing the Government or the Party. Many artists received permission to exhibit their works abroad, receiving exit permits to attend the exhibits and export permits to send their works out of the country. Foreign language editions of some banned books, such as Bao Ninh's *Sorrow of War*, were sold openly. In one notable exception, the press launched a campaign to denounce well-known actor Don Duong for his portrayals in the films *Green Dragon* and *We Were Soldiers Once*. The articles described the actor as a traitor and called for his arrest and detention. In October authorities confiscated his passport.

The Government allowed access to the Internet; however, it owned and controlled the country's only Internet access provider, Vietnam Data Communications (VDC). The VDC was the largest of the 5 operating Internet service providers (ISPs) with 56 percent of all subscribers. The Ministry of Culture and Information reported that the number of Internet subscribers in the country rose to approximately 250,000 in the past year and that there were approximately one million Internet users. The price of computers relative to the country's income level limited home use. However, universities and approximately 4,000 cyber cafes allowed students and many other persons wider access to the Internet. The VDC was authorized by the Government to monitor the sites that subscribers access. The Government used firewalls to block sites it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. In July the Government instructed cyber cafe owners to monitor their customers to discourage citizens from accessing sites containing antigovernment material as well as pornography (*see* Section 2.b.).

In August the Government inspected a large number of Internet cafes to determine whether persons were accessing blacklisted sites. Also in August, the Government closed a company that provided an online news service because it carried articles not allowed under the Press Law. In October the Government required all owners of domestic web sites, including those operated by foreign entities, to register their sites with the Government and to submit their web site content to the Government for approval. In August 2001, the Prime Minister Phan Van Khai issued a decree on the management, provision, and the use of Internet services. The decree prohibits Internet users from taking advantage of the Internet to take hostile action against the country, to destabilize security, to violate morality, or to violate other laws and regulations. In 2001 the non-governmental organization (NGO), *Reporters Sans Frontieres* listed the country as 1 of 58 "enemies of the Internet."

The Government continued to permit a more open flow of information within the country and into the country from abroad, including in the university system, than in previous years. Foreign academic professionals temporarily working at universities were allowed to discuss nonpolitical issues widely and freely in the classroom. Government monitors regularly attended, without official notification, classes taught by both foreigners and citizens. Academic publications usually reflected the views of the Party and the Government and exhibited greater freedom for differing views

on nonpolitical subjects than for political ones. There was an increasing interest in subjects such as American Studies that officially were discouraged in the past.

b. Freedom of Peaceful Assembly and Association.—The right of assembly is restricted in law and in practice, and the Government restricted and monitored all forms of public protest. Persons who wished to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. However, persons routinely gathered in informal groups without government interference. In general the Government did not permit demonstrations that could be seen as having a political purpose.

On August 14, approximately 2,000 persons attended war hero and government critic General Tran Do's funeral in Hanoi (*see* Section 2.a.). The Government also made no move to interfere with a hastily arranged, but well attended memorial mass for Cardinal Nguyen Van Thuan on September 20 in HCMC. In December there were reports that police dispersed one or more gatherings of Hmong Christians (*see* Section 2.c.).

During the year, there were a number of peaceful protests of up to 50 persons, mostly older rural women over land tenure issues. The protests took place outside government and party office buildings, the Prime Minister's residence, and the National Assembly hall in Hanoi. On one occasion, police firmly, but nonviolently and respectfully, moved the protesters away from the Prime Minister's residence. In October the Government sentenced two individuals for disturbing public order for organizing a protest over land compensation issues in HCMC earlier in the year.

In February 2001, police and soldiers fought with up to 4,000 ethnic minority persons who demonstrated in the Central Highlands town of Pleiku, and another 500–1,000 ethnic minority persons who demonstrated in the Central Highlands town of Buon Me Thuot. The demonstrators protested loss of forestland in the area to ethnic majority citizens. Some protested local government repression of Christian religions and some called for political autonomy or for an independent state. Scores of persons were injured on both sides.

Until March 2001, smaller scale demonstrations with varying degrees of violence continued in rural districts of the Central Highlands. The Government deployed local troops augmented by civilian militias and non-uniformed security forces to secure the area. In some places, the Government forced villagers to feed and quarter troops or members of the civilian militias. In September 2001, 14 ethnic minority persons arrested in connection with the unrest were sentenced to prison terms ranging from 6 to 12 years. One of the 14 persons arrested also was convicted of illegal possession of a military weapon. In October 2001, the Government sentenced six more ethnic minority persons to sentences ranging from a 3-year suspended sentence to 5 years' imprisonment. Charges against 18 others were dropped, or changed to the lesser charge of "inciting social unrest." At the end of 2001, at least 14 others were arrested and awaiting trial. At year's end their fate was unknown. In 2001 there were credible reports of as many as 85 persons arrested and 36 persons missing. Many more were detained and later released (*see* Sections 1.b and 1.d). There were numerous credible reports that police beat the suspects when they were taken into custody (*see* Section 1.c.).

There were several conflicting reports about an event on March 10, 2001, in Plei Lau village of Gia Lai Province. According to one credible report, hundreds of police and soldiers attempted to disperse hundreds of ethnic minority persons. Fighting erupted, resulting in dozens of injuries on both sides. At one point, an ethnic minority person armed with a spear attacked a soldier and was shot and killed by two or three other soldiers. Soldiers reportedly pursued and opened fire on other persons who had fled into the forest, wounding at least two who were shot in the leg and captured. Later that day, police forced some villagers to burn down the village church.

