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# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2003

VOLUME II

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SUBMITTED TO THE

COMMITTEE ON INTERNATIONAL  
RELATIONS

U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS  
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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



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## FOREWORD

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The *Country Reports on Human Rights Practices* contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

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

HENRY J. HYDE,

*Chairman, Committee on International Relations.*

RICHARD G. LUGAR,

*Chairman, Committee on Foreign Relations.*





## LETTER OF TRANSMITTAL

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U.S. DEPARTMENT OF STATE,  
*Washington, DC, February 25, 2004.*

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

DEAR MR. CHAIRMAN: On behalf of Secretary Powell, we are pleased to transmit to you the *Country Reports on Human Rights Practices for 2003*, prepared in compliance with Section 665 of P.L. 107-228, the Foreign Relations Authorization Act for Fiscal Year 2003, and Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended.

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

Sincerely,

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

Enclosure:  
As stated.



## PREFACE

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### HUMAN RIGHTS REPORTS

The expansion of democracy and respect for human rights throughout the world is at the core of U.S. foreign policy. The yearly release of the *Country Reports on Human Rights Practices* is an occasion to assess the state of human freedom around the world and the challenges faced by those seeking to improve it.

Putting together the *Country Reports* is a multi-stage process. Throughout the year, our embassies collect the data contained in it through their contact with human rights organizations, public advocates for victims, and others fighting for human freedom in every country and every region of the world. Investigating and verifying the information requires additional contacts, particularly with governmental authorities. Such inquiries reinforce the high priority we place on raising the profile of human rights in our bilateral relationships and putting governments on notice that we take such matters seriously. Compiling the data into a single, unified document allows us to gauge the progress that is being made. The public release of the *Country Reports* sharpens our ability to publicize violations and advocate on behalf of victims. And submission of the reports to the Congress caps our year-round sharing of information and collaboration on strategies and programs to remedy human rights abuses—and puts us on the path to future progress.

We have found that reporting on human rights is useful not only for addressing violations by governments in power, but also for the recovery and reconstruction of societies where a repressive regime has departed the scene. We learned this in the early 1990s as we assisted the new governments emerging from the collapse of the Soviet Union and its satellites in Eastern Europe. Today, we are helping the people of Iraq and Afghanistan, long oppressed by despotic leaders, to establish the rule of law, guarantee basic freedoms, and build democratic institutions. Our experience of monitoring human rights abuses in those and other countries has given us a richer understanding of the challenges faced by peoples struggling for democracy and human rights. Decades of reporting violations and voicing concerns signal our continued commitment to fulfill the promise of freedom for ourselves and for the world around us.

With confidence that we have upheld our high standards of accuracy and comprehensiveness, which have made past breakthroughs possible and future gains within our grasp, I am pleased to submit the Department of State's *Country Reports on Human Rights Practices for 2003* to the U.S. Congress.

COLIN L. POWELL,  
*Secretary of State.*

## OVERVIEW AND ACKNOWLEDGMENTS

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### HUMAN RIGHTS REPORTS

#### WHY THE REPORTS ARE PREPARED

This report is submitted to the Congress by the Department of State in compliance with Section 665 of P.L. 107-228, the Foreign Relations Authorization Act for Fiscal Year 2003, and Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by February 25 “a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.” We have also included reports on several countries that do not fall into the categories established by these statutes and that thus are not covered by the congressional requirement.

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

#### HOW THE REPORTS ARE PREPARED

In August 1993, the Secretary of State moved to strengthen further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994 the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The *2003 Country Reports on Human Rights Practices* reflect a year of dedicated effort by hun-

dreds of State Department, Foreign Service and other U.S. Government employees.

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

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

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

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

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

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the *Country Reports* Team consists of: *Editor in Chief*: Cynthia R. Bunton; *Deputy Editor-in-Chief*: LeRoy G. Potts;

*Senior Advisors:* Michael G. Kozak and Elizabeth Dugan; *Senior Editors:* Dan Dolan, Julie Eadeh, Ann Marie Jackson, Kimber Shearer, Donald E. Parker and Jennifer M. Pekkinen; *Editors:* Norman Antokol, Jared Banks, AJ Bhatt, Jonathan Bemis, Stuart Crampton, Frank B. Crump, Cortney Dell, Steven Eisenbraun, Joan Garner, Solange Garvey, Jerome Hoganson, Stan Ifshin, Kari Johnstone, Leonel Miranda, Sandra J. Murphy, Gary V. Price, Ereni Roess, Rebecca A. Schwalbach, Ross Taggart, and James C. Todd; *Assistant Editors:* Ken Audroue, David Abramson, Jeannette Davis, Patricia A. Davis, Jean Gardner, Jean M. Geran, Robert Hagen, Patrick Harvey, Nancy M. Hewett, Victor Huser, Robert P. Jackson, Jeffrey M. Jamison, Naveen Jawaaid, Joanna Levison, Janet L. Mayland, Joannella Morales, Peter Mulrean, Michael Orona, Susan O'Sullivan, Sarah Fox Ozkan, Richard J. Patard, Wendy B. Silverman, Danika Walters, Arlen Wilson, Paul Yeskoo, and David Young; *Editorial Assistants:* Lena Auerbach, Diana Barnes, Judith R. Baroody, Jarrett Basedow, Kent Brokenshire, Sally I. Buikema, Carol G. Finerty, Karen Gilbride, and Sasha Ross; *Technical Support:* Mitchell R. Brown, Linda C. Hayes, Junk Mancharee, Alonzo Simmons and Tanika N. Willis.





## INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR THE YEAR 2003

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Promoting respect for universal human rights is a central dimension of U.S. foreign policy. It is a commitment inspired by our country's founding values and our enduring strategic interests. As history has repeatedly shown, human rights abuses are everybody's concern. It is a delusion to believe that we can ignore depredations against our fellow human beings or insulate ourselves from the negative consequences of tyranny. The United States stands ready to work with other governments and civil society to prevent the abuses of power and the proliferation of dehumanizing ideologies that produce misery and desperation and lead to devastating international political, economic and humanitarian consequences.

Threats to human rights can take various forms. They range from large-scale abuses like genocide, slaughter of innocents and forced migration to chronic, systemic problems that deny citizens the basic rights of freedom of religion, speech and assembly, and protections against the arbitrary exercise of state power. The United States cannot afford to ignore either type of human rights problem, or to excuse them as cultural differences.

Begun in 1977, the annual *Country Reports on Human Rights Practices* are designed to assess the state of democracy and human rights around the world, call attention to violations, and—where needed—prompt needed changes in our policies toward particular countries. They are an expression of U.S. vigilance in monitoring other countries and holding leaders accountable for their treatment of fellow citizens.

Each year's *Country Reports* identify gaps between principles and practice, between espoused standards on the one hand, and actual performance on the other. Examined retrospectively, a quarter century of reporting shows that many countries have begun to close those gaps and turned horror stories into success stories. Their examples have helped us understand how gains can be made in protecting human rights and expanding freedom.

For the last two and a half years, we have taken those lessons and applied them to a new world. After September 11, 2001, some observers questioned whether the United States could afford the “luxury” of concern about human rights and democracy abroad, and whether we might sacrifice our principles for expediency in the global war on terrorism. Within days, National Security Advisor Condoleezza Rice provided a clear answer:

“We are not going to stop talking about the things that matter to us—human rights and religious freedom and so forth. We’re

going to continue to press those issues. We would not be America if we did not.”

In his January 2002 State of the Union Address, President George W. Bush underscored the unequivocal U.S. commitment to human rights:

“. . . America will always stand firm for the non-negotiable demands of human dignity: the rule of law; limits on the power of the state; respect for women; private property; free speech; equal justice; and religious tolerance. America will take the side of brave men and women who advocate these values around the world, including the Islamic world, because we have a greater objective than eliminating threats and containing resentment. We seek a just and peaceful world beyond the war on terror.”

Later that year, Secretary of State Colin Powell backed these words by unveiling the U.S.-Middle East Partnership Initiative (MEPI), a program designed to assist political, economic and social reforms in that region. Henceforth, those seeking freedom in the Middle East can count on the same support long provided to Latin Americans, Central Europeans, Asians, Africans and others. The United States is now working across the Middle East to enhance the skills and opportunities of men and women who wish to compete for office, administer elections, report on political events and influence them as members of civil society. We have reinforced MEPI programming with unprecedented diplomacy to remedy problems described frankly in the *Country Reports*.

Some worried that our new focus on the Arab world would leave us without time to address human rights and democracy elsewhere. In early 2002, the President announced creation of the Millennium Challenge Account,

“a new compact for global development, defined by a new accountability for both rich and poor nations alike. Greater contributions from developed nations must be linked to greater responsibility from developing nations.”

Nations that invest in their people’s education and health, promote economic freedoms and govern justly—defined by the prevalence of civil liberties, political rights, rule of law and a government’s accountability and effectiveness—will be rewarded. The Millennium Challenge Account (MCA) will rely on sound human rights reporting to evaluate conformity with basic standards of democratic governance and economic freedom. MCA will also provide another vehicle for reducing the gap between human rights ideals and actual practices.

Other efforts to remedy problems outlined in the *Country Reports* have intensified. For the first time, the United States has a substantial program to assist structural changes, promote human rights awareness, and support legal and administrative reform in China. In Central Asia, we have mounted an unprecedented effort to support the development of representative political parties, human rights organizations and independent media. The United States has also worked more actively to contribute to the promotion of freedom in Burma, Zimbabwe, Cuba, Belarus and elsewhere.

These efforts to advance freedom have often been enhanced by partnerships with other members of the Community of Democracies, a growing organization composed mainly of nations that over the past quarter century have made the transition from dictatorship to democracy.

America's post-9/11 foreign policy has increased our scrutiny and activism in whole regions on the issues of human rights and democracy. Not surprisingly, some authoritarian governments—from the Middle East to Central Asia to China—have attempted to justify old repression by cloaking it as part of the new “war on terror.” Knowledgeable observers note that authoritarianism existed in such areas before September 11, 2001. American policymakers rejected and rebuked, often publicly, such attempts to label those peacefully expressing their thoughts and beliefs as “terrorists.” In some but not all instances, we were able to contribute on a case-by-case basis to freedom for such individuals. Over time, the increased activism described above will help change national structures that allow such abuses, and will contribute to freedom for all.

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

Where we are vigilant, through such actions as compiling these reports and implementing an agenda that make the *Country Reports* more than a rote recitation of evidence, we advance U.S. interests. In 2003, we saw many developments covering the whole range from the dramatically uplifting to the disappointing. The countries and concerns mentioned below represent areas that define our engagement with human rights issues worldwide.

In Afghanistan, the Constitutional Loya Jirga (CLJ) brought together 502 delegates, including 89 women, to craft a new constitution. This process culminated in the adoption of a new, moderate constitution in January 2004. Key social issues that were debated in the CLJ included the rights of women and minorities, the role of religion, education, jobs and security. In addition to encouraging responsible implementation of the new constitution, in 2004 we are dedicated to expanding and continuing our commitment to helping Afghans realize their vision for a country that is stable, democratic and economically successful after 30 years of war. The last two years have seen dramatic improvements in democracy and human rights since the days of the Taliban. However, terrorist attacks and severe violence, including a reviving drug trade, add to the sense of lawlessness and insecurity, slowing the process of reconstruction.

The liberation of Iraq by Coalition forces in April ended years of grave human rights violations by Saddam Hussein's regime. Hussein's rule resulted in a climate of fear and repression in which arbitrary arrests, killings, torture and persecution were daily facts of life. Since April, the world has discovered overwhelming evidence of a totalitarian and capricious brutality that terrorized individuals in unimaginable ways. One indication, in a nation of 24 million people, are mass graves in which as many as 300,000 Iraqis are buried. The record of horror under Saddam Hussein is still unfolding. Building democracy and a culture of respect for human rights after 36 years of tyranny will be an arduous task, but it is an effort that has the support of the overwhelming majority of the Iraqi people.

We began 2003 with hopes that the incremental but unprecedented progress in China seen in 2002 would be continued and expanded; however, throughout the year, we saw backsliding on key human rights issues. Arrests of democracy activists, individuals discussing subjects deemed sensitive by the Government on the Internet, HIV/AIDS activists, protesting workers, defense lawyers advocating on behalf of dissidents or the dispossessed, house church members and others seeking to take advantage of the space created by Chinese reforms increased. Harsh repression of the Falun Gong continued, and the Chinese Government used the war on terror to justify its continuing crackdown on Muslim Uighurs.

The Chinese Government's record in Tibet remains poor and ongoing abuses include execution without due process, torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetans for peacefully expressing their political or religious views. In January 2003, Tibetan Lobsang Dondrub was executed for alleged involvement in a series of bombings in Sichuan Province in 2002. The death sentence of Buddhist teacher Tenzin Deleg Rinpoche on the same charge was deferred for two years. The trials of the two men were closed to the public on "state secrets" grounds, and they were reportedly denied due process of law. Lobsang Dondrub's execution the same day he lost his appeal to the Sichuan Provincial Higher People's Court, as well as the failure of the national-level Supreme People's Court to review the case as promised to foreign officials, raised serious concerns in the international community.

After the stunning July 1 demonstrations in Hong Kong by approximately 500,000 people and intense public debate about civil liberties and fundamental freedoms, the Government of the Hong Kong SAR withdrew proposed national security legislation in September. The people of Hong Kong took advantage of their right to free speech and assembly as guaranteed under the Basic Law and urged the Government to abide by democratic processes. Public demands also increased for the implementation of universal suffrage in the 2007 Chief Executive election and the 2008 Legislative Council election. However, following consultations with the PRC Government, Hong Kong did not announce a timetable for public consultations on democratization by year's end.

Reports from North Korea continue to paint a bleak picture of one of the world's most inhumane regimes. Rigid controls over information, which limit the extent of our report, reflect the totalitarian repression of North Korean society. Basic freedoms are unheard of, and the regime committed widespread abuses of human rights. This year's report details—among other abuses—killings, persecution of forcibly repatriated North Koreans, and harsh conditions in the extensive prison camp system including torture, forced abortions and infanticide.

Burma's extremely poor human rights record worsened in 2003. On May 30, government-affiliated forces attacked a convoy led by National League for Democracy (NLD) party leader Aung San Suu Kyi, leaving several hundred NLD members and pro-democracy supporters missing, under arrest, wounded, raped or dead. Egregious abuses of ethnic minority civilians continued.

In Cuba, human rights abuses worsened dramatically: 75 peaceful dissidents were sentenced to prison terms averaging 20 years for trying to exercise their fundamental rights, while the Castro regime ignored petitions containing thousands of signatures which organizers of the Varela Project had collected from Cuban citizens exercising their constitutional right to petition for a referendum on political and economic reform.

The Government of Zimbabwe continued to conduct a concerted campaign of violence, repression and intimidation. This campaign has been marked by disregard for human rights, the rule of law and the welfare of Zimbabwe's citizens. Torture by various methods is used against political opponents and human rights advocates.

In Russia, the Government manipulated the October presidential polls in Chechnya and parliamentary elections held on December 7; both failed to meet international standards. The OSCE monitoring mission's assessment of the parliamentary elections criticized extensive use of the state apparatus and media favoritism that biased the campaign. Government pressure on the media continued, resulting in the elimination of the last major non-State television network. Criminal prosecutions and threats of prosecutions against major financial supporters of opposition parties and independent NGOs undermined the parties' ability to compete, weakened civil society, and raised questions about the rule of law in Russia. A series of "alleged espionage" cases continued to raise concerns about the rule of law and influence of the FSB (the federal security service). The conflict in Chechnya continued to have serious human rights implications. Reports of continued violence and human rights abuses in Chechnya persisted. These reports included evidence that some among the federal and local security forces, as well as some of the separatists, are still resorting to unacceptable methods of resolving the conflict.

Many republics of the former Soviet Union have mixed or poor human rights records. We continue to work with governments and nongovernmental organizations in the region to identify areas where our assistance can have significant impact. The threats to stability are varied, and our insistence on accountability for human rights violations and adherence to democratic norms is bringing progress to the region, as demonstrated by the developments in Georgia.

The Government of Georgia allowed several major protests to proceed without violence or arrests. President Eduard Shevardnadze resigned on November 23 allowing for new leadership to assume power and the Supreme Court subsequently annulled the results of the proportional parliamentary contests. Georgia's January 4, 2004 presidential election showed significant improvements over previous contests. But elsewhere in the Caucasus, fraud and serious irregularities marred the other presidential and parliamentary elections held during the year. In Armenia and Azerbaijan, authorities arrested and harassed hundreds of opposition party demonstrators protesting the conduct of these elections. There were credible reports that Azerbaijan authorities also tortured a number of opposition members to coerce confessions.