The Government restricted freedom of association. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled organizations, often under the aegis of the VFF. Citizens were prohibited from establishing independent organizations such as political parties, labor unions, and religious or veterans' organizations. Such organizations existed only under government control. However, some entities were able to operate outside of this framework with little or no government interference. For 10 days in 2001, police in Hai Phong detained and held Vu Cao Quan after he met individually in Hanoi with several persons holding reformist views including Nguyen Thanh Giang, Hoang Minh Chinh, retired General Tran Do, and retired Colonel Pham Que Duong. Since 1990 while still a member of the Communist Party, Quan wrote several pieces advocating democracy. In September 2001, Tran Van Khue and Colonel Pham Que Duong sent a letter to the party and government leadership seeking permission to form a "People's Association to support the Party and State

to fight corruption.” Police sent Khue and Nguyen Thi Thanh Xuan from Hanoi back to their residences in HCMC and summoned Duong and 16 Hanoi associates for questioning related to the proposed “People’s Association.” These persons were known to hold reformist views and included Hoang Minh Chinh, Nguyen Thanh Giang, Hoang Tien, Nguyen Vu Binh, Duong Hung, Le Chi Quang, Tran Dung Tien, Nguyen Dao Kinh, Tran Ba, Dau Quy Ha, Duoi Huy, Nguyen Thu, Nguyen Doai, V. Tinh, Tran Dai Son, and Duoi Son. The Government also cut personal telephone lines and blocked access to the web site where Duong and Khue posted their letter. The People’s Association later set up a web site, which the Government did not block, that included contact information, the petition, other documents written by various democracy activists, and a bulletin board where several individuals recorded their reactions to the proposal. In 2001 in HCMC, police confiscated Khue’s computer and for more than 1 month “invited” him to come to the local police station twice a day “to work with them.” In October the Government also placed Khue under a 2-year administrative detention order—a form of house arrest.

c. Freedom of Religion.—Both the Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict significantly those organized activities of religious groups that it declared to be at variance with state laws and policies.

The Government technically required religious groups to be registered and used this process to control and monitor church organizations. The Government officially recognized Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its leadership and the overall scope of its activities. Officially recognized religious organizations were able to operate to varying degrees throughout the country, and followers of these religious bodies were able to worship without government harassment, except in some isolated provinces. Officially recognized organizations had to consult with the Government about their religious operations, although not about their tenets of faith. Some leaders of the pre-1975 Buddhist and Hoa Hao religious bodies unsuccessfully requested official recognition of their organizations. Their activities, and those of the unregistered Protestant “house churches” were considered illegal by the authorities, and they sometimes experienced harassment as a result. The Government actively discouraged contacts between the illegal UBCV and its foreign Buddhist supporters, and between unofficial Protestant organizations, such as the underground churches, and their foreign supporters, although such contacts continued.

The Government generally allowed persons to practice individual worship in the religion of their choice, and participation in religious activities throughout the country continued to grow significantly. The Penal Code establishes penalties for “attempting to undermine national unity” by promoting “division between religious believers and nonbelievers.” In some cases, particularly involving Hmong Protestants, when authorities charged persons with practicing religion illegally, they used provisions of the Penal Code that allow for jail terms of up to 3 years for “abusing freedom of speech, press, or religion.” There were reports that officials fabricated evidence, and some of the provisions of the law used to convict religious prisoners contradict international instruments such as the Universal Declaration of Human Rights. According to credible reports, the police arbitrarily detained persons based upon their religious beliefs and practice, particularly in the mountainous, ethnic minority areas. There were credible reports that Hmong Protestant Christians in several northwestern villages and various ethnic minority Protestant Christians in the Central Highlands were pressured or forced to recant their faith. In the northwest provinces and the Central Highlands, local officials allowed believers little discretion in the practice of their faith. The Government continued to harass members of the UBCV, and prevented their conducting independent religious activities, particularly outside of their pagodas. The Vietnamese Roman Catholic Church hierarchy remained frustrated by the Government’s restrictions but has learned to accommodate itself to them. A number of clergy reported a modest easing of government control over church activities in certain dioceses during the year. In most locales, local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours). However, in many areas, officials strictly prohibited these activities. In some areas, including HCMC, local officials allowed unregistered religious organizations to operate with little or no interference.

Restrictions on the hierarchies and clergy of religious groups remained in place, and the Government maintained supervisory control of the recognized religions, in part because the Communist Party feared that organized religions may weaken its authority and influence by serving as political, social, and spiritual alternatives to the authority of the central government. Religious organizations were required to obtain government permission to hold training seminars, conventions, and celebra-

tions outside of the regular religious calendar, to build or remodel places of worship, to engage in charitable activities, operate religious schools, and to train, ordain, promote, or transfer clergy. Religious organizations also were required to submit their "annual plans" and "schedules" for approval by local authorities. Many of these restrictions principally were exercised by provincial or city people's committees, and treatment of religious persons varied widely by locality.

In general religious groups faced difficulty in obtaining teaching materials, expanding training facilities, and expanding the clergy in training in response to the increased demand from congregations; the Government regulated the number of clergy that the Buddhist, Catholic, Hoa Hao, and Cao Dai churches officially may train. The Government has not allowed officially recognized training of Protestant clergy since 1993, although the Southern Evangelical Church of Vietnam (SECV), which only formally was recognized in 2001, requested permission to open a seminary in HCMC. In principle the Government gave the SECV permission to establish a seminary in 2001. However, the SECV was not able to obtain permission for many specific steps to open the seminary such as recruiting or assigning faculty, using or building a facility, or recruiting students.