Progress in Central Asia continued to come from dedicated activists and nongovernmental organizations. Governments were mov-

ing slowly, but have shown signs of recognizing the importance of human rights. The Media Support Center in the Kyrgyz Republic, which was registered in 2002, opened an independent printing press on November 14. The Turkmenistan Government intensified its harsh crackdown on political opponents and their families with widespread reports of abuses, including torture, arbitrary arrests of hundreds of relatives of suspected plotters of the November 2002 armed attack on the president's motorcade, and lack of fair trials and freedom of movement. Restrictions on freedom of religion, speech, association and assembly became more severe. In Uzbekistan there were at least three new torture deaths in custody during the year and continued reports of torture with impunity and unfair trials. Harassment and arrests of political opponents, including independent journalists and activists, continued, as did registration problems for opposition political parties and nongovernmental organizations. Prominent opposition leaders remain imprisoned in Kazakhstan and Kyrgyzstan.

In Belarus, the Lukashenko Government continued to restrict freedom of speech and press and took further measures to restrict freedom of association and assembly. The Government increased pressure on human rights and other NGOs, interfering with their work and closing many down. The Government failed to suspend or take any other action against senior regime officials implicated in the disappearance of opposition and press members. Addressing abuses in Belarus became a priority for the United States as we returned as a member of the U.N. Commission on Human Rights (UNCHR).

During its 2003 session, the UNCHR adopted a U.S.-sponsored resolution on Belarus for the first time, as well as resolutions on Turkmenistan and North Korea. A resolution on Cuba was also adopted by a formal vote, and resolutions on Burma and the Democratic Republic of the Congo were approved by consensus. In addition, the Commission decided not to hold a special sitting on the situation in Iraq during the height of military action.

With Libya in the Chair and such countries as Zimbabwe, Cuba, Sudan, China and Syria, which fail to protect their own citizens' rights, as members, the 2003 session of the UNCHR fell short in several respects. Resolutions on the human rights situations in Zimbabwe, Sudan and Chechnya were defeated. The United States continued to emphasize the need to improve the functioning of the Commission, primarily by supporting the membership of countries with positive human rights records. We began to discuss the formation of a democracy caucus with interested governments. We envision this as a group of like-minded countries that would coordinate more closely in multilateral settings to advance goals consistent with democratic values.

The United States was deeply saddened by the death of U.N. High Commissioner for Human Rights Sergio Vieira de Mello in August 2003. Mr. Vieira de Mello assumed this position on July 22, 2002, and during his tenure, he undertook important reforms of the Office of the High Commissioner. He was well respected in the international community for his extensive work within the United Nations and for his humanitarian fieldwork. Secretary Powell noted on August 19, 2003,

“Sergio Vieira de Mello was a consummate professional who devoted his life to helping others, particularly in his decades of distinguished service to the U.N. . . . In my book, Mr. Vieira de Mello was a hero, who dedicated his life to helping people in danger and in difficulty. His loss is a terrible blow to the international community.”

*Institutional changes:*

Notable progress in Africa included the beginning of the second half of a three-year transitional power-sharing government in Burundi: Domitien Ndayizeye, a Hutu, succeeded Pierre Buyoya, a Tutsi, as president in April. In addition, the Transitional Government negotiated a future power-sharing agreement with the main rebel group; however, another rebel group remained outside negotiations and continued to conduct attacks on civilians and government forces. Madagascar stabilized after a 2002 political crisis in which the presidency was disputed, and President Ravalomanana has continued his anti-corruption campaign, which resulted in the suspension of 18 mayors and the conviction of 12 magistrates.

In the Democratic Republic of the Congo, various armed groups continued to commit massacres and other atrocities, but the poor human rights situation improved slightly. After five years of war, a Transitional Government was inaugurated, a vital step in starting the country on a path toward democracy. Uganda withdrew its forces by June, and, following the adoption of a transitional constitution, a transitional power-sharing government was established on June 30. In Liberia, a cooperative transitional power sharing agreement emerged between civil society, former government forces and the rebel groups, “Liberians United for Reconciliation and Democracy” (LURD) and “Movement for Democracy in Liberia” (MODEL), with elections scheduled for October 2005. However, numerous abuses occurred in the context of the conflict, and sporadic fighting, looting and human rights violations continued in remote areas where peacekeepers from the U.N. Mission in Liberia (UNMIL) have not yet reached.

Change continued across much of the Arab world. In Qatar, voters approved a new constitution by popular referendum held in April. That same month, Yemen successfully held open parliamentary elections for the second time in its history. In Oman, approximately 74 percent of registered voters participated in October elections for the 83 seats in the Consultative Council. In Jordan, King Abdullah appointed a new 55-member Senate in November, increasing the number of women members from three to seven. In Morocco, 2002 voting for a parliament was followed up with 2003 elections for municipal councils.

Turkey passed extensive human rights reform packages that covered a broadening of laws on torture, impunity, access to attorneys, fair trials and freedom of speech, although not all of these reforms were fully implemented during the year. As part of a wide-ranging judicial reform program, Bosnia and Herzegovina adopted new Criminal Codes and Criminal Procedure Codes at the state and entity levels. For the first time, the Bosnian police forces were fully accredited under the U.N. accreditation program. A European Union Police Mission, responsible for developing professional stand-

ards and accountability in senior police ranks, began operating on January 1, 2003.

In Egypt, State Security Courts were formally abolished in May; however, the Government retained and continued to use Emergency Courts, and most observers noted that this was not a substantial improvement. The Emergency Law, extended in February for an additional three years, continued to restrict many basic rights. The Government passed legislation establishing a National Council for Human Rights; initially dismissed as window dressing, the naming of a number of independent thinkers to the Council led to hopes in early 2004 that the Council could contribute to a betterment of Egypt's civil life. Security forces continued to torture prisoners, arbitrarily arrest and detain persons, and occasionally engaged in mass arrests.

*Political rights:*

Six nations in the Western Hemisphere—Argentina, Barbados, Belize, Grenada, Guatemala and Paraguay—held elections for their chief of state or government that were deemed to be free and fair. The Organization of American States promoted democracy, observed elections and used the principles of its Inter-American Democratic Charter to ensure broad, free and fair access to the democratic process in Venezuela, Haiti and Bolivia.

Positive signs in Africa included developments in Kenya, where the new Government acted to establish an autonomous national human rights commission to investigate abuses and educate citizens. A ministry of gender affairs was also set up; three bills to protect women's rights were submitted to the parliament but they still await passage. The Government also took several steps to curb corruption, including the establishment of an anti-corruption authority to investigate and prosecute cases of corruption and the dismissal of 38 magistrates and transfer of 40 others on official accusations of corruption. In Rwanda, a new constitution was adopted, ending a nine-year transitional period, and the country held its first post-genocide presidential and legislative elections in August and September. However, the right of Rwandan citizens to change their government was effectively restricted, and government harassment of the political opposition continued.

Elsewhere in Africa, international and domestic election monitors reported that in some states during the Nigerian presidential elections, they witnessed widespread voting irregularities, as well as procedural flaws, particularly in the collation and counting of votes. However, election-related violence at the levels predicted did not occur. An attempted coup occurred during the year in Mauritania, and the presidential election held in November generally was not considered free and fair by many international observers.

In Saudi Arabia, citizens do not have the right to change their government. In October, the Government announced that it would hold elections within the year for half the members of municipal councils; however, it has not yet provided specific information about the conduct of the elections. There were credible reports that security forces continued to torture and abuse detainees and prisoners, arbitrarily arrest or detain persons, and hold them incommunicado. The Government restricted freedom of assembly, asso-



ciation, religion and movement. Violence and discrimination against women, discrimination against ethnic and religious minorities, and strict limitations on workers rights continued. The Government established a National Dialogue Center intended to address religious extremism and problems facing women and the country's Muslim minorities. Government officials also met with organized groups of reform advocates and permitted Human Rights Watch to visit the Kingdom for the first time.

The Syrian Government's human rights record remained poor and it continued to commit serious abuses. The Government used its vast powers to prevent any organized political opposition activity. Security forces committed serious abuses, including the use of torture and arbitrary arrest and detention. The Government significantly restricted freedom of speech and the press. Freedom of assembly does not exist under the law, and the Government restricted freedom of association. The Government also placed some limits on freedom of religion and suppressed worker rights. In Tunisia, although the Government continued to improve the economy and provide opportunities for women, continuing abuses included torture of detainees by security forces, violations of privacy rights, significant restrictions on freedoms of speech and press, and harassment of judges as well as human rights and civil society activists.

The Iranian Government's poor human rights record worsened, and it continued to commit numerous, serious abuses. The Iranian people's ability to assert their democratic will continued to be hindered by a structure that exerts undue influence on the electoral and legislative processes by regime hardliners. The clerical regime stifles open debate through such tactics as intimidation, violence and imprisonment of opposition activists, on matters ranging from freedom of expression to appropriate social behavior. Reformist members of Parliament were harassed, prosecuted and threatened with jail for statements made under parliamentary immunity. Last summer the Government beat student protestors and arrested thousands. The Government arrested several journalists, banned reformist publications, and beat a Canadian-Iranian photographer to death while in custody.

Cambodia's record remained poor. During the National Assembly elections in July, politically motivated violence, including killings, was lower than in previous elections and political parties and candidates' access to the media was greater in these than in previous elections; however, voter intimidation by local officials in addition to technical problems with the registration process and preparation of voter lists effectively disenfranchised many citizens. A coalition government had failed to form by year's end.

Concerns about the path to democracy and stability in East Timor, now known as Timor Leste, are raised by numerous reports of excessive use of force and abuse of authority by police. Prolonged pretrial detention was a problem. Due process and fair trials often were denied or restricted, largely due to severe shortages of resources and lack of trained personnel in the legal system. Countries in the Balkans continue to become more stable and further their efforts to protect the human rights of their citizens. The OSCE and other international observers judged Albania's local

elections in October to be an improvement over previous elections, with a few isolated incidents of irregularities and violence.

*Internal and other conflicts:*

Abuse caused by both government and rebel forces marked the internal conflict in Côte d'Ivoire. There were numerous reports of politically motivated killings by pro-government death squads during the first half of the year. The rebels agreed to join the Government and declared the war officially over in July, but an end to violence has proved elusive as the rebels pulled out of the Government in October. By mid December, both the Government and the New Forces took positive steps toward ending the violence, and New Forces ministers noted they would attend the first government meeting in 2004.

Far more encouraging are developments in Sierra Leone, where the Government continued efforts to stabilize the country and repair the damage caused by 11 years of civil war. During the year, the Truth and Reconciliation Commission held public hearings to air the grievances of victims and the confessions of perpetrators, and the Special Court of Sierra Leone indicted 13 persons.

Although there was considerable progress in the peace negotiations in Sudan between the Government and the rebels in the south, the conflict in Darfur resulted in numerous human rights violations by government and government-supported militias, including the killing of civilians, the destruction of villages and large-scale displacement of persons.

Israel's human rights record in the occupied territories included continuing abuses, the use of excessive force by security forces, the shelling, bombing and raiding of Palestinian civilian areas, and demolitions of homes and property. Israel continued to impose strict closures and curfews on the occupied territories.

Many members of Palestinian security services and the FATAH faction of the PLO participated with civilians and terrorist groups in violent attacks against Israeli civilians inside Israel, Israeli settlers, foreign nationals and soldiers. Palestinian extremists targeted Israelis in drive-by shootings and ambushes, suicide and other bombings, mortar attacks, and armed attacks on settlements and military bases. Palestinian security forces used excessive force against Palestinians during demonstrations, abused prisoners and arbitrarily arrested and detained persons, and provided poor prison conditions.

Indonesia experienced improvements in some regions, but conditions in Aceh Province deteriorated rapidly. Various reports indicate that Indonesian security forces murdered, tortured, raped, beat and arbitrarily detained civilians in Aceh, under martial law since May 2003, as government forces sought to defeat the separatist Free Aceh Movement (GAM) following failed peace negotiations. GAM rebels also carried out grave abuses including murder, kidnapping and extortion. During most of the year, inter-religious violence subsided in the provinces of Maluku and North Maluku, although there were brief but dramatic upsurges in violence in Central Sulawesi at the end of the year. Two hundred thousand civilians remain displaced due to violence in these three provinces.

Political and drug-related violence continued in Colombia, but kidnappings, killings and forced displacements declined. The Government offered formal peace negotiations to disband the various terrorist groups and several factions entered into talks. The Government captured guerrilla leaders, and former military commanders were prosecuted and convicted of human rights abuses.

The political impasse continued in Haiti, where President Aristide frustrated efforts to form a legitimate Provisional Electoral Council, and his supporters, henchmen and civilian attaches associated with the national police killed members of opposition parties and violently disrupted their demonstrations. Elections planned to take place during the year were not held.

On October 17, protesters forced elected Bolivian President Gonzalo Sanchez de Lozada to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. Mesa appointed a nonpolitical cabinet and promised to revise the Constitution through a constituent assembly.

In Guatemala, the Government accepted a proposal developed by the Human Rights Ombudsman and nongovernmental organizations to create a U.N. commission to investigate clandestine groups. Work to conclude the agreement was coming to completion at year's end. On October 29, in compliance with the Peace Accords of 1996, Guatemalan President Portillo completed the demobilization of the Presidential Military Staff (EMP), which had been implicated in serious human rights violations during the civil conflict and its aftermath. In Peru, the Truth and Reconciliation Commission released its final report, with recommendations to heal the wounds suffered during nearly 20 years of internal conflict.

Nepal's human rights record remained poor throughout 2003. More than 8,000 people have been killed since the Maoist campaign to unseat the monarchy began in 1996. Numerous credible reports of human rights abuses by Nepalese security forces elicited condemnation and calls for accountability; the Maoists committed worse abuses in their campaign of torturing, killing, bombing, forcibly conscripting children and other violent tactics.

*Integrity of the person:*

Libya, despite welcome cooperation in reducing weapons of mass destruction, continued to deprive citizens of the right to be secure in their home or their person. Torture and incommunicado detention were widespread, and security forces maintained the authority to pass sentences without trial. The Algerian Government failed to investigate, account for and bring justice in as many as 18,000 cases of missing persons resulting from the darkest days of the 1990s. In Turkey, torture and impunity remained serious problems, as did harassment of journalists.

In Pakistan, abuse by members of the security forces, ranging from extrajudicial killings to excessive use of force, is widespread. The Government intimidated and arrested opposition figures. The overall credibility of the judiciary remained low. In December, Pakistan's Parliament and President Pervez Musharraf approved a package of amendments to the Constitution that consolidated Musharraf's power, included his agreement to step down as Chief of the Army Staff by the end of 2004, confirmed his presidency

until 2007, and gave him authority to dismiss Pakistan's national and provincial assemblies provided the Supreme Court agrees with the dissolution.

In sub-Saharan Africa, the Ethiopian Government security forces were implicated in the killing of 93 mostly Anyuaks in Gambella in December. In Uganda, brutal attacks by the cult-like Lord's Resistance Army increased significantly during the year, resulting in the deaths of approximately 3,000 persons, including children, thousands of internally displaced persons, numerous rapes, and the abduction of an estimated 6,800 children and young girls between January and June alone, for training as guerrillas and to be used as sex slaves, cooks and porters.

In the Solomon Islands, a once-worrisome situation began to turn around due to international intervention. The Regional Assistance Mission to Solomon Islands (RAMSI), organized by Australia to address the continuing violence in that country stemming from ethnic conflict between Malaitans and Guadalcanese, arrived in the country in July and made substantial progress during the remainder of the year in restoring law and order. RAMSI removed approximately 3,700 weapons from circulation, began reform of the police, and arrested and charged numerous persons implicated in human rights abuses and other criminal acts.

In many places, violence was perpetrated, condoned or went unchecked by government authorities. In the Philippines, local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. In Thailand, the security forces were responsible for numerous instances of extrajudicial killings. According to press reports, more than 2,000 alleged drug suspects were killed during confrontations with police during a three-month "War on Drugs" from February to April, while the Government reported that out of a total of 2,598 homicide cases during this three-month period, there were 1,386 narcotics-related deaths.

*Freedom of the press:*

Respect for freedom of speech and press in Sudan appeared to decline during the year. Government detentions, intimidation, surveillance of journalists and an increased number of suspensions of newspapers continued to inhibit open public discussion of political issues.

Freedom of the press suffered in Tanzania, significantly restricted on Zanzibar by the Government's indefinite ban of *Dira*, the only independent newspaper on the archipelago, and by the Zanzibar News Act, which allowed authorities to harass and detain journalists.

Controls on the press and public expression of political opinions continued in Kazakhstan, as the Government selectively prosecuted political opponents in trials with serious irregularities. The Government's harassment of independent media included the conviction, with no due process, of two prominent independent journalists. In Turkmenistan, the Government completely controlled the media, censored all newspapers and access to the Internet, and never permitted independent criticism of government policy. In Kyrgyzstan,

honor and dignity lawsuits filed by government officials against newspapers bankrupted two leading independent newspapers.

In Ukraine, authorities continued to interfere with news media by intimidating journalists and taking a direct role in instructing the media on what events and issues should be covered. The Government failed to render justice for murdered journalists Heorhiy Gongadze and Ihor Aleksandrov. After new developments in the investigation of the Gongadze case, which had been deemed credible by the Council of Europe and had led to an arrest of a government official, the Government fired the prosecutor general and released the accused.

In Venezuela, threats against the media continued, and government pressure against the media increased, as did legislative efforts to limit the media's exercise of freedom of expression.

Political expression remains significantly curtailed in Malaysia, where the Government acknowledges that it restricts certain political and civil rights in order to maintain social harmony and political stability.

*Freedom of religion:*

These issues are discussed in depth in the *Annual Report on International Religious Freedom*, published in December 2003, but the *Country Reports* also highlight and update important developments.

The status quo in Vietnam remained poor. The Government restricted freedom of religion and operation of religious organizations other than those approved by the State. Many Protestants active in unregistered organizations, particularly in the Central Highlands and Northwest, faced harassment, pressure to renounce their faith and possible detention by authorities. Incidents of arbitrary detention of citizens for religious views continued. In Burma, the Government imposed restrictions on certain religious activities and promoted Buddhism over minority religions.

Kazakhstan's President Nazarbayev began an initiative to promote dialog among religions; an international conference drawing regional dignitaries and religious figures was held in February. No further attempts have been made to incorporate restrictive amendments into Kazakh law. Elsewhere in Central Asia, the Government of Turkmenistan continues to restrict all forms of religious expression and interpret the laws in such a way as to discriminate against those practicing any faith other than government-controlled Sunni Islam or Russian Orthodox Christianity. In Uzbekistan, the Government permitted the existence of mainstream religions but invoked the Law on Freedom of Conscience and Religious Organizations, which is not in keeping with international norms, to restrict the religious freedom of other groups.

In Saudi Arabia, freedom of religion still does not exist by any internationally recognized standard. The Government continued to enforce a strictly conservative version of Sunni Islam and suppress the public practice of other interpretations of Islam and non-Muslim religions.

The Government in Eritrea continued to seriously restrict religious freedom. The Government harassed, arrested and detained members of non-sanctioned Protestant religious groups locally re-

ferred to collectively as “Pentes,” reform movements from and within the Coptic Church, Jehovah’s Witnesses and adherents of the Baha’i faith.

*Treatment of minorities, women and children:*

Morocco enacted a new family code that revolutionizes the rights of women. By raising the age of marriage for women, strengthening their rights to divorce, child custody and inheritance, and placing stringent restrictions on polygamy, the new law sets an example for the African Continent and the Arab world.

Emerging from Rwanda’s transition, the Rwanda Women’s Leadership Caucus (RWLC) is becoming an increasingly powerful voice for women in the political process. Several members serve on the constitution drafting committee and were the impetus for the 30 percent increase in representation by women in the legislative branch and executive branch. President Kagame has responded by appointing several women to “non-traditional” roles in the Cabinet.

Human rights abuses in North Korea take many particularly severe forms. Among the violations in this area of concern, pregnant female prisoners underwent forced abortions and, in other cases, babies reportedly were killed upon birth in prisons. There also were reports of trafficking in women and young girls among refugees and workers crossing the border into China, and children appear to have suffered disproportionately from famine.

Egyptian police have continued to target homosexuals using Internet-based sting operations.

In November, the Chinese Government relaxed its policy of tightly controlling information about the extent of the HIV/AIDS epidemic and announced plans to provide antiretroviral drugs to millions of people, including rural residents and the urban poor. New Chinese treatment efforts, however, have brought the issues of stigma and discrimination to the forefront as obstacles to long-term success in prevention or treatment. The effective delivery of AIDS messages and drug treatment programs will depend on effective protection of legal and civil rights for all those affected by the disease. It remains to be seen whether the PRC authorities will recognize and effectively address these issues.

Worldwide, violence against children continued to be a problem and trafficking in persons claimed many women and children as victims, forced to engage in sex acts or to labor under conditions comparable to slavery. These problems are discussed in depth in the annual *Trafficking in Persons Report* issued in June 2003, but they are also covered by the individual country reports in this volume.

*Worker rights:*

China’s global economic presence continues to focus attention on worker rights as a priority in bringing China into compliance with international standards. Economic and social changes affecting workers produced a growing number of labor-related disputes, most of them directed at state-owned enterprises, regarding conditions of work or management corruption. The Government responded by arresting and prosecuting labor activists. Freedom of association, the right to organize and collective bargaining continued to be denied

to Chinese workers. Trade unions at all levels were required to affiliate with the All-China Federation of Trade Unions, which is controlled by China's Communist Party.

In Cambodia, there were improvements in compliance with laws on wages and hours, greater respect for freedom of association, improvements in labor-management relations, fewer illegal dismissals of union leaders, fewer illegal strikes, the successful establishment of Cambodia's first labor arbitration council for resolving industrial disputes, and the negotiation of the garment sector's first true collective bargaining agreement.

In the Americas, obstacles for worker rights persist in several key countries. Seven independent trade unionists were among the 75 peaceful human rights advocates tried for "provocations" and "subversion" by the Cuban Government in April. Conditions for organized labor deteriorated in Venezuela, where the Government refused to recognize the elected leaders of the Confederation of Venezuelan Workers and ordered the arrest of its Secretary General, forcing him to flee the country. Colombia remained the most dangerous country in the world for trade unionists, although fewer trade unionists were killed in 2003 than in 2002.

In Russia, the Moscow representative of the American Center for International Labor Solidarity continued to be denied permission to return to her work after being denied reentry to the country in December 2002. With respect to neighboring Belarus, the Governing Body of the International Labor Organization decided in November to appoint a Commission of Inquiry to investigate allegations of government violations of freedom of association and the right to organize and bargain collectively.

In Zimbabwe, representatives of organized labor continued to be targeted for harassment, detention, beatings and other harsh treatment. The response of the Government to worker demands has been to place limits on the ability of unions to communicate or meet with their own constituencies, to make it virtually impossible to have a legal strike, and to arrest labor activists who demonstrate their disagreement with policies. On October 8, police arrested more than 150 ZCTU members at protest gatherings in several cities throughout the country. Most of those detained were released the same day; however, many were forced to sign admissions of guilt and were fined.





## NEAR EAST AND NORTH AFRICA

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### ALGERIA

Algeria is a multiparty republic based upon a constitution and a presidential form of government. The head of state is elected by popular, secret vote to a 5-year term. The president has the constitutional authority to appoint and dismiss cabinet members, as well as the Prime minister who acts as the head of government. President Abdelaziz Bouteflika was last elected in 1999, running unopposed after the other candidates withdrew on the eve of the election citing voting fraud. Bouteflika is not formally affiliated with any political party. The next presidential elections are scheduled for April 2004. The country has a bicameral parliament consisting of the National People's Assembly (lower house) and the Council of the Nation (upper house). All members of the Assembly are elected by popular vote, while two-thirds of the Council is elected by the local (state) assemblies and the remaining one-third are appointed by the President. Elections were held for the Assembly in May 2002, followed by indirect elections in December for the Council of the Nation that saw six Islamists elected for the first time. The military influences defense and foreign policy and is widely believed to have influenced the outcome of the 1999 presidential elections. In June, the military publicly professed that it will remain politically neutral in the 2004 presidential elections and new electoral reforms have eliminated military voting in the barracks. Although the Constitution provides for an independent judiciary, it continued to be restricted by executive influence and internal inefficiencies.

The security apparatus comprises the army, consisting of ground, naval, and air defense forces; the national gendarmerie; the national police; communal guards; and local self-defense forces. All of these elements were involved in counterinsurgency and counter terrorism operations. The Ministry of National Defense and Ministry of Interior oversee the maintenance of order within the country. While the Government generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed serious human rights abuses.

The country is transitioning from a state-administered to open market economy. The country had a total population of approximately 31.5 million. The hydrocarbons sector was the backbone of the economy, accounting for approximately 60 percent of budget revenues, 46 percent of Gross Domestic Product (GDP), and over 95 percent of export earnings. Unemployment was estimated at 30 percent, with even higher levels of unemployment in the 20 to 30-year-old age bracket.

The Government's human rights record remained poor and worsened in a few areas; however, important progress was made in some areas. Aspects of the State of Emergency continued to restrict citizens' right to change their government. There were fewer reports of security force abuses. However, there continued to be problems with excessive use of force and the failure to account for past disappearances. Short-term disappearances of prisoners deemed "threats to national security" reportedly increased. The incidence and severity of torture declined markedly; however, new allegations continued. Security forces carried out extra-judicial killings and civilian and military police arbitrarily detained persons. Arbitrary arrests and incommunicado detention continued; most of these cases were committed in the context of the Government's continuing battle with terrorism. The Government routinely denied defendants fair and expeditious trials, and interference with privacy rights remained a problem. Despite judicial reforms, prolonged pre-trial detention and lengthy trial delays were problems. Defendants' rights to due process, illegal searches, and infringements on citizens' privacy rights also remained problems. The Government imposed new restrictions on freedom of expression, and an increased willingness to implement them. The Government did not always punish abuses, and official impunity remains a problem. Defamation laws and government actions re-

stricted the relative freedom of the print media; however, the media continued to openly and regularly criticize the Government, despite government reprisals. The Government continued to restrict, in varying degrees, freedom of speech, press, assembly, association, and movement during the year. The Government also placed some restrictions on freedom of religion. Domestic violence against women, the Family Code's limits on women's civil rights, and societal discrimination against women remained serious problems. Child abuse was a problem. Although the Government recognized the Amazigh language as a national language, Tamazight ethnic, cultural, and linguistic rights were the objects of demonstrations and riots and remained an undercurrent of the political scene throughout the year. Child labor was a problem in some sectors. The Government continued to restrict workers' rights by not officially recognizing some unions.

The country is gradually emerging from over a decade of civil strife between proponents and opponents of an Islamic state. During that decade, actions by government authorities, insurgents and terrorist groups, some of which have ties to al-Qa'ida, deprived citizens of their fundamental right to security, created serious human rights problems, and set back the country's transition toward a democratic system. Fighting during the 1990s resulted in 100,000–150,000 estimated deaths. Fighting between government forces and terrorist groups continued in some rural and mountainous areas and the country formally remains in a State of Emergency status. However, daily violence has declined and the situation in the country has improved since the 1990s when persons regularly disappeared and were brutally killed.

Terrorist groups committed numerous serious abuses and killed hundreds of civilians, including infants. Terrorists continued their campaign of insurgency, targeting government officials, families of security force members, and civilians. The killing of civilians often was the result of rivalry between terrorist groups or to facilitate the theft of goods needed to support their operations. Terrorist groups used violence to extort money, food, and medical supplies. Terrorists left bombs in cars, cafes, and markets, which killed and injured indiscriminately. Some killings, including massacres, also were attributed to revenge, banditry, and land grabs. Press reports estimated that approximately 1,162 civilians, terrorists, and security force members died during the year, a 61 percent decrease in violent deaths from 2002. Official government statistics indicated that fewer than 900 persons were killed. The violence occurred primarily in the countryside, as the security forces largely forced the terrorists out of the cities.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed extra-judicial killings, mostly during clashes with armed terrorist groups. The Government maintained that security forces resorted to lethal force only in the context of armed clashes with terrorists. During the year, the press and the Algerian League for Human Rights (LADH) a local non-governmental organization (NGO) reported that security forces killed 31 civilians. The Government stated that, as a matter of policy, disciplinary action is taken against soldiers or policemen who are guilty of violating human rights, and that some disciplinary action was taken during the year. In September, Ali Tounsi, the head of security forces, announced that 2,269 gendarmes and 211 policemen had been dismissed over the last 2 years for abuse of authority (see Section 1.d.). However, the Government did not routinely release specific information regarding punishments of military and security force personnel.

During 2001 and 2002, the majority of civilian deaths at the hands of security forces occurred during protests in and around the Kabylie region.

The gendarme responsible for the death of a Kabylie youth that sparked the Black Spring rioting was tried in September 2002 by a military tribunal and sentenced to two years in prison for involuntary homicide (See Section 1.d). Security forces kept a minimal presence in the Kabylie region; however, unlike in previous years, there were no reported deaths attributed to the security forces.

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

The National Assembly Commission released during the year its report on the April 2001 demonstrations and riots in which security forces killed as many as 80 persons. The report differed little from the original account of the incident given by security forces. In reaction to the National Assembly report's release, the Government issued financial indemnities to the families of victims and detainees in addi-

tion to a proclamation ordering the “draw down” of gendarmes during the year. Both uniformed and civilian clothes police were deployed to minimize tension in the region.

During the year, security forces killed numerous suspected terrorists. On January 19, security forces killed 40 in an operation designed to find the perpetrators of the Batna convoy attack (see Section 1.g.).

Terrorists targeted both security forces and civilians. Civilian deaths attributed to terrorists decreased from 1,375 deaths in 2002 to 258 during the year. In many cases, terrorists randomly targeted civilians in an apparent attempt to create social disorder. In other cases, violent reprisals were reportedly taken against those who failed to pay a “tax” to the terrorists. Terrorists killed numerous civilians, including infants, in massacres and with small bombs (see Section 1.g.). Other tactics included creating false roadblocks outside the cities, often by using stolen police uniforms, weapons, and equipment. Some killings, including massacres, also were attributed to revenge, banditry, and land grabs.

Press reports estimated that approximately 1,162 civilians, terrorists, and security force members died during the year as a result of the ongoing violence, a decrease of 61 percent from the previous year. The violence appears to have occurred primarily in the countryside, as the security forces largely forced the terrorists out of the cities.

On February 25, terrorists killed 12 civilians and injured 7 at a false roadblock set up near Tipaza, west of Algiers. The press reported it as one of the deadliest incidents in the country since the start of the year. On June 5, armed terrorists killed 12 persons and injured 2 near Khemis Miliana, west of Algiers, when the bus they were traveling in stopped at a false roadblock. On May 27, in Ain Soltane, terrorists killed a family of 14, including a 6-month-old baby, as they slept, after mistaking their home for a police officer’s residence.

Other similar incidents took place during the year and from 1991–2002.

*b. Disappearance.*—During the year, there were no substantiated reports of disappearances in which the security forces were implicated. However, local NGOs reported a trend of prolonged detention ranging from 8 to 18 months that was frequently reported as a disappearance until the person in question was returned to his or her family. These “new” disappearances at the hands of security forces often differed in duration and outcome from the disappearances that remain unresolved and that occurred in the country during the first half of the 1990s. These incidents remained contrary to the legal procedures stipulated in the country’s Penal Code and its Constitution.

During the year, Human Rights Watch (HRW) reported two cases of persons who disappeared after being taken into custody by the security forces. HRW reported that Kamel Boudahri remained unaccounted for more than one year after he and his brother Mohamed were arrested in the city of Mostaghanem on November 13, 2002.

HRW also reported that Abdelkader Mezouar’s whereabouts have been a mystery since July 2, 2002, when he was seized by four men in plainclothes who came in an unmarked vehicle to the mechanic’s garage where he lives and works. Authorities have not acknowledged arresting Mezouar. There were no developments in either case at year’s end.

There have been credible reports of thousands of disappearances occurring over a period of several years in the mid-1990s, many of which involved the security forces. A Ministry of Interior office in each district accepts cases from resident families of those reported missing. Credible sources state that the offices provided little useful information to the families of those who disappeared. The government did not use DNA testing to identify victims, take appropriate measures to safeguard the available evidence, or establish a satisfactory system for exhuming remains and notifying families.

On March 31, the National Consultative Commission for the Protection and Promotion of Human Rights (CNCPPDH) recommended the creation of an investigative Committee of Inquiry and a social welfare network for families of the “disappeared.” On September 20, Farouk Ksentini, Director of the CNCPPDH, was named head of the Government’s newly created Ad Hoc Mechanism to deal solely with this issue, and as part of the growing governmental acknowledgement for some responsibility in cases of those who have disappeared. In subsequent public interviews, Ksentini described the Mechanism as an interface between the Government and victims’ families with the authority to request information from governmental bodies in the course of researching claims by family members concerning the disappearance of their relatives, and possibly determine if compensation would be awarded to families.