The Roman Catholic Church faced significant restrictions on the training and ordination of priests and bishops. The Government effectively maintained veto power over Vatican appointments of bishops; however, in practice it had shown willingness to discuss appointments with the Vatican. In recent years, the Government eased its efforts to control the Roman Catholic hierarchy by relaxing the requirements that all clergy belong to the Government controlled Catholic Patriotic Association. The Catholic Church operated 6 seminaries, and in 2001 received permission from the central authorities to open a seventh. However, local authorities did not consent to the seminary's proposed location and it had not opened by year's end. The Catholic Church also received permission to accept new seminarians, but only every other year. Over 800 students were enrolled nationwide at year's end. The local people's committee must approve all students, both upon entering the seminary and prior to their ordination as priests. A few more recent seminary graduates remained unordained as long as 10 years. Most observers believed that the number of ordained priests was insufficient to support the growing Catholic population.

Although the authorities arrested and otherwise strictly controlled Hoa Hao "dissidents," the Government permitted other Hoa Hao believers more freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Police authorities routinely questioned some persons who held alternative religious or political views, such as UBCV monks and Hoa Hao leaders.

Since 1975 the Government has prohibited ordination into the Cao Dai priesthood. However, during the year, at least 18 new priests were ordained and 920 apprentices entered the process leading to priesthood. Other existing priests were promoted to higher ranks.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

The Government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang. The Hoa Hao also were allowed to hold large public gatherings to commemorate some traditional anniversaries, but not others. Some specially scheduled religious gatherings also were allowed. However, in December there were reports that police in Lai Chau Province attempted to disperse one or more gatherings of Hmong Christians. Police reportedly used a gas, possibly pepper spray, during at least one of these actions, leading to the hospitalization of four or more persons (*see* Section 2.b.).

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, and secular life, although it likely would prevent advancement to the highest government and military ranks. Avowed religious practice theoretically barred one from membership in the Communist Party, but in 1997 the CPV reported that approximately 23,000 of the 2.4 million party members were religious believers. Government and party officials increasingly admitted that they follow traditional and Buddhist religious practices.

The law prohibits foreign missionaries from operating in the country.

The Government established a publishing house under control of its Committee for Religious Affairs specifically to oversee the publishing of all religious materials. Many Buddhist sacred scriptures, Bibles, and other religious texts and publications are printed by government-sanctioned organizations and are sold or distributed at religious institutions.

The Government allowed religious travel for some, but not all, religious persons; Muslims were able to take the Hajj (although none did during the year due to lack

of foreign financial support), and many Buddhist and Catholic Church officials, and some Protestant officials were able to travel and study abroad. Most of the country's Catholic bishops visited the Vatican for several weeks in the early part of the year. The Government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted freedom for travel outside these areas, particularly in many ethnic areas. Several Protestant house church leaders traveled overseas during the year. Government officials discouraged officially recognized clergy from entering Son La, Lai Chau, and some other border provinces. In March several hundred Hao Hoa believers traveled to the Hoa Hao Pagoda in An Giang Province to commemorate a traditional anniversary that the Government refused to recognize officially. In July up to 300,000 persons traveled there to celebrate another traditional anniversary that the Government recognizes. Persons who held alternative religious opinions sometimes are not approved for foreign travel. Buddhist monk Thich Thai Hoa in Hue, for example, was refused permission to travel outside the country on several occasions. Thich Huyen Quang, Nguyen Lap Ma, and Nguyen Nhat Thong were restricted from travelling or had to request permission from authorities to travel (see Section 2.d.).

Ethnic minority, underground Protestant congregations in the Central Highlands and in the northwestern provinces continued to suffer severe abuses. Certain northwest provinces reportedly did not have any officially recognized churches or pagodas, allegedly due to provincial government disapproval. Authorities in those areas also reportedly arrested and imprisoned ethnic minority believers for practicing their faith nonviolently, citing their lack of officially recognized status. During the year, there were reports that some Protestants in the Central Highlands, particularly in Dak Lak Province, experienced continued difficulties and restrictions despite evidence of reduced tensions in some other parts of the Central Highlands.

Several reports described a systematic campaign on the part of local officials in Dak Lak and Gia Lai Provinces in the Central Highlands to force ethnic minority Protestants to renounce their faith. Similar campaigns were reported and continued to be reported during the year in Lai Chau, Lao Cai, and other mountainous northern provinces. Under threat of physical abuse or confiscation of property, ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual, which included drinking rice whiskey mixed with animal blood. Officials reportedly ordered Protestant gatherings to cease, forbade pastors from traveling, withheld government food distributions from Protestant believers, and prohibited children of Protestant families from attending school beyond the third grade.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides that citizens shall enjoy freedom of movement and of residence within the country . . . (and) freely travel abroad and return home . . . in accordance with the provisions of the law"; however, the Government imposed some limits on freedom of movement. Most citizens enjoyed freedom of movement within the country, but some local authorities required members of ethnic minority groups to obtain permission to travel outside certain highland areas.

Local officials reportedly informally discouraged clergy from entering certain provinces. Officially citizens had to obtain permission to change their residence (see Section 1.f.). In practice, many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. However, moving without permission restricted their ability to obtain legal residence permits. Holders of foreign passports in theory must register to stay in private homes. In practice visitors of Vietnamese origin from overseas did not appear to have had problems with this requirement and were allowed to stay with family and friends.

The Government employed internal isolation under the decree on administrative detention to restrict the movement of political and religious dissidents (see Sections 1.d. and 1.f.). Reform activist Nguyen Thanh Giang was not under administrative detention and was permitted to move around freely in Hanoi, although his freedom to move around outside Hanoi was largely untested. Since June 2001, after Thich Quang Do attempted to organize an unauthorized delegation of monks to travel to Quang Ngai Province, authorities confined him incommunicado and under guard to his living quarters. His telephone lines were cut and he was unable to receive visitors (see Section 2.c.).

Some persons were held under conditions resembling house arrest without known legal pretext. Since 1982 Thich Huyen Quang, Supreme Patriarch of the banned UBCV, has been confined to a pagoda in Quang Ngai Province. He cannot leave the pagoda without official permission, although, he was able to receive at least some

visitors, including diplomats, during the year. Provincial police reportedly told him in 1997 that his term of detention officially had concluded. Rather than allow him to return to his previous residence, HCMC authorities urged him to return to his province of birth instead. Similarly, Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982. However, after he suffered a stroke in 1998, authorities allowed him to travel to HCMC for monthly medical check-ups. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but must ask for the permission of local authorities first (*see* Section 2.c.).

Foreigners generally were free to travel throughout the country, except in areas restricted on grounds of national security. Following the 2001 ethnic unrest in the Central Highlands, entry into the area was restricted for several months for most foreigners. The Government retained the right to approve travel to border areas and to some islands, but in practice foreigners could travel to most non-sensitive border areas without prior approval. However, on several occasions, local police detained and fined foreigners who police found had ventured too close to international borders and other sensitive military areas. Some of these areas were unmarked. Although the Government no longer requires citizens traveling abroad to obtain exit or reentry visas, the Government sometimes prevented persons from traveling by refusing to issue passports. Persons who departed the country using passports marked "dinh cu" or "resettlement" appear to need a reentry permit to return. Some persons who publicly or privately expressed critical opinions on religious or political issues sometimes were not allowed to travel abroad (*see* Section 2.c.).

Citizens' access to passports sometimes was constrained by factors outside the law, such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passports based on personal animosities, or based on the officials' perception that an applicant did not meet program criteria, or to extort a bribe.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former foreign government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees, (ROVR) program). Most of these programs were nearing the completion of processing, with the number of cases in most categories in the low double digits. (An exception was the Amerasian program, which remained opened to new applicants). A major step forward in this area was the agreement by the Government on the resumption of processing for over 900 former foreign government employees and their family members. This refugee program had been suspended in 1996 but interviews resumed during this year. A government pledge that approved cases would be allowed to depart expeditiously was upheld; at year's end, nearly all approved applicants (over 450 individuals in total) had already departed the country.

There were concerns that some members of minority ethnic groups, such as the Montagnards, who live in the Central Highlands may not have had ready access to the above programs because the Government denied them passports. While this was not the case for the program for former foreign government employees, a slowdown in passport issuances to Montagnards who applied under the re-education camp detainees program was noticeable for some time after the events in the Spring of 2001. However, during this year, the situation improved, when nearly two dozen long-standing cases received passports, and one particularly prominent, long-standing case was allowed to leave the country after a 2-year delay.

The Government generally permits citizens who emigrated to return to visit, but it considers them citizens and therefore subject to the obligations of citizens under the law, even if they adopted another country's citizenship, unless their formal renunciations of citizenship were approved by the President. In practice, the Government usually treats them as citizens of their adopted country; emigrants are not permitted to use Vietnamese passports after they adopt other citizenship. However, because citizens who live overseas are considered a valuable potential source of foreign exchange and expertise for the country but also a potential security threat, the Government generally encouraged them to visit but monitored them carefully.

In early 2001, over 1,000 Montagnards from the Central Highlands fled to Cambodia following a crackdown by security forces. The crackdown followed demonstrations complaining of appropriation of traditional lands, influx of ethnic Vietnamese into the Central Highlands, and religious discrimination. A tripartite agreement on the Montagnards' repatriation among the Governments of Vietnam and Cambodia and the U.N. High Commissioner for Refugees (UNHCR) was abandoned by UNHCR after Vietnam restricted access and attempted to intimidate and pressure

Montagnards in the UNHCR camps to return. In June an official was quoted acknowledging the mistakes of the country's leadership for the turmoil in the Central Highlands. Subsequently, the Government declared it would award each minority family in the Central Highlands at least one hectare of land for farming and 400 square meters for housing.

During the year, there were credible reports that non-uniformed security forces crossed the border to try to capture and return those who had fled. These reports add that the security forces succeeded in forcibly returning approximately 50 persons to Dak Lak Province. Eight other persons reportedly were returned to Gia Lai Province. Two of them reportedly were placed in jail, and the other six were placed under administrative probation. Family members reported the disappearances of at least 42 ethnic minority persons from Gia Lai Province. Most of those who fled and were placed under the protection of the U.N. High Commissioner for Refugees were subsequently resettled from Cambodia to a third country.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Constitution provides for consideration of asylum for foreigners persecuted abroad under certain circumstances. 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 peacefully through democratic means. Party control over the selection of candidates in elections for the National Assembly, the presidency, the prime ministership, and local government undermines this right. All authority and political power is vested in the CPV, and the Constitution declares the supremacy of the CPV; political opposition movements and other political parties are illegal. The CPV Central Committee is the supreme decision-making body in the nation, with the Politburo as the locus of policymaking. During the Ninth Congress of the CPV in April 2001, the Party replaced the standing board, consisting of the five most senior members of the Politburo, with a nine-member Secretariat, consisting of the General Secretary, four lower ranking Politburo members, and four non-Politburo Central Committee members, to oversee day-to-day implementation of leadership directives. The Government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. However, during the year and in 2001, legislators questioned and criticized ministers in sessions that were broadcast live on television. No public challenge to the legitimacy of the one-party State is permitted; however, there were instances of unsanctioned letters critical of the Government from private citizens, including some former party members, that circulated publicly (see Section 2.a.).