Some local NGO groups that deal with the issue of the disappeared severely criticized the Mechanism. They were not invited to give any input related to its creation and claimed it could not provide any guarantee of its independence and impartiality, and that it would not determine responsibility for disappearances. HRW welcomed the Mechanism's mandate to verify disappearances and compensate families; however, HRW noted that it fell short of holding perpetrators accountable and bringing them to justice. Ksentini stated that the Mechanism would forward any evidence of responsibility to the judiciary for prosecution.

In 2001, the Minister of Interior told the National Assembly that the Ministry had agreed to investigate 4,880 cases of citizens reported disappeared. The Ministry reported that it provided information to the families in 3,000 cases. In 1,600 of the cases, families requested administrative action to obtain death certificates for their missing relatives. There were no reported prosecutions of security force personnel stemming from these cases. Families of the missing persons, defense attorneys, and local human rights groups insisted that the Government could do more to solve the outstanding cases. The Government asserted that the majority of reported cases of disappearances either were committed by terrorists disguised as security forces or involved former armed Islamist supporters who went underground to avoid terrorist reprisals. In February, Ksentini stated in a radio interview that if security forces had played a role in the disappearances, it was due to "actions of individuals operating outside the scope of their superior's orders," and not any one state institution.

The total number of disappeared in the country continued to be debated. Officially, the Government has estimated that approximately 7,200 persons were missing, or disappeared, as a result of government actions and approximately 10,000 persons as a result of terrorist kidnappings and murders. Local NGOs reported figures of the total number of disappeared closer to 8,000. Amnesty International (AI) stated in its 2003 report that 4,000 men and women disappeared after arrest by members of the security forces or state-armed militias between 1993 and 2000. On January 18, during a national conference on the Disappeared sponsored by local NGOs, human rights attorney Ali Yahia Abdenour placed the combined number of missing from both categories, based on the testimony of family members, at 18,000, which is similar to the official government estimation. On September 20, Ksentini stated on national radio that he believed all the disappeared are dead. Some local human rights NGOs continue to reject this claim.

The Government continued to threaten the President of the Algerian League for Human Rights (LADH) with arrest after his publication of witness-based information on security-force related disappearances. Furthermore, the Government provided no information on whether it would repeal the in-absentia death sentence of human rights activist Sallahdine Sidhoum, imposed after his publication of more than 2,000 names of the Disappeared on the Internet (see Section 4).

Terrorist groups continued to kidnap scores of civilians. In many instances, the victims disappeared, and the families were unable to obtain information about their fate.

During the year, four mass gravesites were found in Sidi-Moussa, Tizi-Ouzou, Boufarik, and Relizane. In the first two cases, the positioning of bodies and method of burial led government observers, as well as the local NGO SOMOUD, to conclude that they were burial sites dug by terrorist groups for deceased members of their respective organizations.

The Boufarik site was discovered in May when water-pipes were being laid in the ground. According to the independent press, the local fire chief responsible for the exhumation, said that the remains of seven people were discovered, but dated back forty years ago.

On November 13, a suspected mass grave site was discovered in Relizane and the personal effects of El Hadj Abed Saidane, who disappeared in 1996, were identified. The family of Saidane accused and formally filed a suit against Mohamed Fergane, the former mayor of the local town and the head of a self-defense militia during Saidane's disappearance. Fergane had previously been accused of being responsible for 212 forced disappearances between 1994-97 by families of the disappeared. The Relizane prosecutor's office agreed to conduct an investigation into this case.

In February, the GSPC kidnapped 38 foreign tourists, releasing them after crossing into Mali 6 months later. The media reported that one of the hostages died from exposure.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*— Both the Constitution and legislation prohibit such practices; however, according to local human rights groups and defense lawyers, police at times resorted to torture when interrogating persons. The Penal Code provides that state agents using torture to obtain confessions may face a prison sentence of up to 3 years. There continued to be reports of police torture and other abuse of detainees during the year. AI

and local NGOs have stated that some persons died in custody from torture or were executed. The U.N. Special Rapporteur for Torture noted that he received information alleging a large number of persons continued to be tortured or ill-treated by security forces. AI stated that it had received “dozens” of reports of torture from former prisoners or those detained by security forces. The International Red Cross noted a decrease in incidents of torture and that the severity of such acts diminished, although it did not have access to military prisons. Local human rights lawyers have also stated that the incidence and severity of torture had diminished due to the overall decrease in terrorism nationwide, but not due to a change in practice within the security forces.

The Government severely criticized the AI report at the U.N., and it denied the veracity of reports of torture brought before the U.N. Commission on Human Rights on the basis that formal complaints had not been filed. The Special Rapporteur reminded the Government that it has a responsibility to investigate all allegations of torture, even without a formal complaint. Many victims of torture hesitate to make public such allegations due to fear of government retaliation and a lack of physical evidence. Human rights attorneys maintain that torture still occurs in military prisons, more frequently on those arrested on “security grounds.” Independent press reports, AI, and local human rights groups report that the preferred method of torture used by security forces includes beatings with fists, batons, belts, iron bars and rifle butts, whipping, cutting with sharp objects, soldering irons or cigarette butts applied to bare skin, attempted strangulation, and electric shock. In April, the independent press reported that the chiffon method of torture was a preferred method because it left no physical traces of assault. In September, AI reported an increased number of reports detailing the usage of the chiffon method.

According to AI, in March a 42-year-old restaurant manager from Bouira was tortured for 10 days at the military security center in the Ben Aknoun quarter of Algiers, and forced to sign a statement, while under duress, in which he “admitted” having links to armed groups. Upon receipt of this document, the examining magistrate remanded him into pre-trial detention. He is still awaiting trial, charged with belonging to a terrorist group and “failing to denounce murderers.”

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

In September, the director of the security forces stated that 2,269 gendarmes and 211 policemen had been dismissed over the last 2 years for abuse of authority, including arbitrary arrests (see Section 1.d.). On July 27, the Chief of the Gendarmerie Brigade of Ouled Rechache in the wilaya of Khenchela slapped a citizen in the face for not leaving enough room for the gendarmerie car to park. Demonstrations ensued next to condemn the abuse of power, and the National Gendarmerie Command subsequently dismissed the abusive officer the following week.

Security forces beat protestors during the year (see Section 2.b.).

Prison conditions were spartan, but generally met international standards. A local human rights activist noted that the condition of prisons throughout the country were a result of overcrowding, more than programmed or state-sponsored neglect. Poor medical standards for prisoners received press coverage in October 2002, 6 months after nationwide prison protests. However, the provision of medical treatment remained limited. The media reported there was 1 doctor for every 300 prisoners. An international NGO noted that the Government continued to improve prison conditions. Prisoners generally were found to be in good health and benefited from adequate food and expanded visitation rights.

On September 30, 40 prisoners in Serkadji Prison in Algiers launched a hunger strike protesting the length of their detention before trial.

On November 22, President Bouteflika issued a presidential pardon to 3,080 prisoners on the occasion of the religious holiday, Eid El-Fitr. Prisoners condemned for terrorism, rape, incest, embezzlement, corruption, or drug trafficking did not benefit from the pardon.

Unlike in previous years, there were no large scale prison riots that resulted in numerous deaths and injuries. In general, the Government does not permit independent monitoring of prisons or detention centers outside of programmed visits by the International Committee of the Red Cross (ICRC). Limited monitoring consisted of pre-selected detainees, chosen by the Government, being granted access to and meeting with various international human rights groups. ICRC estimates it has visited one third of the country’s prison population. The ICRC did not visit FIS leaders or other political leaders in prison or under house arrest.

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

press conference held in September, Ali Tounsi, head of the security forces, announced that 2,269 gendarmes and 211 policemen had been dismissed over the last two years for abuse of authority, to include arbitrary arrests (see Section 1.a.).

Police are not required to obtain warrants to make an arrest in accordance with the 1992 Antiterrorist Law or State of Emergency. The Ministries of Justice and Interior told AI in April that at least 23 gendarmes had been prosecuted and sentenced in military tribunals for "abusive use of firearms." However, the CNCPPDH told the AI delegation that only one gendarme had been sentenced. The Government has not provided an explanation for this discrepancy.

The Constitution provides that incommunicado detention in criminal cases prior to arraignment may not exceed 48 hours, after which the suspect must be charged or released. However, the State of Emergency allows the police to hold suspects in pre-arraignment detention for up to 12 days, although police must inform suspects of the charges against them. In practice the security forces generally adhered to the 48-hour limit in non-terrorist cases.

Prolonged pre-trial detention remained a problem. The law extended the period of pre-trial detention (a status assigned to individuals after the examining magistrate has concluded that the case is sufficiently strong to warrant court proceedings). Individuals accused of crimes punishable by prison sentences of at least 20 years can legally be held in detention while the Government continues its investigation. Additionally, the State of Emergency provides for legal framework under which those accused of "crimes considered terrorist or subversive acts" can be held for 36 months; and those charged of a "transnational crime" can be held in prison for as many as 60 months while they await trial.

Hundreds of state enterprise officials who were arrested on charges of corruption in 1996 remained in detention.

In 2002, Arouch Citizen's Movement members Belaid Abrika, Mouloud Chebheb, Mohamed Nekkah, Mahklouf Lyes, Alik Tahar, and Rachid Allouache were arrested and detained while attempting to follow the court proceedings of Kabylie residents arrested during riots protesting the lack of Government reparations for and resolution to the 2001 Kabylie Black Spring (see Sections 1.e., 1.g., and 3). In October 2002, Abrika was charged with inciting violence and held on a 4 month renewable basis until his trial. In December 2002, he and others began a 42-day hunger strike to protest their detention. In August, six individuals and eight other Citizens' Movement activists were released from pre-trial detention on "provisional liberty" as a part of the Government's sporadic efforts to broker a dialogue with the Arouch Citizen's Movement following the 2001 Kabylie Black Spring (see Section 1.g.). On December 29, the public prosecutor's office ordered the lifting of movement restrictions against those found guilty of rioting during the Black Spring of 2001. Accused individuals no longer need permission to leave the province boundaries nor report in to a local police station on a weekly basis.

In August, 60 Kabylie-based political activists were released from pre-trial detention after serving months in prison on public order charges. Released on provisional liberty, they continued to await a trial date at year's end.

During the year, the Government did not respond to a 2002 formal complaint lodged by RCD members for the 3-day detention of a party member without formal charges.

On July 2, Abassi Madani, President of the banned Islamic Salvation Front (FIS) party, released from prison in 1997, was granted provisional liberty after 6 years of house arrest. The Government issued him a passport in late August and Madani was allowed to travel abroad in early September. A condition of his provisional liberty precludes him from making media statements; he has done so frequently while under house arrest and from abroad with little or no government retaliation.

On July 2, the Government granted jailed oppositionist and FIS vice president Ali Belhadj provisional liberty and released him from prison despite his refusal to sign a statement of understanding agreeing to restrict his freedom of expression, ability to seek public office, and right to vote. Belhadj has made statements to foreign press entities since his release and delivered public sermons. He has been summoned to the Kouba police precinct after each occurrence, and interrogated by security forces and local police.

Police and communal guards frequently detained persons at checkpoints. Unlike in previous years, there were no reports of police arresting close relatives of suspected terrorists in order to force the suspects to surrender. Reports of such occurrences remained difficult to verify. There were no further developments in the 2000 case of 73-year-old El-Hadj M'lik, who remains missing.

Neither the Constitution nor the law provides for forced exile and it was not known to occur. However, numerous cases of self-imposed exile involved former FIS members or persons who maintained that they have been accused falsely of ter-

rorism as punishment for openly criticizing government policies. The UNCHR also noted an increase in human rights defenders seeking international protection from reprisals by security forces or local militia groups accused of committing human rights abuses.

In April, officials in the Ministry of Justice and the President of CNCPPDH gave AI conflicting reports of the number of gendarmes tried for human rights abuses related to the 2001 Kabylie Black Spring. The number of gendarmes reportedly facing charges ranged from 1 to 24. A military tribunal sentenced the gendarme responsible for killing Guermah Massinissa, an event which sparked the 2001 Kabylie riots, to 2 years for involuntary homicide. The Penal Code allows for individuals taken into police custody to serve a maximum period of 12-days in detention before they are granted an audience with an examining magistrate. Detainees must be informed of their right to communicate immediately with family members, receive visitors, and be examined by a doctor of their choice at the end of their detention in the "garde a vue" (equivalent to a pre-trial holding cell). However, there have been frequent reports of these rights not being extended to detainees, and in some cases, local NGOs and human rights attorneys noted that the detention period extended beyond the legal limit, in one instance for 23 days (see Section 1.e.).

Local judges are required to grade the performance of Police Judiciaire (PJ) officers operating in their jurisdiction to ensure that the officers comply with the law in their treatment of suspects. In addition, any suspect held in preventative detention is to undergo a medical examination at the end of the detention, whether the suspect requests it or not.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, executive branch decrees restricted the judiciary's authority. The Minister of Justice appoints judges who serve 10-year terms. The Minister of Justice may, according to the Constitution, remove judges for violations of the law or if they are involved in a situation that jeopardizes the reputation of justice. In 2000, the President massively reorganized the judiciary by reassigning large numbers of judges to different courts. The Government sought international technical assistance with the reform of its judiciary during the year, in many instances funded in full by the Government. The legislature undertook significant legislative reforms to revise the role and power of the judiciary, granting more authority, for instance to prosecutors; a reorganization of the courts to provide more specialized courts like a police, administrative, and commercial court; a top to bottom review of the civil and penal codes; and establishing penitentiary reforms that focus on prisoner rights.

The judiciary is composed of the civil courts, which tried cases involving civilians, and the military courts, which have tried civilians on security and terrorism charges. There is also a Constitutional Council, which reviews the constitutionality of treaties, laws, and regulations. Although the Council is not part of the judiciary, it has the authority to nullify laws found unconstitutional, confirms the results of any type of election, and is the final arbiter of amendments that pass both chambers of the parliament before becoming law. The Council has nine members: three of the members (including the council president) are appointed by the President; two are elected by the upper house of the Parliament; two are elected by the lower house of the Parliament; one is elected by the Supreme Court; and one is elected by the Council of State. Regular criminal courts try those persons accused of security-related offenses. Long-term detentions of suspects awaiting trial again appeared to increase from the previous year (see Section 1.d.).

According to the Constitution, defendants are presumed innocent until proven guilty. They have the right to confront their accusers and may appeal the conviction. Trials are public, and defendants have the right to legal counsel. However, the authorities did not always respect all legal provisions regarding defendants' rights, and continued to deny due process. Accused terrorists were tried in absentia on at least two occasions during the year. Some lawyers did not accept cases of defendants' accused of security-related offenses, due to fear of retribution from the security forces. Defense lawyers for members of the banned FIS suffered harassment, death threats, and arrest. An unknown number of persons who could be considered political prisoners were serving prison sentences because of their sympathies with Islamist groups and membership in the FIS. International human rights groups did not request visits with political prisoners during the year; therefore it was unclear whether the Government would permit such organizations to visit political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for the inviolability of the home; however, authorities frequently infringed on citizens' privacy rights. The State of Emergency authorizes provincial governors to issue exceptional warrants at any time. Security forces also en-

tered residences without warrants in accordance with the 1992 State of Emergency. According to defense attorneys, police who executed searches without a warrant routinely failed to identify themselves as police and abused persons who asked for identification.

Security forces deployed an extensive network of secret informers against both terrorist targets and political opponents. The Government actively monitored the telephone lines of political opponents, journalists, and human rights groups (see Section 4). There were no reports that police arrested close relatives of suspected terrorists to force the suspects to surrender.

Some local human rights activists and NGOs claimed that the Government continued to keep some former prisoners under surveillance and required them to report periodically to police. Armed terrorists entered private homes either to kill or kidnap residents or to steal weapons, valuables, or food (see Section 1.a.). After massacres that took place in their villages, numerous civilians fled their homes. Armed terrorist groups consistently used threats of violence to extort money from businesses and families across the country.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press; however, the Government restricted these rights in practice. The Penal Code imposed high fines and prison terms of up to 24 months for defamation or “insult” of government figures, including the President, members of Parliament, judges, members of the military and “any other authority of public order.” Those convicted face prison sentences that range from 3 to 24 months and fines of \$715 to 7,150 (50,000 to 500,000 dinars). During the year, at least 96 prosecutions occurred under the Penal Code.