The Government strongly encouraged eligible citizens to vote in elections, although there is no legal penalty for not voting. Voting was not compulsory, but election officials applied many means to persuade citizens to vote, including using public address systems to ask late voting citizens by name to come to the polls. The Government claimed a 99.73 percent voter turnout for the May 19 National Assembly election. Proxy voting, while illegal, appeared widespread. In addition, most voting was over by 10:00 a.m., although polls were required to be open until 5:00 p.m. The party-controlled VFF approved all candidates for the 498-member assembly.

The National Assembly, although subject to the control of the Party (all of its senior leaders and 90 percent of its members also are party members), increasingly served as a forum for the expression of local and provincial concerns and as a critic of corruption and inefficiency. However, it does not initiate legislation and never has passed legislation that the Party opposed. Party officials occupied most senior government and National Assembly positions and continued to have the final say on key issues. In August the National Assembly debated the Government's cabinet nominations; although it approved all of the nominations, more than 30 percent of the delegates voted against some nominees. During the year, the National Assembly continued to engage in public debate on economic, legal, and social issues. It also continued to exert its increasing power to revise or reject draft laws and actively pursued enhancing its capability to draft laws. In December 2001, the National Assembly rejected the Government's preferred option on a large dam project. In June 2001, legislators apparently concerned that passage would lead to widespread miscarriages of justice, rejected a bill that could have granted district courts wider powers.

The law provides the opportunity for equal participation in politics by women and minority groups. Approximately 99 percent of women in the country voted. Women held a number of important government positions, including the Vice Presidency.

There were 136 women in the 498-seat legislature; there were three women at the Ministerial level; and there were no women in the Politburo. There were only a few women in provincial level leadership positions.

According to government figures, approximately 99 percent of minorities in the country voted and 87 of the 498 National Assembly members belonged to ethnic minorities. The CPV General Secretary, formerly Chairman of the National Assembly, is a member of an ethnic minority group. However, the percentage of minorities in government or national-level politics does not accurately reflect their numbers in the population.

Section 4. Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

The Government does not permit private, local human rights organizations to form or operate. It generally prohibited private citizens from contacting international human rights organizations, although some activists were able to do so. The Government did not allow any visits by international NGO human rights monitors. The Government criticized almost all public statements on human rights issues by international NGOs or by foreign governments.

The Government generally was willing to discuss human rights problems bilaterally with some other governments if such discussions took place under the rubric of "exchanges of ideas" rather than as "investigations." During the year, several foreign governments held official talks concerning human rights. The country continued to be a member of the U.N. Human Rights Commission.

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

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. Some persons formerly interred in reeducation camps on the basis of association with the pre-1975 government continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incarcerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the Government. This prohibition is less restrictive than in past years because of the growth of job opportunities in the private sector.

Women.—The law addresses the problem of domestic violence; however, the authorities did not enforce the law effectively. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. International NGO workers and local contacts reported that domestic violence against women was common. Reportedly approximately two-thirds of divorces were due in part to domestic violence. The divorce rate has risen in the past few years, but many women remained in abusive marriages rather than confront the social and family stigma and economic uncertainty of divorce.

Under the Penal Code, it is a crime to use violence, threaten violence, take advantage of a victim who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a victim against that person's will. This is believed to criminalize rape, spousal rape, and, in some instances, sexual harassment. However, there were no known instances of prosecution for spousal rape.

Prostitution is officially illegal, but appears to be tolerated widely. Some women are coerced to work as prostitutes, and some are victimized by false promises of lucrative work (*see* Section 6.f.). Many more women feel compelled to work as prostitutes because of poverty and a lack of other employment opportunities. NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally, during the year. There were reports that some persons in HCMC addicted young women to heroin and forced them to work as prostitutes to earn money for drugs. Parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. There were reports that some parents coerced daughters into prostitution or made such extreme financial demands on them that they felt compelled to engage in prostitution. The Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

Trafficking in women for the purpose of sexual exploitation, both domestically and internationally, was a serious problem (*see* Section 6.f.).

While there is no legal discrimination, women faced deeply ingrained societal discrimination. Despite provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, and although some women occupied high government posts, few women competed successfully for higher status positions. The Gov-

ernment has ratified International Labor Organization (ILO) conventions on Equal Remuneration and Discrimination in Employment. The Constitution provides that women and men must receive equal pay for equal work; however, the Government did not adequately enforce this provision. Very poor women, especially in rural areas but also in cities, performed menial work in construction, waste removal, and other jobs for extremely low wages. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace, and Labor Code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers entering and staying in the civil service, universities, and the private sector.

The party-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operates micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Union as effective, but they and Women's Union representatives believe that much time is required to overcome societal attitudes that relegate women to lower status than men. The Government also has a committee for the advancement of women, which coordinates inter-ministerial programs that affect women.

Children.—International organizations and government agencies reported that, despite the Government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education are strained and where children were needed for agricultural labor. However, the culture's strong emphasis on education led parents who could send children to school to do so, rather than to allow them to work. Due to lack of classroom space, most schools operated two sessions, and children attended either morning or afternoon sessions; a result of attending school only half days was that children were able to attend classes and work. In 2001 the ILO stated that some street children both in HCMC and Hanoi participated in night education courses. The Government has been in the process of extending free public education from 6 years of age to 9 years of age. The public school system includes 12 grades. Over 90 percent of children attended elementary grades, but the percentage that attended junior and senior high school dropped sharply. These percentages were even lower in remote mountainous areas although the Government runs a system of subsidized boarding schools through the high school level for ethnic minority students.

The Government continued a nationwide immunization campaign, and the Government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by severely limited budgets. According to UNICEF, despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 timeframe.

Widespread poverty contributed to continued child prostitution, especially of girls, but also of some boys, in major cities. Many prostitutes in HCMC were between 15 and 17 years of age. One NGO advocate said that some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons, having few other choices available to them. There were reports that some persons addicted young girls to heroin and forced them to work as prostitutes to earn money for drugs.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of sexual exploitation. Press reports documented the conviction and imprisonment of a number of traffickers (*see* Section 6.f.). Individuals also were convicted in cases in which parents received payments in exchange for releasing their babies for adoption.

According to a 2001 government report on child labor, there were 20,000 street children in the country. Street children were vulnerable to abuse and sometimes were abused or harassed by police (*see* Section 1.c.).

Persons with Disabilities.—There is no official discrimination against persons with disabilities in employment, education, or in the provision of other state services. Government provision of services to assist persons with disabilities, however, was limited, and the Government provided little official protection or effective support to persons with disabilities. The Government operated a small network of rehabilita-

tion centers to provide long-term in-patient physical therapy and special education for disabled children. Government agencies responsible for services to persons with disabilities worked with domestic and foreign groups to provide protection, support, physical access, education, and employment. Implementation was hampered by limited budgets. The law requires the State to protect the rights and encourage the employment of persons with disabilities. It includes provisions for preferential treatment of firms that recruit persons with disabilities for training or apprenticeship and a special levy on firms that do not employ workers with disabilities. The extent to which the Government enforced these provisions was persons disabled by war, by subsequent accidents involving unexploded ordnance, or other causes, and developed indigenous prosthetics manufacturing capabilities. There were no laws mandating physical access to buildings, but during the year international groups worked with the Government to provide increased accessibility. International groups also assisted the Government in implementing programs to increase access by persons with disabilities to education and employment.

National/Racial/Ethnic Minorities.—Although the Government officially is opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities was widespread. In addition, there continued to be credible reports that local officials sometimes restricted ethnic minority access to some types of employment and educational opportunities. The Government continued to implement policies designed to narrow the gap in the standard of living between ethnic groups living in the highlands and richer, lowland ethnic majority Vietnamese (Kinh) by granting preferential treatment to domestic and foreign companies that invest in highland areas. The Government ran special schools for ethnic minorities in many provinces including subsidized boarding schools at the high school and middle school levels, and offered special scholarship programs at the university level.

The Government resettled some ethnic minorities from inaccessible villages in mountainous provinces to locations where basic services were easier to provide; however, the effect of the policy sometimes has been to dilute the political and social solidarity of these groups. The Government admits that one of the goals of resettlement was to impel the minorities to change from traditional swidden agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants to the mountainous areas. Large-scale, government-encouraged as well as spontaneous migration of ethnic Kinh to the Central Highlands has diluted the indigenous culture there. It has also led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The perception of the loss of traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in 2001 (see Section 2.b.). There were numerous credible reports that groups of Montagnards continued to flee to Cambodia to escape ethnic and religious repression in the Central Highlands. Government officials continued to harass some highland minorities, particularly the Hmong in the northwest provinces and several ethnic groups in the Central Highlands, for practicing their religion without official approval (see Section 2.c.).

Government officials have stated that there were many instances in which local government officials in the Central Highlands acted contrary to stated national policies or failed to uphold national laws.

The Government continued to impose extra security measures in the Central Highlands (see Section 2.b.). There were unconfirmed reports of continued pushbacks of Montagnards seeking to cross into Cambodia, sometimes accompanied by beatings and detentions. However, the Government continued measures to address the causes of the unrest and began new measures as well. National government officials regularly visited the Central Highlands. The Government began a special program to allocate land to ethnic minorities in the Central Highlands.

Previously, all classroom instruction was required by law to be conducted in the Vietnamese language, but the Government continued a program to conduct classes in the local language up to grade five. The Government worked with local officials to develop a local language curriculum. The Government appeared to be implementing this program more comprehensively in the Central Highlands than in mountainous northern provinces. In 2001 the Government began broadcasting radio and television programming in the area in ethnic minority languages. The Government also told ethnic Kinh officials that they must learn the language of the locality in which they worked, although this did not yet appear to have had much effect by year's end. Provincial governments implemented initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and be sensitive and receptive to ethnic minority culture and traditions. Officials in Lam Dong Province reportedly hired ethnic minority persons to teach minority languages to ethnic Kinh police. Officials in Dak Lak Province reportedly experimented with

a land policy that would allocate certain forestlands to ethnic minority villages for communal use.

Section 6. Worker Rights

a. The Right of Association.—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the Party and have only nominal independence. All unions must be approved by and must affiliate with the party-controlled Vietnam General Confederation of Labor (VGCL). The VGCL claimed that it represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. However, the overall level of unionization of the workforce was 10 percent. Approximately 500,000 union members worked in the private sector, including enterprises with foreign investment. The vast majority of the work force lived in rural areas, engaged in small-scale farming, and was not unionized. The VGCL asserted that authorities did not prosecute some violations of the Labor Law. Union leaders influenced key decisions, such as the amendment of labor legislation, development of social safety nets, and the setting of health, safety, and minimum wage standards.

While the Labor Law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated “labor associations” were organized at many individual enterprises and in occupations such as those of taxi, motorcycle and cyclo drivers, cooks, and market porters. Foreign governments and international organizations, such as the ILO and other U.N. system organizations, provided technical assistance and training to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), provincial labor departments, and the VGCL. Since 1995 MOLISA organized hundreds of training courses on the Labor Law for its staff and for managers of enterprises. The ILO and the U.N. Development Program cooperated on a large multiyear technical assistance program to strengthen Labor Law implementation.