The law specifies that freedom of speech must respect “individual dignity, the imperatives of foreign policy, and the national defense.” The State of Emergency decree gives the Government broad authority to restrict these freedoms and to take legal action against what it considers to be threats to the state or public order. These regulations were applied throughout the year, and in some instances appeared to target specific media organizations and their staff. The number of independent press publications prosecuted or fined for reporting on security matters continued to increase from the previous year. The 2002 proposal to have fledgling newspapers screened by the Ministry of the Interior and Ministry of Justice, as opposed to the Ministry of Communication and Culture remained unimplemented. In general journalists exercised self-censorship by not publishing criticism of specific senior military officials, although during the year, the press widely criticized current and retired military officers. In August, the Government overtly used its power to halt newspaper publications and actively attempted to curtail local media criticism of high-ranking government officials, including President Bouteflika.

The country’s independent media consists of nearly 40 publications that support or oppose the Government in varying degrees. Few papers have a circulation that exceeds 15,000, making the degree to which they are both financially and editorially independent questionable. El Moudjahid remains the sole state-owned paper. There were no newspapers owned by political parties, although *Liberte*, *L’Expression*, *L’Authentique*, and *El-Borhane* continued to report from an ideological perspective. Many parties, including legal Islamic political parties, had access to the independent press, in which they expressed their views without government interference. Opposition parties also disseminated information via the Internet and in communiqués.

Algerian radio and television were government owned, with coverage favoring President Bouteflika and the Government’s policies. Opposition candidates were prevented from appearing on television or radio during the last quarter of the year in anticipation of the 2004 presidential elections.

Satellite-dish antennas were widespread, and millions of citizens had access to European and Middle Eastern broadcasting. The Government, on occasion, enforces restrictions on the publication of some books related to Tamazight and Amazigh culture through an increased reliance on bureaucratic hurdles. Government-owned radio continued to broadcast Tamazight language programming and government-owned television broadcasts a nightly news bulletin in this language.

The law permits the Government to levy fines and jail time against the press in a manner that restricts press freedom. However, in practice the existence of such did little to curb independent press reporting. Journalists were repeatedly subject to harassment, intimidation, or violence by police. During the past decade, terrorists and in some instances, security forces, frequently targeted the local media for supporting one side over the other.

In May, satirical political cartoonist for *Liberte*, Ali Dilem, was sentenced to a 6-month suspended jail sentence for defamation. The Ministry of National Defense



sued Dilem, his editor, and the owner of the French independent daily paper *Liberte* on behalf of General Mohammed Lamari, alleging personal insult and defamation. On December 23, Dilem, received a suspended sentence of 4-months and fined \$1,428 (100,000 dinars) for a cartoon criticizing the army published in April 2002. His publishing director and editor, Abrous Outoudert and Hacene Ouandjeli, respectively were both fined \$714 (50,000 dinars).

On December 27, police summoned anti-corruption writer for *Le Soir d'Algeri*, Djilali Hadadj, on charges of defamation.

In December, a regional court released journalist Hassan Bouras, an anti-corruption writer who had been sentenced to 2 years on a prison farm and a 5 year ban from working as a journalist on defamation charges against the *El-Bayadh* prosecutor, whom he reported was involved with corruption scandals.

In 2002, two journalists were brought before the court and censured for reporting on security force tactics used against terrorists in mountainous areas. A television journalist with National Radio and Television (RTN) was refused accreditation without explanation and barred from covering the October 2002 local elections. Despite inquiries on his behalf by RTN and other interested parties, the grounds of the refusal were not made public. There was no update in his case at year's end.

The Government continued to exercise pressure on the independent press through the state-owned advertising company which determined which independent newspapers could benefit from advertisements placed by state-owned companies. Advertising companies tended to provide significant amounts of advertising to publications with a strong anti-Islamist editorial line and to withhold advertising from newspapers on political grounds, even if such newspapers had large readerships or offered inexpensive advertising rates.

Despite a Government printing ban that targeted six papers during the summer, the independent press continued to comment regularly and openly, and expressed a wide range of views on significant issues such as presidential policies, political developments, terrorist violence, and surrenders under the amnesty program. However, some elements of the news media practiced self-censorship.

According to a 1994 inter-ministerial decree, independent newspapers may print security information only from official government bulletins carried by the government-controlled Algerian Press Service (APS). However, independent newspapers openly ignored the directive, and the trend toward increased openness on security force activities continued. The Government provided the press with more information about the security situation than in the past through increased communiqués. During the year, the Army also began to issue more communiqués to the press and occasionally invited journalists to the sites of confrontations with terrorists. The government-controlled press reported on terrorism in an increasingly straightforward and factual manner.

Most independent newspapers, continued to rely on the Government for printing presses and newsprint. On August 18, the government printing press refused to print five newspapers and supply newsprint stock to one other on the grounds of overdue debts. The Government called in the debts of French independent dailies *Le Matin*, *Liberte*, *El Watan*, and *L'Expression* and Arabic independent dailies *Errai* and *El Khabar* after the close of business and at the close of the work-week, announcing that each newspaper had 48 hours to pay delinquent bills. The majority of the targeted papers remained closed for 15 days. All resumed publishing by September 5, except the Arabic-language daily *Errai*.

The Government imposed restrictions on the international media's coverage of issues relating to "national security and terrorism." Over the course of 3 days in July, the Government deported four journalists for their coverage "outside of their hotel rooms" of released political prisoners Ali Belhadj and Abassi Madani. The Government threatened similar action against others who violated the guidelines of the Ministry of Communication communiqué forbidding media coverage of the prisoners' release (see Section 1.d.).

Unlike in previous years, the independent press reported openly about the Government's use of wiretaps, allegations of torture, government corruption, and human rights abuses related to the Kabylie region. There also was significant coverage of NGO activity aimed at publicizing government abuses committed in the past.

The Government continued a 2002 administrative ban, throughout the Ministries of Energy, Interior, Labor, Finance, and Justice, on the distribution of the newspapers *Liberte*, *Le Matin*, *Le Soir*, and *El-Youm*, for being critical of the Government.

The Government's definition of security information often extended beyond purely military matters to encompass broader political affairs. A 1995 ban barring FIS officials from making public statements remained in force at year's end.

The Government did not restrict academic freedom. Many artists, intellectuals, and university educators fled the country after widespread violence began in 1992; however, during the year, some continued to return. A growing number of academic seminars and colloquiums occurred without governmental interference. There were extensive visa issuance delays to international participants and refusal to allow international experts into the country (see Section 4).

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

A 2-year old decree continued to ban demonstrations in Algiers. On March 13, members of the political party, Movement for a Peaceful Society (MSP), attempted a march towards the Presidency building in protest over the Government's lack of support for the Iraqi people. The police used force to break up the march.

However, the Government tolerated numerous marches, protests, and demonstrations during the year in other parts of the country. Gatherings occurred without government interference on the dual anniversary of the 2001 Kabylie Black Spring and 1980 Amazigh Spring and during the war in Iraq. However, in other instances, security forces used force to curtail or suppress public demonstrations, although the severity of force used declined significantly from 2001. The 2002 ban on public demonstrations in the communes on the outskirts of Tizi Ouzou remained in place.

In January, security forces utilized armored personnel carriers to disperse revelers celebrating the Berber New Year on the streets of Tizi Ouzou.

Between March 8 and April 19, security forces, consisting of plains-clothed police officers, local police forces, and gendarmerie, used force to curtail demonstrations protesting war in Iraq. Demonstrators were arrested, journalists had video and recording equipment confiscated, and protesters sustained numerous serious injuries due attributed to police tactics.

No action was taken against security forces who used excessive force to disperse demonstrators in 2002 and 2001.

The Constitution provides for the right of association; however, the Emergency Law and government practice severely restricted it. The Interior Ministry must approve all political parties before they may be established (see Section 3). The Government restricted the registration of certain NGOs, associations, and political parties on "security grounds," but refused to provide evidence or legal grounds for its refusal to authorize other organizations that could not be disqualified under articles pertaining to national security. The Government frequently failed to grant official national recognition to NGOs, associations, and political parties in an expeditious fashion. Some NGOs reported that local registration was more easily attained. Some groups continue to be active without official or legal recognition, but bureaucratic delays hindered their freedom of association and assembly (see Section 3). The Government issued licenses to domestic NGOs. The Interior Ministry regarded those unable to attain government licensure as illegal. Domestic NGOs were prohibited from receiving funding from abroad, although this was subjectively enforced. The Ministry may deny a license to, or dissolve, any group regarded as a threat to the Government's authority, or to the security or public order of the State. After the Government suspended the parliamentary election in 1992, it banned the FIS as a political party, and the social and charitable groups associated with it (see Section 3).

Membership in the FIS remained illegal, although at least one former FIS leader announced publicly in 2002 that he intended to form a cultural youth group. Some unlicensed groups operated openly, including groups dedicated to the cause of persons who have disappeared. Such groups continued to hold regular demonstrations outside government buildings during the year, with minimal government interference.

In mid-July in Oran, supporters and members of the human rights NGO SOS Disparus were forcibly dispersed during a protest seeking government redress of the question of the disappeared. Sixty persons were arrested, and police injured numerous individuals, including many women over the age of 40.

On September 17, police forces in Algiers arrested and physically assaulted Arouch delegate, Belaid Abrika, during the breakup of a public rally before the Court of Algiers held to protest government actions against the independent press (see Sections 2.a. and 2.b.). Abrika was taken into custody and after refusing to state his name, beaten so severely that upon release, doctors at Mustapha Hospital ordered him to undergo 21 days of bed rest. At the same rally, police detained a

noted human rights attorney. Credible sources report that three police officers had to be pulled off of the individual once witnessing officers recognized him.

*c. Freedom of Religion.*—The Constitution prohibits discrimination based on religious belief and the Government generally respected this right in practice; however, there were some restrictions. The Constitution declares Islam to be the state religion and the law limits the practice of other faiths; however, the Government in practice seldom interferes with the religious activities of non-Muslims.

The law prohibits public assembly for purposes of practicing a faith other than Islam. However, Roman Catholic churches, including a cathedral in Algiers (the seat of the Archbishop), conducted services without government interference, as does a Protestant church. There were only a few smaller churches and other places of worship; non-Muslims usually congregated in private homes for religious services.

The study of Islam is a strict requirement in public schools, which are regulated by the Ministry of Education and the Ministry of Religious Affairs. The Government monitored activities in mosques for possible security-related offenses, barred their use as public meeting places outside of regular prayer hours, and convoked imams to the Ministry of Religious Affairs for “disciplinary action” when deemed appropriate. The Ministry of Religious Affairs provided financial support to mosques and has limited control over the training of imams. The Ministry of Religious Affairs frequently appointed selected imams to mosques throughout the country, and by law is allowed to pre-screen religious sermons before they are delivered publicly. In practice, while the Government frequently reviewed sermons, the press reported that mosques supplanted government-appointed imams with those that hold views more closely aligned to the sentiments of each mosque’s adherents.

The Penal Code provides prison sentences and fines for preaching in a mosque by persons who have not been recognized by the Government as imams. Persons (including imams recognized by the Government) were prohibited from speaking out during prayers at the mosque in a manner that was “contrary to the noble nature of the mosque or likely to offend the cohesion of society or serve as an apology for such actions.” The Government sanctioned a number of imams for inflammatory sermons following the May 21 earthquake.

While Islamic law and tradition prohibit conversion to other faiths at any age, the Constitution’s provisions concerning freedom of religion bar any Government sanction against conversion, though conversions from Islam to other religions were rare. Because of safety concerns and potential legal and social problems, Muslim converts practiced their new faith clandestinely. Non-Islamic proselytizing is illegal, and the Government restricted the importation of non-Islamic religious literature for widespread distribution, although not for personal use. Non-Islamic religious texts and music and video selections no longer were difficult to locate for purchase. However, restrictions on the importation of Arabic and Tamazight-language translations of non-Islamic texts were periodically enforced. The government-owned radio station provided broadcast time to a Protestant radio broadcast. The Government prohibits the dissemination of any literature portraying violence as a legitimate precept of Islam.

The country’s 11-year history has pitted self-proclaimed radical Muslims against the general Islamic population. Self-proclaimed “Islamists,” or religious extremists issued public threats against all “infidels” in the country, both foreigners and citizens, and used terrorism to kill both Muslims and non-Muslims, including missionaries. The majority of these individuals did not, as a rule, differentiate between religious and political killings.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of domestic and foreign travel, and freedom to emigrate; however, the Government at times restricted these rights. Abassi Madani, the former head of the banned FIS party, was allowed to travel internationally for the first time since he was placed under house arrest in 1997 (see Section 1.d.). The Government also does not permit young men who are eligible for the draft and who have not yet completed their military service to leave the country if they do not have special authorization; such authorization may be granted to students and to those persons with special family circumstances. The Government prevented certain members of the Arouch Citizen’s Movement from traveling into Tunisia, and its use of “provisional liberty” against recently released Arouch-detainees and the editor of French-language independent daily *Le Matin* significantly curbed these individuals’ rights to travel freely, in circumvention of domestic law. However, movement restrictions placed on the Arouch were lifted as part of a government-Kabylie dialogue to overcome the political tensions in that region (see Section 1.d.).

The Family Code does not permit married females less than 18 years of age to travel abroad without their husband's permission; however, this provision generally was not enforced in practice (see Section 5).

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

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

Armed groups intercepted citizens at roadblocks, often using stolen police uniforms and equipment in various regions to rob them of their cash and vehicles. On occasion, armed groups killed groups of civilian passengers at these roadblocks (see Section 1.a.).

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status and asylum. There were no reports of the forced return of persons to a country where they feared persecution. The country also hosts an estimated 5,000 Palestinian refugees, most of whom no longer require international assistance. During the year, the Government provided temporary protection to approximately 165,000 refugee Sahrawis, former residents of the Western Sahara who left that territory after Morocco took control of it in the 1970s. UNHCR, the World Food Program (WFP), the Algerian Red Crescent, and other organizations assisted Sahrawi refugees. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their Government; however, there are limitations to this right in practice. Although factors such as voter distrust and apathy underscored continuing problems in the area of governance, the situation continued to improve. The application of broad executive powers, supported by the entrenched power of the military and the bureaucracy, inhibited citizens from exercising this right. The Constitution requires presidential elections every 5 years, though this was not necessarily the case in the 1990s due to resignation, assassination, and domestic instability.

President Bouteflika was elected in an April 1999 presidential election that was seriously flawed by the withdrawal 1 day before the election of all other candidates, who charged that the military already had begun to implement plans to produce a fraudulent Bouteflika victory. Until those allegations surfaced, the campaign was conducted fairly, with all candidates widely covered in both state-owned and private media. One potential candidate was denied the ability to run because the electoral commission determined that he could not prove that his participation in the country's war of independence against France, a legal requirement for candidates for President born before July 1942. With the withdrawal of the other candidates and the absence of foreign observers, it was difficult to make an accurate determination of election turnout. Although it apparently was as low as 30 percent, the Government claimed a 60 percent turnout.

A 2002 electoral law allowed the Government to remove candidates from party lists for "security" reasons. Election observers noted that, during the 2002 parliamentary and local elections, those selected for removal were more frequently from Islamic parties. Independent observers further questioned the Government's removal, for "security" reasons, of the names of a sitting judge and a professor assigned to a national military academy from candidates lists.

In May 2002, the country held its second round of multi-party parliamentary elections since 1992. The elections were regarded as free and fair, although not problem-free. Candidates representing 23 political parties participated, along with several independent candidates.

The 2002 elections put the FLN back in control of the National Popular Assembly after an 11-year absence from power. It more than tripled its number of seats in the 389-seat parliament, securing 199 seats in total. Two conservative Islamic parties, El Islah and Movement of the Society for Peace (MSP) share control of 81 seats, the second largest bloc in the governing body. The Kabylie-based RCD and Socialist Forces Front (FFS) boycotted the vote to protest government inaction to address the

problems of the Kabylie Black Spring, and urged loyalists to support their contention that the election was an outright sham.

Voter turnout of 46 percent was the lowest since the country's independence. Problems were reported by credible sources at some polling stations, notably ballot envelopes filled with positive votes for the FLN. The Kabylie region launched a sometimes violently enforced boycott to protest the lack of transparency, increased corruption, and overt discrimination against Amazigh parties and candidates, successfully limiting the vote to 15 percent in some regions and 7 percent in Tizi Ouzou. Residents in the Kabylie region boycotted local elections in October 2002, with many protests leading to violent confrontations with the police, who used excessive force to quell protests.

In December, indirect elections for one-third of the Council of the Nation (upper house) were held. According to the Constitution, the Council is comprised of 144 seats; two-thirds of the members are indirectly elected by members of their regional assemblies—the Popular Communal Assemblies and the Popular State Assemblies. The remaining one-third are appointed by the President. Seats for half of the elected members are voted on every three years to serve six-year terms. In the December elections, the National Democratic Rally (RND) won 17 seats, and the National Liberation Front (FLN) won 22 seats (split evenly amongst Benflis and Bouteflika supporters). The two conservative Islamic parties, MSP and El Islah won four and two seats respectively. One independent member was also elected. This was the first time Islamist Council members have been elected. Members of the regional assemblies in the Kabylie wilayats of Tizi-Ouzou and Bejaia did not participate due to their longstanding boycott of national elections.

Throughout the last quarter of the year, the Army high command and the Army Chief of Staff General Mohamed Lamari, publicly professed the military's neutrality in the electoral process for the April 2004 presidential election. In December, the parliament passed an electoral reform law prohibiting the questionable practice of soldiers voting in the barracks 24 hours in advance of the general election as a step towards a more transparent electoral process.

The Constitution provides the President authority to rule by decree in special circumstances. The President subsequently must submit to the Parliament for approval decrees issued while the Parliament is not in session. The President did not exercise such authority during the year. The Parliament has a popularly elected lower chamber, the National Popular Assembly and an upper chamber, the National Council, two-thirds of whose members are elected by municipal and provincial councils. The President appoints the remaining one-third of the National Council's members. Legislation must have the approval of three-quarters of both the upper and lower chambers' members. Laws must originate in the lower chamber.

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

The more than 30 existing political parties represent a wide spectrum of viewpoints and are engaged in activities that ranged from holding rallies to issuing communiqués. The Government continued to ban the FIS as a political party. The Front Democratique's application for recognition remained pending at year's end. With the exception the formerly governing National Democratic Rally (RND), political parties sometimes encountered difficulties with local officials who hindered their organizational efforts to have access to public venues and to attain permits for assembly.

On December 30, the Algiers Administrative Court invalidated the FLN's 8th Party Congress, held in March, for not respecting FLN party rules. The media and local political class widely criticized the ruling as a clearly inappropriate use of executive influence to create bureaucratic hurdles for the candidacy of Ali Benflis, the FLN Secretary-General and former Prime Minister dismissed by Bouteflika, who wanted to run for the upcoming 2004 presidential election.

The new Cabinet, appointed on October 2, has five women members. The Cabinet underwent three shuffles this year, one following the appointment in May of RND party leader Ahmed Ouyahia's appointment as Prime Minister, a second on September 6. While the RND has a majority in the upper house of the parliament, the lower house, from which the Prime Minister is appointed, is controlled by the FLN. Twenty-four of the 389 members of the lower house of Parliament are women. The upper house had seven female members. This was an increase of 45 percent and

14 percent respectively, from the previous year. During both sets of the elections that occurred this year, women candidates could be found on the top tiers of lists; this remained true for both RND and the Islamic-leaning party of Islah. A woman led the Workers' Party, and all the major political parties except one had women's divisions headed by women.

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

The Tuaregs, a nomadic people of Amazigh origin, played an important role in politics despite their small numbers, particularly in the South and along the border regions where they remained the dominant ethnic group. During the year, President Bouteflika appointed a Tuareg to the Council of the Nation.

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

A number of domestic and international human rights groups operated without government interference, investigating and publishing their findings on human rights cases. However, the Government continued to harass local NGOs. Some NGOs continued to experience visa delays or refusals, but more visas were issued than in the past. The most active independent human rights group was the Algerian League for the Defense of Human Rights (LADDH), an independent organization that had members throughout the country. The LADDH was not permitted access to government officials for human rights and advocacy or research purposes, or to prisons, except as under the normal consultations allowed between a lawyer and a client. The less active LADH was an independent organization based in Constantine. The LADH had members throughout the country who followed individual cases. Human rights groups reported harassment by government authorities in the form of obvious surveillance and monitoring of telephone service, arbitrary detention, questionable and repeated police summonses, and false arrest (see Section 1.f.). Domestic NGOs must be licensed by the Government and are prohibited from receiving funding from abroad, although they may receive in-kind donations. Some unlicensed NGOs operated openly.

On September 13, Mohamed Smain, President of LADH, was summoned to the local police precinct and arrested without charge. The presiding judge dismissed the court case the following day. Smain had been sentenced to 1 year in prison for the defamation of the mayor of Relizane and eight members of its local self-defense force. He alleged in a published report on human rights abuses that his nine accusers had participated in the abduction, torture, killing, and disappearance of dozens of people. Smain was granted "provisional liberty" while the Supreme Court reviewed his case.

In May 2002, unknown assailants beat an RCD human rights attorney outside of the El Aurassi Hotel. RCD officials alleged that "aspects of the Government" were involved in the attack. Monitoring by international NGOs trips has occurred at the invitation of the Government and independently when the Government chose to issue visas. While the majority of groups were allowed to move about freely, many reported obvious surveillance.

During the year, AI was allowed to visit the country from February 15 to March 3, its first visit since 2000. A local AI chapter has been active since 1999, but has been largely inoperable due to government interference. HRW, Freedom House, and the Carnegie Endowment for International Peace have encountered visa difficulties following the issuing of reports perceived to be critical of the Government. HRW made several visa requests throughout the year to no avail, and was forced to send an affiliated Tunisian lawyer, to observe the trial of Salaheddine Sidhoum and meet with local NGO groups. Carnegie was able to visit in March. After several requests, Freedom House was issued visas in October and visited the country in December. The ICRC established a permanent office in Algiers in 2002. It has full access to civilian prisons, pre-trial detention centers, and garde-a-vues. ICRC has not been granted access to the country's military prisons.

The Government did not respond positively to requests for visits from the U.N. Working Group on Enforced or Involuntary Disappearances, the U.N. Special Rapporteur on Torture, and the U.N. Special Rapporteur on Extra-judicial Executions. However, the UN Rapporteur on the Freedom of Religion was allowed to visit the country in September 2002.

In 2001, the Government established the CNCPPDH as the Government's ombudsmen for human rights. The Commission is made up of 45 members, 22 of whom belong to governmental bodies and 23 of whom come from civil society and NGOs.

The nongovernmental members include representatives of Islamic religious organizations, the Red Crescent Society, and women's rights advocacy groups. The President approves nominees, and the Commission's budget and secretariat come from his office. The Commission is mandated to report on human rights issues, coordinates with police and justice officials, advocates domestic and international human rights causes, mediates between the Government and the population, and provides expertise on human rights issues to the Government. In March, the Commission submitted a report to the president recommending a special commission to handle the issue of the disappeared. The report was not made public.

In September, the President announced the creation of a government commission dedicated to the issue of the disappeared and named Farouk Ksentini to head the body that would serve as an "ad hoc mechanism" between the families of the victims of the disappeared and the Government (see Section 1.b.).

Some of the country's most contentious human rights issues, notably the issue of the disappeared, attract a disparate group of NGOs. Ideological divisions within the NGO community create an environment in which the views of some NGOs, particularly on the issue of the disappeared, are often perceived by other groups as serving as apologists for the Government. The government maintains that the majority of the disappeared have joined terrorists groups, left the country for economic reasons, or have been kidnapped and killed by terrorists. Groups arguing that security forces are the responsible actor occasionally view NGOs that support the latter tendency with suspicion (see Section 1.b.).

The CNCPPDH meets periodically with SOS Disparus, ANFD, LADDH, and others to discuss the status of human rights. The Commission reportedly incorporated the NGOs demands into its report on the Disappeared. President Bouteflika rejected their recommendations with the creation of an "ad hoc interface mechanism," rather than an investigative Committee of Inquiry (see Section 1.b.).

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

The Constitution prohibits discrimination based on birth, race, sex, belief, or any other personal or social condition; however, women continued to face legal and social discrimination.

*Women.*—Women's rights advocates assert that spousal abuse was common, but there were no reliable statistics regarding its extent. Spousal abuse was more frequent in rural than urban areas and among less-educated persons. Rape also occurred. There are no specific laws against spousal rape. Rape is illegal, and in principle, a spouse could be charged under the law. However, there are strong societal pressures against a woman seeking legal redress against her spouse for rape, and there were no reports of the law being applied in such cases. Battered women must obtain medical certification of the physical effects of an assault before they lodge a complaint with the police. However, because of societal pressures, women frequently were reluctant to endure this process. There were few facilities offering safe haven for abused women. Two prominent associations for women that have received recognition by the Government and international community are SOS Femme en Detresse and SOS Femme Batus. Women's rights groups experienced difficulty in drawing attention to spousal abuse as an important social problem, largely due to societal attitudes. There were several rape-crisis centers run by women's groups, but they had few resources.

During the year, terrorists sometimes specifically targeted women. There were incidents of women and girls being kidnapped by terrorist groups for the purposes of rape and servitude during the year. One rape crisis center specializes in caring for women who are victims of rape by terrorists (see Sections 1.b., 6.c., and 6.f.).

In 2002, 10 men were sentenced to terms of 5 months to 3 years in prison for raping women in a shantytown area near the oil town of Hassi-Messoud in 2001. Several victims dropped their complaints, because they were threatened by the local townspeople. The law prohibits prostitution; however, for economic reasons, prostitution was reported to be a growing problem.

A cabinet level position dedicated to women and children has existed since 2002. The independent press reported that the Prime Minister stated in August "women's issues were not a priority before the April presidential elections." Some aspects of the law and many traditional social practices discriminated against women. The Family Code, which is based in large part on Shari'a, treats women as minors under the legal guardianship of a husband or male relative. Under the Family Code Muslim women are prevented from marrying non-Muslims, although this regulation was not always enforced. The code does not restrict Muslim men from marrying non-Muslim women. Under both Shari'a and civil law, children born to a Muslim father are Muslim, regardless of the mother's religion. Divorce is difficult for a wife to obtain. Husbands generally obtain the right to the family's home in the case of di-

voiced. Custody of the children normally is awarded to the mother, but she may not enroll them in a particular school or take them out of the country without the father's authorization. Only males are able to confer citizenship on their children.

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

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

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

Social pressure against women pursuing higher education or a career was greater in rural areas than in major urban areas. Women made up more than half of the university student population; however, women constituted only 10 percent of the work force. Nonetheless, women may own businesses, enter into contracts, and pursue careers similar to men's careers. About 25 percent of judges were women, a percentage that has been growing in recent years. At year's end, women headed 26 courts (see Section 1.e.).

There were numerous women's rights groups, although the size of individual groups was small. Their main goals were to foster women's economic welfare and to amend aspects of the Family Code. In March, women's rights groups launched a coordinated campaign to reform the Family Code. At year's end, despite the Government hosting two closed-door conferences to discuss the Code's impact, utility, and cultural significance, no changes were made.

*Children.*—The Government is generally committed to the welfare, rights, health and education of children. The Government provides free education for children through the university system. More than 85 percent of children completed the ninth grade. Boys and girls generally received the same treatment in education, although girls were slightly more likely to drop out for financial reasons in rural areas. The girls were then sent to vocational training schools deemed more practical for their economic situation.

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

Child abuse was a problem. However, a system for reporting actual or suspected child abuse existed nationwide in the country's school systems. Hospitals treat numerous child abuse cases every year, but many cases go unreported. Laws against child abuse have not led to notable numbers of prosecutions. NGOs that specialized in care of children cited an increase in domestic violence aimed at children, which they attributed to the "culture of violence" developed since the civil conflict of the 1990s and the social dislocations caused by the movement of rural families to the cities to escape terrorist violence. Children often were the victims of terrorist attacks.

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

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

#### *Section 6. Worker Rights*

*a. The Right of Association.*—About two-thirds of the labor force belonged to unions. There is an umbrella labor confederation, the General Union of Algerian Workers (UGTA) and its affiliated entities. The UGTA encompasses national unions that are specialized by sector. The law on labor unions requires the Labor Ministry to approve a union application within 30 days and allows for the creation of autonomous unions, others than those affiliated to UGTA. However, attempts from new



unions to form federations or confederations have been obstructed by delaying administrative maneuvers. The Autonomous Unions Confederation (CSA) has attempted since early 1996 to organize the autonomous unions, but without success. The CSA continued to function without official status.

Workers are required to obtain government approval to establish a union, and the Government may invalidate a union's legal status if its objectives are determined to be contrary to the established institutional system, public order, good morals or the laws or regulations in force. There were no legal restrictions on a worker's right to join a union.

Starting on October 14 and lasting through November, the National Council of Secondary and Technical Education Professors (CNAPEST) and the Secondary School Council of Algiers (CLA) went on strike over low wages. Education Minister Boubekeur Benbouzid, backed by Prime Minister Ahmed Ouyahia, refused to meet with representatives of either union because they were not officially recognized. Instead, the Government ordered the suspension of more than 300 teachers and threatened further sanctions. Then, the officially recognized UGTA affiliate National Federation of Education Workers (FNTE) joined the strike which involved primary, middle and secondary school teachers as well as administrative workers. This led to an impasse and subsequent dialogue with the government. Benbouzid spoke with the CLA and agreed to raise wages. Monthly wages were \$214 (15,000 dinars) and increased by \$71 (5,000 dinars). On December 1, the teachers returned to work.

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

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

The law provides that all public demonstrations, protests, and strikes must receive government authorization prior to commencement. During the year, strikes and gatherings occurred throughout the year in various sectors including a 2-day general strike all over the country with no government or security forces retaliations. The 2001 ban on marches in Algiers remained in effect.

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

On February 16, 12 national ports were paralyzed as the result of a strike launched by the port workers' union protesting against the privatization of the ports and the exclusion of the workers from the debate.

On February 25, the UGTA called a general strike, which effectively shut down air and rail transport, banks, and the educational system. Strikers were demanding a raise in the minimum wage, currently equivalent to a monthly salary of \$105 (7,350 dinars) and pushed for changes in the pension and healthcare systems. They also protested continuing unemployment in a society where the official unemployment rate is 30 percent. According to official estimates, 50 percent of those under the age of 30 are unemployed.

The Government established an export-processing zone (EPZ) in Jijel. Workers in the EPZ have the same rights as other workers in the country.

*c. Prohibition of Forced or Bonded Labor.*—Forced or bonded labor is prohibited by the Constitution's provisions on individual rights, and the Penal Code prohibits compulsory labor, including forced or bonded labor by children; while the Government generally enforced the ban effectively, armed terrorist groups reportedly kidnapped young women and girls, and held them captive for weeks at a time, during which group members raped them and forced them into servitude.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years. Inspectors from the Ministry of Labor supposedly enforced the minimum employment age by making periodic or unannounced inspection visits to public sector enterprises. They did not enforce the law effectively in the agricultural or private sectors. UNICEF reported in 2003 that approximately 3 percent of children worked in some capacity. There was no child labor reported in the industrial sector; however, economic necessity compelled many children to resort to informal employment. Many children work part time or full time in small workshops, in family farms, and in informal trade.

*e. Acceptable Conditions of Work.*—The law defines the overall framework for acceptable conditions of work but leaves specific agreements on wages, hours, and conditions of employment to the discretion of employers in consultation with employees. The monthly minimum wage is insufficient to provide a decent standard of living for a worker and family. The minimum wage was approximately \$105 (8,000 dinars) per month. Ministry of Labor inspectors were responsible for ensuring compliance with the minimum wage regulation; however, their enforcement was inconsistent.

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

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

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons and there were reports that such practices occurred. In August 2002, the country signed the U.N. Convention Against Transnational Crime that includes the Protocol on Trafficking in Persons. There were incidents of women and girls being kidnapped by terrorist groups for the purposes of rape and servitude during the year and media reports and credible sources detailed the enslavement of Malian women by Pakistani nationals in the southern city of Tamanrasset. Illegal immigrants from West and Central Africa travel through the country and are transited to destinations in Europe. Some may have been forced into prostitution while awaiting onward travel.

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## BAHRAIN

Bahrain is a monarchy, which in 2002 adopted a constitution that reinstated a legislative body with one elected chamber. The Al-Khalifa extended family has ruled the country since the late 18th century and continues to dominate all facets of society and government. The King, Sheikh Hamad Bin Isa Al-Khalifa, governs the country with the assistance of his uncle, the Prime Minister; his son, the Crown Prince; and an appointed cabinet of ministers. The King chairs the Higher Judicial Council. Members of the Al-Khalifa family hold 9 out of 24 cabinet positions, including all "strategic ministries." The partially elected National Assembly consists of an elected Council of Representatives and an appointed Shura Council. However, the courts have ruled against the Government in the past. The National Action Charter provides that the King is the head of the executive, legislative, and judicial branches of government. The Constitution gives the elected Council of Representatives a role in considering legislation, but most legislative authority still resides with the King and he appoints members of the Shura (Consultative) Council. The courts are subject to government pressure and occasional accusations of corruption, and there have been very few instances of persons trying to bring cases against the Government. The Constitution provides for a nominally independent judiciary; however, the

judiciary was not independent, and courts were subject to government pressure regarding verdicts, sentencing, and appeals.