Individual unions legally are not free to affiliate with, join, or participate in, international labor bodies, and they did not do so in practice. However, the VGCL had relations with 95 labor organizations in 70 countries, and the VGCL’s president traveled internationally, including to industrialized countries, to discuss labor matters.

b. The Right to Organize and Bargain Collectively.—Under the law, the provincial or metropolitan branch of the VGCL is charged with organizing a union within 6 months of establishment of any new enterprise with five or more employees, if workers have not already done so. Management is required by law to accept and to cooperate with those unions. The Labor Law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers. In recent years, collective bargaining has become more important. Many contracts have been negotiated that ended the practice of annual renewal, and multiyear contracts have become more common despite initial resistance from foreign companies. In recent years, labor leaders have increased the number of workplace issues in collective bargaining agreements. Issues previously not covered in contracts, such as Sunday work, have been spelled out so that companies cannot order workers to work a seventh day. Since the country began moving away from central planning, market forces have played an increasingly important role in determining wages. The Labor Law prohibits anti-union discrimination on the part of employers against employees who seek to organize.

The Labor Law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise’s own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial level. Individual workers may take cases directly to the peoples’ court system, but in most cases, only after conciliation has been attempted and failed. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people’s courts or to strike. Because this process is lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike is considered illegal.

The local press reported at least 79 strikes during the year. Of these, 37 were against foreign-invested enterprises, 40 involved domestic private enterprises, and 2 affected state-owned firms. Other sources reported 14 strikes against state-owned firms. In 2001, 73 strikes occurred, an increase of three over the previous year. Foreign-invested enterprises experienced 40 incidences, domestic private enterprises were affected by 21 strikes, and state-owned firms experienced 12 strikes. Although strikes typically did not follow the authorized conciliation and arbitration process, and thus were of questionable legality, the Government tolerated them and took no

action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The Labor Law prohibits retribution against strikers, and there were no reports of retribution. In some cases, the Government disciplined employers for illegal practices that led to strikes.

The Labor Law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the Government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in: electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws as in the rest of the country govern the growing number of export processing zones and industrial zones. There is anecdotal evidence that the Government enforced labor laws more actively in the zones than outside them.

c. Prohibition of Forced or Bonded Labor.—The Labor Law prohibits all forms of forced and bonded labor, including such labor by children; however, there were reports that thousands of children worked in exploitative situations (*see* Section 6.d.). Some women were coerced into prostitution (*see* Sections 5 and 6.f.). A study of child labor in HCMC found cases in which parents in poor families entered into “verbal agreements” with employers, who put their children to work; the children’s salaries were sent directly to the parents.

The Government denied the use of prison labor without compensation; however, prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for prisoners. Officials said that juveniles in Education and Nourishment Centers, which function much as reform schools or juvenile detention centers do elsewhere, were assigned work for “educational purposes” that does not generate income.

A government ordinance requires all adult citizens between 18 and 45 years of age for men and between 18 and 35 years of age for women to perform 10 days of annual public labor. However, the ordinance permits citizens to excuse themselves from this obligation by finding a substitute or paying a marginal fee. While some have alleged that such laborers were recruited to construct the Ho Chi Minh Highway, the Government issued a decree in October 2000 that gave the force of law to its existing policy that all labor on this project must be voluntary and paid.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Law prohibits most child labor but allows exceptions for certain types of work. It sets the minimum age for employment at 18 years of age, but enterprises may hire children between the ages of 15 and 18 if the firm obtains special permission from their parents and the MOLISA. However, a widely-publicized 2001 MOLISA survey found that about 40,000 children between the ages of 8 and 14 years worked part-time or full-time in violation of the Labor law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or family businesses not within the scope of the Labor Law.

By law an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the Labor Law. The Labor Law permits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care. Authorities did not have sufficient resources to ensure enforcement of child labor regulations. International donor assistance targeted the problem of child labor.

There were reports that enterprises, including companies with foreign investment, have discovered underage workers in their employ. According to reliable sources, this occurred when the child workers presented false identity documents, frequently borrowed from older family members. Once discovered the children lost their jobs, but in many cases the companies paid for their schooling and promised to reemploy them once they were of age.

In rural areas, children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as 6 years of age and were expected to work as adults by the time they were 15 years of age. In urban areas, children also may work in family-owned small businesses. Migration from rural to urban settings has exacerbated the child labor problem.

Government officials have the power to fine and, in cases of Criminal Code violations, prosecute employers who violate child Labor Laws. While the Government committed insufficient resources to effectively enforce laws providing for children’s

labor safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers.

In June 2001, the Government tabled a National Plan of Action implementing ILO Convention 182 on worst forms of child labor, which it had ratified in November 2000. In addition, a child labor unit was established within MOLISA. The country also participated in an ILO project on child trafficking in the Mekong region.

The law prohibits forced and bonded labor by children; however, thousands of children worked in exploitative situations and were trafficked both domestically and internationally for the purpose of sexual exploitation (*see* Section 6.f.).

e. Acceptable Conditions of Work.—The Labor Law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures was \$45 (674,820 dong) in Hanoi and HCMC, and \$40 (599,840 dong) elsewhere. The Government can exempt temporarily certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$30 (449,880 dong). The official monthly minimum wage of \$12 (180,000 dong) outside the foreign-invested joint venture sector was inadequate to provide a worker and family with a decent standard of living. However, state-owned enterprises consistently paid more than that minimum. The number of workers who received government-subsidized housing was decreasing. However, many workers received bonuses and supplement incomes by engaging in entrepreneurial activities and households often included more than one wage earner. A 2001 ILO study found that minimum wage requirements were applied well in all sectors, with the exception of smaller private sector enterprises. However, there were a number of media reports citing incidences of violations of minimum wage requirements by companies with foreign investment.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours and encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours, but did not make compliance mandatory.

The Labor Law sets normal working hours at a maximum of 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at 1 ½ times the regular wage and 2 times the regular wage on holidays. The law limits compulsory overtime to 4 hours per week and 200 hours per year. The law also prescribes annual leave with full pay for various types of work. The ILO has pointed out that the limit of 200 hours a year of overtime work is too low, and that workers and employers should have the right to agree to a greater amount of overtime work. It is uncertain how well the Government enforced these provisions.

According to the law, a female employee who is to be married, is pregnant, is on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

The Labor Law requires the Government to promulgate rules and regulations that ensure worker safety. The MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of MOLISA's low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. There was evidence, however, that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country have established independent monitoring of problems at their factories.

The Labor Code provides that workers may remove themselves from hazardous conditions without risking loss of employment. Companies report that MOLISA or provincial labor agencies perform labor and occupation safety and health inspections at enterprises when they learn of serious accidents or when there have been reports of hazardous conditions.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation and for labor, both domestically and internationally, was a serious problem. While no law specifically prohibits trafficking in men, existing laws could be used to prosecute traffickers who recruit or send men abroad to work for "illegitimate profits" or illegal purposes. Incidents of trafficking of adult males domestically or abroad were rare. While reliable statistics on the numbers of citizens trafficked

were not available, there was evidence that the numbers have grown in recent years, but may have leveled off over the past year. The Social Evils Department of MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in efforts to combat trafficking. The police took an increasingly active role in investigating trafficking during the year.

The country was a source and transit point for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000, approximately 20,000 young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking (observers believe many, if not most, of these young women were voluntary migrants and, at least initially, not victims of trafficking). According to another local press report, at least 10,400 women and girls were trafficked to China in recent years. Between 1995 and 2000, approximately 5,000 women and children were trafficked to and escaped from Cambodia. Some Vietnamese women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some Vietnamese women going to Taiwan, Hong Kong, Macau, and China as "mail-order brides" were victims of trafficking. The Government estimated that approximately 10 percent of mail order brides had "problems" or may have become trafficking victims. There were reports that husband switching was one of the several methods used to entice potential trafficking victims. Beginning in March, government officials held a series of meetings to work out better procedures to handle repatriation of trafficking victims. Women and children also were trafficked within the country, usually from rural to urban areas. The country also was a transit point for trafficking. Typically, persons were trafficked from China or the Middle East to Australia, Europe, or Canada; however, this appears to have continued to decrease during the year.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically was even lower. Although statistics were not reliable, women and girls were trafficked from southern delta and highland provinces to Cambodia and from northern provinces into China generally for the purposes of prostitution, domestic work, or marriage. The Vietnam Women's Union, with assistance from foreign donors and international organizations, was especially active in drawing attention to these problems and helping with education programs to warn vulnerable families of the dangers of deception by those who would lure young women and children into prostitution.

There were reports that some women from HCMC and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In August the Government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services helped arrange marriages between women and foreigners, primarily Taiwanese men. Between 60,000 and 70,000 women have married Taiwanese men in recent years, although observers believed that most were not trafficked.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. It appears that most trafficking victims came from some Mekong Delta provinces such as An Giang and some northern provinces such as Quang Ninh. Some were sold by their families as domestic workers or for sexual exploitation. In some cases, traffickers paid families several hundred dollars (a large sum for many families) in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (*see* Sections 5 and 6.c.). The Government stated that organized criminal groups, both domestic and international, were involved in recruitment, transit, and other trafficking-related activities.

Corruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking. While it was likely that some individual officials assisted traffickers, there was no evi-

dence of official, institutional, or government involvement in trafficking in persons. Some government officials and associated private individuals were convicted of and sentenced for trafficking related crimes during the year.

There were allegations supported by evidence that state-owned labor supply companies trafficked workers, primarily women and girls, to American Samoa, where they were employed by a Korean-owned garment manufacturer, Daewoosa. At year's end, a Korean garment factory owner and his associates were being prosecuted abroad for using sweatshop labor performed by a captive workforce of imported Vietnamese (and other) workers. The Vietnamese workers had entered into contracts with two state owned labor supply services in the country. Reports alleged that these workers were subjected to involuntary servitude, debt bondage, mistreatment, threats, and abuse although no Vietnamese companies or officials were among the defendants in the criminal case. As a result of this case, the Government initiated a widely publicized review of the operations and finances of licensed labor supply companies, which resulted in the temporary or permanent suspension of the operating licenses of the two state-owned enterprises that supplied labor to Daewoosa. The Government brought charges against and convicted an official from one of those enterprises in relation to the Daewoosa case.

During the year, the Government increased its efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for persons found guilty of trafficking women, and for 3 year to life prison sentences for persons found guilty of trafficking children. On July 10, a government decree was issued forbidding the use of marriage and adoption for trafficking related purposes. A number of traffickers have been convicted and imprisoned. The Government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with countries within the framework of INTERPOL and its Asian counterpart.

Official institutions including MOLISA, the Women's Union, the Youth Union and the Committee for Population, Family and Children had active programs in place aimed at prevention and victims' protection. These programs included publicity to warn women and girls of these dangers, repatriation programs to help female returnees, and vocational training for teenage girls in communities considered vulnerable to trafficking in persons. Government agencies worked closely with the International Organization for Migration (IOM) and a number of international NGOs to provide temporary shelter, some medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. In March government officials held a series of meetings with Chinese counterparts to improve victim protection and repatriation processes. Although voluntary commercial sex workers were subject to criminal sanctions, the Government sought to assist trafficking victims. Trafficking victims in general were not treated as criminals, but some women trafficked into prostitution were prosecuted for prostitution.

Government agencies worked with international NGOs on mass media campaigns, community outreach visits, distribution of leaflets, and vocational training in their efforts to prevent trafficking.