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

The country had a population of approximately 670,000, an estimated one-third of whom were noncitizens, primarily from Asia. It had a mixed economy, was a regional financial services center, and depended on tourism from Saudi Arabia. The Government estimated Gross Domestic Product (GDP) growth rate at 4.5 percent. Higher average oil prices and increased construction activity fueled by deficit government spending contributed to higher GDP growth during the year. Real wages have been falling for over 10 years.

Although several problems remained, the Government's respect for human rights improved in some areas during the year. Citizens did not have the right to change their government. The Government prohibits political parties, and none exist. Impunity of government officials remained a problem, as did the independence of the judiciary and discrimination against the Shi'a population, women and third country nationals. The press published credible allegations that some judges were corrupt. The Government continued to infringe to some extent on citizens' privacy rights. The Government restricted the freedoms of speech, the press, assembly, and association. Journalists routinely practiced self-censorship. The Government also imposed some limits on freedom of religion and freedom of movement. No government policies or laws explicitly addressed violence against women. Violence against women, and discrimination based on sex, religion, and ethnicity remained a problem. There was reported discrimination in the job market. Abuse of foreign workers occurred, including numerous instances of forced labor and some instances of trafficking.

#### 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.

The Government committee to investigate the death of a demonstrator in 2002 released no findings 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 torture and other cruel, inhuman, or degrading treatment or punishment; however, there were some reports of police abuse of civilians during the year. Shari'a courts have no role in criminal cases and are restricted to family law.

In 2002, police abuse was reported at three demonstrations. In an April 2002 demonstration near a diplomatic mission, a rubber projectile fired by police struck and killed a citizen. There were no developments in this case during the year. Also in April 2002, police beat a human rights activist who came to the aid of another demonstrator. The investigation into this incident concluded that the police were not at fault. In May 2002, the Department of Military Intelligence (DMI) reportedly kidnapped citizen and beat him in retaliation for involvement in another demonstration. At year's end, there was no government investigation into this incident nor was any punishment exacted. (see Section 2.b.).

On September 13, on behalf of three ex-detainees, two attorneys filed a criminal complaint against an ex-senior intelligence official and a retired security intelligence officer, Colonel Adil Jassim Flaifel, accusing them of torturing detainees from 1981 to 1996. Colonel Flaifel denied all wrongdoing. The case continued at year's end. In 2002, lawyers for eight citizens made allegations against Flaifel for routinely engaging in torture and ill treatment of prisoners. According to Amnesty International (AI), the general prosecutor in the Legal Affairs Bureau did not acknowledge receipt of the complaint. He asserted that the general amnesty issued by the King in 2001 applied to government employees as well as regular citizens.

During the year, there were credible reports of prisoner beatings and mistreatment during three Jaw prison strikes. On August 5, a prisoner was allegedly beaten in front of his family. News of the mistreatment sparked a disturbance in Building 4 of Jaw prison involving 282 prisoners, who took over the whole building and staged a 14-day hunger strike. Press reports stated that the prisoners sought better living conditions, medical treatment, monitoring of human rights organizations, and

a halt to beatings by prison guards. The Ministry of Interior negotiated the end of the strike with the promise of the establishment of a joint Ministry of Interior/parliamentary commission to investigate claims.

This strike marked the third strike at Jaw prison during the year. Earlier in the year, two prison strikes occurred on February 29 and March 5. AI reported that prisoner Yasser Makki died while in custody. Authorities reported that death was due to natural causes, caused by blood disease; however, there were allegations that he died in detention as a result of being denied access to medical treatment. Government officials and human rights activists stated that the prisoner mistreatment resulted more from poor police training and lax supervision rather than from a systematic, extrajudicial effort to punish suspects. There continued to be no known instances of officials being punished for human rights abuses committed either during the year or in any previous year.

The prisons generally met international standards. Women prisoners were housed separately from men, and juveniles were housed separately until the age of 15. Women prisoners lived in better hygienic conditions than men, and because most crimes committed by women were nonviolent, security measures for them are lighter. The last visit of the International Committee of the Red Cross (ICRC) to monitor prisons was in 2001, when the last of the country's political prisoners were freed. In May, the Ministry of Interior invoked two provisions of the Criminal Code, allowing model prisoners to qualify for a 25 percent reduction of sentence and to be released on early parole. The Ministry of Interior defined model prisoners as one who shows remorse for breaking the law, displays a positive attitude and does not commit crimes in prison.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. In 2002, DMI officers allegedly detained and beat a citizen. At year's end, there were no reports of government investigations into these incidents (see Section 1.c.). During the year, there were press reports of incidents of police detaining suspects in their cars in the summer heat.

Since the 2001 abolition of the State Security Act, courts have refused police requests to detain suspects longer than 60 hours, and police have complied with court orders to release suspects. Judges may grant bail to a suspect. Attorneys must obtain a court order to visit detainees in jail.

The Ministry of Justice is responsible for public prosecutors, while the Ministry of Interior oversees police and all aspects of prison administration. Access to attorneys was restricted; in the early stages of detention, prisoners and their attorneys must seek a court order to be able to confer with clients. The state provides counsel if the defendant cannot afford to hire an attorney. Prisoners may receive visits from family members, usually once a month. Lengthy pre trial detention was uncommon, and prisoners must see a judge within 3 days of arrest.

In March, there was one major security-related arrest. Five detained individuals received the full protection of the country's Constitution. Charges were never filed against 3 detainees, who were released from custody in June after three months in jail. The other two faced trial on illegal weapons possession charges. Both were convicted and sentenced to jail terms, one in criminal court and one by military court martial.

In October, the 10th International Police Executive Symposium (IPES), offered training to 60 police on improving police-community communication.

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

The Constitution prohibits forced exile, and there were no reports of new cases of forced exile during the year. All remaining political prisoners were freed and all exiles officially allowed to return in 2001. Although in 2002 more than 1,000 individuals still faced problems obtaining proper citizenship documentation, the Government managed to resolve these problems and issued the appropriate documents by the end of 2002. The Government also assisted in the return of some 300 individuals who had been forced into exile in the past decades.

In May, the Royal Court granted 34 citizens living in exile the right to return to the country. There were another 26 cases raised in the press, but the claimants were not born in the country and therefore were unqualified for citizenship.

In the past, the Government revoked the citizenship of persons whom it considered to be security threats. The Constitution prohibits stripping a person of nationality except in cases of treason, and other such cases as prescribed by the law.

*e. Denial of Fair Public Trial.*—The Constitution provides for a nominally independent judiciary; however, the judiciary was not independent, and courts were subject to government pressure regarding verdicts, sentencing, and appeals. In past

cases, the King, the Prime Minister, and other senior government officials lost civil cases brought against them by private citizens; however, the court-ordered judgments were not always implemented expeditiously. Members of the ruling Al-Khalifa family were well represented in the judiciary and generally did not recuse themselves from cases involving the interests of the Government. In September, the Civil Court heard a civil law suit brought against the Government by the family of a citizen, who died in 2002 during a violent demonstration in front of a foreign embassy.

The Constitution provides that the King appoints all judges by Royal Decree. Once appointed, judges are civil servants who may work for the Government until the mandatory age of retirement (age 60). The King also serves as chairman of the Supreme Judicial Council, the body responsible for supervising the work of the courts and the Public Prosecution office. The Constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process. The Constitution also provides for the establishment of a Constitutional Court to rule on the constitutionality of laws and statutes. The King appoints all judges of this special court by Royal Decree. They serve 9-year terms and cannot be removed before their terms expire. The King may present draft laws to this court before their implementation to determine the extent of their agreement with the Constitution, providing rudimentary judicial review. According to the Constitution, the Court's determination is "binding on all state authorities and on everyone."

The civil and criminal legal systems consisted of a complex mix of courts, based on diverse legal sources, including Sunni and Shi'a Shari'a (Islamic law), tribal law, and other civil codes and regulations.

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

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

In February, a female citizen lost custody of her children in a Shari'a court. In April, she staged a hunger strike in front of the Ministry of Justice asking the courts to rehear her case. On appeal, the same judge reviewed her case. A group of women's rights activists, attorneys, and journalists criticized the decisions of Shari'a judges and published their views in the newspaper Akhbar Al Khaleej. Eleven Shari'a court judges brought slander charges against this group. The criminal prosecution of the case was ongoing at year's end.

The Women's Petition Committee is a group of women who have been affected negatively by Shari'a court decisions. They petitioned the King pressing for the intervention of the Supreme Judicial Council in matters of inspection, supervision, and reform of the religious judiciary. There was no response from the Chairman of the Higher Judicial Council by year's end.

Civil or criminal trial procedures provided for an open trial, the right to counsel (with legal aid available when necessary), and the right to appeal. Prior to the annulment of the State Security Act in February 2001, there was credible evidence that persons accused of anti-government crimes who were tried in the criminal courts were denied fair trials. Such trials were held in secret, and the defendants were not permitted to speak with an attorney until their appearance before the judge at the preliminary hearing. The annulment of the State Security Act also abolished the State Security Court, which had tried security cases in secret.

There were no reports of political prisoners.

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

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

*a. Freedom of Speech and Press.*—The Constitution provides for the right to express and publish opinions “under the rules and conditions laid down by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused.” In practice, the Government limited this right, especially in the media.

Local press coverage and commentary on international issues was open, and discussion of local economic and commercial issues also was relatively unrestricted. However, representatives from the Information Ministry actively monitored and blocked local stories on sensitive matters, especially those fostering sectarianism or criticizing the royal family, the Saudi ruling family, and judges. On November 12, the new independent weekly newspaper “Al Ahad” issued its first edition.

The press covered controversial issues such as criticism of government policies, discussion of sectarian issues, unemployment, naturalization, government corruption, and housing more freely than before. However, criticism of the ruling family, and the Saudi ruling family and fostering sectarian divisions remained largely prohibited.

The law provides for freedom of press and speech; however, the law, contains restrictions on these “rights.” The law allows prison sentences for three general categories of offenses: criticizing the State’s official religion, criticizing the King, and inciting actions that undermine state security. In addition, the law allows fines up to \$5,300 (BD 2,000) for 14 other offenses, including publishing statements issued by a foreign state or organization before obtaining the consent of the Minister of Information, any news reports which may adversely affect the value of the national currency, any offense against a head of state maintaining diplomatic relations with the country, or offensive remarks towards an accredited representative of a foreign country because of acts connected with his post. One week after its issuance, the Prime Minister declared the law “frozen,” and ordered that the Cabinet review the law. Although “frozen”, the law continued to be enforced at the Government’s discretion. All newspapers ran articles and editorials criticizing the law.

During the year, an amendment to the 2002 Press Law was drafted and submitted to the Ministry of Information. When the amendment was brought to the National Assembly for ratification, only 14 of the 40 recommendations submitted to the Ministry of Information were included in the amendment. The omitted recommendations involved reducing the Government’s power to intervene administratively to punish journalists, and to transfer punishment for transgression of the law to the judiciary. Journalists requested that the Government remove criminal penalties from the press law. The National Assembly took no action on the amendment.

Three separate court cases against the country’s newspapers were brought by the Government under the “frozen law.” A group of Shari’a court judges brought a criminal case against the Editor-in-Chief of an Arabic daily newspaper for reporting criticism of the Shari’a court lodged by women’s rights activists (see Section 1.e.). 11 Shari’a court judges charged a group of six with libel and slander who now face criminal prosecution and prison sentences. No sentences were issued by year’s end.

The case of one of the defendants, Editor in Chief Anwar Abdulrahman of newspaper “Akhbar Al Khaleej” is being handled separately from the other five. He won a verdict from the High Court of Appeal to suspend his trial and pass the case to the Constitutional Court, challenging the constitutionality of the press, judicial authority, and criminal procedures laws.

During the year, the Editor-in-Chief, Mansour Al Jamry, of the independent newspaper “Al-Wasat,” was interrogated and sentenced to either one month in jail or a \$2,650 (BD 1,000) fine for allegedly publishing sensitive information on an ongoing investigation of a locally-based terrorist cell. His colleague was also fined \$2650 (BD 1,000). His case is on appeal. Al Jamry has appealed his case to the Constitutional Court citing discrepancies in the procedural enactment of the Press, Judicial Authority and Criminal Procedures laws.

On September 24, Editor-in-Chief Radhi Mouhsin Almousawi of “The Democrat” newsletter published by the National Democratic Action Society appeared before the court for an article he wrote about corruption in the tourism sector and allegations against an unnamed tourism inspector. Almousawi has also appealed his case to the Constitutional Court citing discrepancies in the procedural enactment of the Press, Judicial Authority and Criminal Procedures laws.

There were reports that two journalists were suspended for 7 to 10 days in 2002; however, it was not clear if these punishments were handed out under the authority of the new press law. Other journalists were reportedly suspended during the year, and journalists have said that editors refused to publish pieces they wrote that criticized the Government or took positions the editor disapproved.

Individuals expressed critical opinions openly regarding some domestic political and social issues in private settings and occasionally on state-run television call-in shows and increasingly in organized public forums. Some did criticize leading government officials. Public demonstrations increased over foreign policy, unemployment, family status law, housing shortages, and human rights abuses. These were covered in the print media but not on government-owned television.

Under of the 2002 Publication Laws, the Ministry of Information seized in February copies of "Mohammed's Character," a book considered blasphemous for insulting the character of the Prophet Mohammed.

On November 4, the Ministry of Information confiscated a new book, "Bahrain: From an Emirate to a Kingdom," written by Ahmed Manisi and published by the Centre for Political and Strategic Studies in Egypt. The book was originally a master's thesis that criticizes the absence in the 2002 Constitution of balance between the legislative branch and the executive branch.

On October 19, the Ministry of Information confiscated all copies of issue 19 of *Al Mushahid Al Siyasi* magazine. The magazine was published by BBC in London. Issue 19's cover piece reported on the political naturalization issue.

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

The Information Ministry controlled local broadcast media and exercised considerable control over local print media, except *Al-Wasat*, even though newspapers were privately owned. The Government generally afforded foreign journalists access to the country and did not limit their contacts. However, the Government continued to ban correspondents from the Qatar-based *Al-Jazeera* satellite television channel, accusing the station of using sensationalized and one-sided coverage to project unfairly a negative image of the Government.

The Bahrain Journalists' Association, formed in 2000, had a significant majority of government employees from the Information Ministry and was not an independent organization protecting journalists' rights and interests.

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

On October 21, a foreign correspondent advised that the Ministry of Information threatened to expel the correspondent if he did not retract his draft article on political naturalization in the country. The correspondent reportedly withdrew the story. On December 18, another foreign correspondent was threatened with expulsion if he did not reveal his source for his story on a December 17 illegal political demonstration that turned violent when demonstrators attacked police who mobilized to keep the event under control. When he reportedly refused, the correspondent's regional bureau chief intervened with the Information Minister to keep the correspondent in the country.

The National Telephone Company (BATELCO) provided access to the Internet. E-mail use was unimpeded, although it was subject to monitoring (see Section 1.f.). More than one-third of the population used the Internet. There are 140,000 hotmail accounts in the country. Many districts of Manama have cyber cafes and there are 80 chat rooms visited by over 1,000 persons daily. It is estimated that 22 percent of the population owns personal computers.

Although there were no formal regulations limiting academic freedom, in practice academics avoided contentious political issues, and the university did not have a political science program. University hiring and admissions policies favored Sunnis and others who were assumed to support the Government, rather than focusing on professional experience and academic qualifications. However, there continued to be some improvement in the hiring of qualified individuals in a nondiscriminatory manner during the year. A few Shi'a professors, including women, were hired. Larger numbers of Shi'a students were accepted into the national university, but this was still a smaller proportion than in the general population.

In April, a university professor published an academic study on freedom of expression that showed that the Internet allowed the most freedom of expression because it is not generally subject to monitoring and censoring, although some expressed annoyance that some websites had been closed down or banned. Respondents indicated that television and radio stations only express views in agreement with the Government. The "Al-Ayam" article stated that, during the 2002 Council of Representative elections, the news media carried shows and hosted guests without allowing election boycotters to express their views. The study also suggested that respondents believe that local newspapers have improved, but the country did not yet have a truly free

press because newspapers are still reluctant to publish views that do not correspond with the Government's policies.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of free assembly; however, the Government restricted its exercise by requiring permits for public events, which were not routinely granted. The law prohibits unauthorized public gatherings of more than five persons. The Government periodically limited and controlled political gatherings.

Demonstrations occurred throughout the year, not all of which were approved by the Government. Unless violent, the Government generally did not intervene. During the year, there were seven violent incidents of political unrest. Numerous peaceful demonstrations protesting government policies also occurred, many organized by Al Wifaq, the country's largest political society. Since 2001, gatherings at social and political clubs for political discussions have been held regularly and without any obvious obstruction by the Government. The largest gathering was in January when over 10,000 attended Al Wifaq National Islamic Society's first annual conference.

In December 2002, approximately 1,000 youths spontaneously rioted in downtown Manama, attacking cars, hotels, and some pedestrians. These riots did not appear to be politically motivated. The press reported that 41 persons were arrested and damage was estimated at \$250,000 (BD 94,250).

On January 1, the King ordered that all detained rioters be released. Subsequently the courts fined all convicted rioters \$1,325 (BD 500). Some families could not afford to pay the \$1,325 (BD 500) fine so the court reduced the fine to \$530 (BD 200). Some fines were still being negotiated downward.

Beginning in February, regularly scheduled protests were held in front of the Ministry of Labor and Social Affairs and the Civil Services Bureau demanding higher salaries and a reduction of the unemployment rate. Protests were daily for a period of 2 weeks, followed by weekly protests that lasted 2 months. At the August 15 demonstration, police intervened and arrested seven protesters. The Ministry of Labor and Social Affairs issued a statement that ordered the arrests because it believed the protest had other purposes since the Ministry had publicized 4,500 vacancies and only 117 persons applied (see Section 6).

In March, on 4 occasions, as many as 2,500 demonstrators assembled outside a foreign embassy to protest Operation Iraqi Freedom. Protesters reportedly threw rocks at police and detonated seven improvised explosive devices near the chancery building. Two policemen were injured. Police used tear gas to disperse demonstrators and detained some protestors but released them soon after the event. No charges were pressed.

In September, a citizen was arrested for demonstrating peacefully in front of the Bahrain Development Bank building to protest the bank's decision to decline his request for a loan. He was released on \$265 (BD 100) bail and, as of year's end awaited a court date. He claimed that the loan reviewers purposely modified his business plan to make it less feasible.

On September 16, approximately 500 protesters representing the National Committee for the Victims of Torture peacefully walked to the site of the Arab Judicial Forum demanding prosecution of alleged government torturers; repeal of Law 56/2002, which granted amnesty to government employees accused of torture; the country's implementation of the International Convention against Torture; and compensation for torture victims. In May, thousands of citizen victims of alleged torture reportedly petitioned the King to cancel the law. According to Sayed Jaffar al-Alawi, head of the National Committee for Martyrs and Torture Victims, approximately 33,000 citizens signed the petition which included claims by at least 3,500 people that they were tortured while held in jail for political activity in the 1980s and 1990s. The Committee staged two additional demonstrations with more than 2,500 in attendance.

On October 11, scores of divorced women and their children attended the Women's Petition Committee's silent vigil outside Kanoo Mosque in Hamad Town. The women demanded the dissolution of the Supreme Judiciary Council and protested a Shari'a court decision to deny visitation rights to a mother in a divorce case. They accused the judge of having this decision based on the opinion of an academic.

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



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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, there were some limits on this right. The Constitution declares that Islam is the official religion. Every religious group must obtain a permit from the Ministry of Justice and Islamic affairs in order to operate. Depending on circumstances, a religious group may also need approvals from the Ministry of Labor and Social Affairs, the Ministry of Information, and/or the Ministry of Education (if the religious group wants to run a school).

Thirteen Christian congregations, which were registered with the Ministry of Labor and Social Affairs, operated freely and allowed other Christian congregations to use their facilities. There was a synagogue, four Sikh temples, and several official and unofficial Hindu temples, located in Manama and its suburbs. During October 9–10, the Orthodox community celebrated the consecration of the new and expanded St. Mary's Church which was built on land donated by members of other religions who practice their faith privately and did so without interference from the Government.

The Government funds, monitors, and subjects all official religious institutions to some controls. These include Shi'a and Sunni mosques, Shi'a ma'tams (religious community centers), Shi'a and Sunni waqfs (charitable foundations), and the religious courts, which represent both the Ja'afari (Shi'a) and Maliki (one of the four Sunni) schools of Islamic jurisprudence.

Holding a religious meeting without a permit is illegal. There were no reports of religious groups being denied a permit or of Government actions against groups meeting without a permit. In 2002, the press reported that a school emphasizing a Shi'a curriculum was established for the first time in the country.

The Government rarely interferes with what it considers legitimate religious observations. The Political Rights Law promulgated in July 2002 forbids election speeches in worship centers, but political sermons continued (see Section 2.a. and 2.b.). In the past, the Government actively had suppressed activity deemed overtly political in nature, occasionally closing mosques and ma'tams for allowing political demonstrations to take place on or near their premises and detaining religious leaders for delivering political sermons or for allowing such sermons to be delivered in their mosques. There were no reported closures of ma'tams or mosques during the year. The Government also may appropriate or withhold funding in order to reward or punish particular individuals or places of worship; however, there were no reports the Government withheld funding or closed religious facilities during the year.

Sunnis received preference for employment in sensitive government positions and in the managerial ranks of the civil service. Members of the royal family are Sunni. Public religious events, most notably the large annual Ashura marches by Shi'a, were permitted but were monitored closely by police. The Shi'a celebration of Ashura is a 2-day national holiday in the country, and the King ordered the Ministry of Information to provide full media coverage of Ashura events. There were no restrictions on the number of citizens permitted to make pilgrimages to Shi'a shrines and holy sites in Iran, Iraq, and Syria. The Government monitored travel to Iran and scrutinized carefully those who choose to pursue religious study there.

The Government discourages proselytizing by non-Muslims and prohibits anti-Islamic writings; however, bibles and other Christian publications were displayed and sold openly in local bookstores. Religious tracts of all branches of Islam, cassettes of sermons delivered by Muslim preachers from other countries, and publications of other religions readily were available.

One reported instance of societal violence against a minority religion's property occurred in 2002, when 70 graves at the St. Christopher's Church cemetery were desecrated. During the year, the Government paid to have fully restored the graveyard. According to the wishes of the Church, no monument was erected. No reports on the results of the investigations into this incident have been issued.

On December 3, unknown assailants vandalized the Sa'sa'a Mosque. Witnesses reported that four persons broke into the mosque and destroyed the ablution faucets and lights surrounding the mosque. The director of the government agency responsible for managing government-held Shi'a properties did not seek police assistance or an investigation; however, the mosque caretaker has closed the mosque at 4:30 p.m., denying Shi'a parishioners the ability to perform evening prayers.

The defense and internal security forces predominantly were Sunni, Shi'a citizens were allowed to hold posts in these forces; however, Shi'a did not hold positions of significance. In the private sector, Shi'a citizens tended to be employed in lower

paid, less skilled jobs. In private conversations, Shi'a consistently complained of discrimination, especially in receiving public sector jobs and slots at the university. While Shi'a acknowledged that the situation was improving slowly, they still compose a disproportionately high percentage of the country's unemployed.

Educational, social, and municipal services in most Shi'a neighborhoods, particularly in villages, were inferior to those found in Sunni urban communities.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution prohibits restrictions on freedom of movement, except as provided by law and judicial supervision. Banishment and prevention of return are prohibited. In May, the Royal Court granted 34 citizens living in exile the right to return to Bahrain. Bahraini passports were valid for travel to all countries.

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

Citizens were free to move within the country and change their place of residence or work. Although more than 1,000 individuals in the country faced problems obtaining proper citizenship documentation, the Government resolved these problems and issued the appropriate documents by the end of 2002. The Government also assisted in the return of some 300 individuals that had been forced into exile in the past decades. The Government occasionally grants citizenship to Sunni residents, most of whom are from Jordan, Syria, the Arabian Peninsula, and Egypt. This practice was controversial (see Section 1.b.). Opposition groups claimed that the naturalization process was politically driven to manipulate demographics for voting purposes and to avoid addressing the question of discrimination against Shi'a in sensitive government positions where employment is allegedly dominated by non-indigenous groups. The Government complied with a parliamentary committee's request for official naturalization data, but has not made it public. The Government stated that Saudis who recently received citizenship are the grandchildren who emigrated to Saudi Arabia. According to the country's Nationality Law, these persons have a legal right to citizenship.

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

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

Citizens do not have the right to change their Government or their political system; however, the Constitution does provide for a democratically elected Council of Representatives. Elections for the newly established Council of Representatives took place in 2002. The King appoints the Prime Minister, who then proposes Cabinet Ministers that are appointed by the King. Members of the ruling family held all security-related cabinet positions.

In 2002, the country held its first national elections in nearly three decades. The country also elected a Municipal Council, but at year's end its role was still being defined. The largest political society, joined by three other smaller societies, chose not to participate in these elections, citing grievances over the Constitution equalizing the powers of the elected and appointed councils. There were no government candidates. Informed observers reported that the election campaigning and voting was generally free and fair; however, some candidates were not allowed to visually observe ballot counting, and there was an incomplete reporting of election results. Slightly more than half of the eligible voters elected 40 members to the Council of Representatives. The 40 elected members of the Council of Representatives shared legislative powers with the King and with the 40 members of the Shura Council appointed by the King. Collectively, the two chambers are known as the National Assembly. On October 1, the International Parliamentary Union unanimously accepted the country as a member.

Either Council in the National Assembly may propose legislation, but the Cabinet's Office of Legal Affairs must draft the actual text of laws. The King may veto laws passed by the National Assembly, which may override a veto by a two-thirds majority vote. If the legislature overrides a veto, the King must promulgate the law within 1 month. The King may dissolve the Representative Council at his discretion and he retains the power to amend the Constitution and propose, ratify, and pro-

mulgate laws. Either council may question government ministers, and the Representative Council may pass by a two-thirds majority votes of no confidence that require the minister's resignation. The Council of Representatives may also introduce a resolution indicating it cannot cooperate with the Prime Minister. The entire National Assembly would then have to pass the resolution by a two-thirds majority that would require the King to either dismiss the Prime Minister or dissolve the Council of Representatives. In February, the Council of Representatives disapproved a government international bond sale, but eventually reversed its position after the Shura Council approved the sale. In May, the National Assembly reduced the defense budget and increased the Health Ministry's budget.

The Political Rights and Election Law restricts the freedoms of speech and association (see Sections 2.a. and 2.b.). The Government prohibits political parties, and none exist. The Government drew the electoral districts in both the municipal council and the legislative elections to protect Sunni interests by creating several districts with small populations likely to elect a Sunni candidate. In contrast, districts where a Shi'a candidate was likely to win were drawn to include large numbers of voters, a formula that diluted the voting strength of the Shi'a community. International observers commented that this gerrymandering generally violated the one-man one-vote principle common to most democracies.

No women were elected in either the municipal or legislative elections. Six women candidates ran in the 2002 elections for the Council of Representatives. Although no women won seats in the elected chamber, two women forced their competitors into run-offs in which each woman received more than 40 percent of the vote. Turnout for municipal councils elections was approximately 51 percent; just over 52 percent of the voters who turned out for those elections were women. Turnout for the October election was just over 53 percent, according to Government figures; the Government did not publish the number of women voters. Bahrain Transparency Society monitored the elections, in addition to a number of other local NGOs.

The King appointed six women to the Shura Council. There were no women in the Cabinet. A study published by the Bahrain Centre for Human Rights (BCHR) stated that only 37 out of 532 high-level governmental positions were held by women. There was one woman of ministerial rank, three women at the sub-ministerial level, one Ambassador, and 32 women out of 281 at the director level of government.

The majority of women who chose to work in the Government did so in lower positions, and only a few attained senior positions within their respective ministries or agencies.

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

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

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

Restrictions on freedom of association and expression sometimes hindered investigation or public criticism of the Government's human rights policies. There are 380 NGOs registered in Bahrain. By year's end, 58 of the 380 reportedly were new registrants. Some NGOs dealt with concerns of expatriates, charitable activities and women's issues. During the year, Bahrain Human Rights Society (BHRS) published its first human rights report. The report recommends amending the Constitution to widen people's freedom and rights to conform with international standards; to ratify all U.N. human rights conventions and International Labor Organization (ILO) migrant labor conventions; to introduce human rights curricula to all school levels; to compensate and to rehabilitate the victims of torture and to allow them to prosecute their alleged torturers; and to amend the labor law to include household workers.

Members of these groups met with government officials and the Government has responded on some issues, most notably on trafficking in persons and prison conditions (see Sections 5).

The week following a human rights forum on government discrimination, the BCHR received three faxes from the Ministry of Labor and Social Affairs (MOLSA) warning BCHR against holding similar forums in the future or have its NGO license revoked. In December, BCHR alleged that the MOLSA insisted on observing the

election of its new board, which is contrary to NGO regulations. BCHR acceded to MOLSA's request.

Most, if not all, of the members of the Damascus-based Committee for the Defense of Human Rights in Bahrain and the Copenhagen-based Bahrain Human Rights Organization have returned to the country since the 2001 referendum on the National Action Charter. The London-based Bahrain Freedom Movement and the Beirut-based Islamic Front for the Liberation of Bahrain remained active outside the country, but Bahrain Freedom Movement leader Dr. Mansour Al Jamry returned to the country in 2001 and established the independent newspaper *Al-Wasat* in 2002 (see Section 2.a.). Previously, the Bahrain Freedom Movement leader Dr. Majid Al-Alawi returned in 2001 to become Assistant Secretary General for the Bahrain Center for Studies and Research, the country's only think tank. In 2002, Dr. Al-Alawi was named Minister of Labor and Social Affairs.

In recent years, the Government has allowed increasing access to international human rights organizations. During the year, there were no reports of Government harassment of these groups or their members. The U.N. High Commissioner for Human Rights visited the country in 2002. In October, the country hosted a regional human rights training program co-sponsored by the U. N. Commission for Human Rights, the Arab Institute for Human Rights and the BHRS on "Management, Strategic Planning and Fundraising in NGOs."

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

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

On October 16, BCHR held a human rights forum on government discrimination against Shi'a and women. A BCHR study published during the year showed that only 18 percent of government positions were held by Shi'a. The study also highlighted the Al-Khalifa ruling family's dominance of key ministerial positions.

*Women.*—Spousal abuse was common, particularly in poorer communities. In general, there was little public attention to, or discussion of, the problem. Incidents usually were kept within the family. No government policies or laws explicitly addressed violence against women. During the year, a few articles appeared in the local press discussing violence against women and the need for laws to defend women who are abused. There were very few known instances of women seeking legal redress for violence. Anecdotal evidence suggested that the courts were not receptive to such cases. Rape is illegal; however, because marital relations are governed by Shari'a law, spousal rape was not a legal concept within the law.

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

Although prostitution is illegal, some foreign women, including some who worked as hotel and restaurant staff, engaged in prostitution (see Section 6.f.). In September, the National Democratic Action Society alleged that the Ministry of Tourism inspectorate division was corrupt and has allowed a flourishing trade of trafficking in persons and prostitution. The Government refuted the charge, but the author of the article has been charged with defamation of character under the "frozen" press law (see Section 2.a.).

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

Shari'a governs the legal rights of women. Specific rights vary according to Shi'a or Sunni interpretations of Islamic law, as determined by the individual's faith, or by the court in which various contracts, including marriage, are made. Some women complained that Shari'a courts were biased against women, especially in divorce cases. Since 2002, complaints have been filed with the Minister of Justice and Islamic Affairs against several Shari'a judges, arguing that women were often treated unfairly in these courts. They also called for the issuance of a long-promised Personal Status Law that should more clearly define women's rights.

In April, the Women's Petition Committee collected 1,700 signatures on a petition demanding legislative and judicial reform of courts, specifically of the Shari'a Court, and the strengthening of the role of the Supreme Judicial Council in monitoring the Shari'a courts. This was the first petition of its kind submitted to the King (see Section 3). The petition stemmed from alleged unfairness of routine interpretations by Shari'a courts (see Section 1.e.). The petitioners sought a Personal Status Law to clearly define women's rights.

In May, the Ministry of Justice announced that a draft Personal Status Law existed. There was heated public debate over whether this law would affect the jurisdiction of the Shari'a courts. This law was opposed by 200 leading religious scholars who signed a petition warning against discussion of the law in the National Assembly for fear of creating a dangerous precedent. The petitioners argued that only religious scholars have the education to determine personal status under the Shari'a. At year's end, this law or a revision of this law had not been submitted to the National Assembly.

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

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

In December, the Bahrain Women's Society established a hotline to respond to calls about domestic abuse cases. It is the first of its kind in Bahrain to offer assistance to children and adults who are suffering sexual or physical abuse.

The Government has publicly encouraged women to work and was a leading employer of women, who constituted a significant percentage of the government workforce and included university professors, public school teachers, and employees in the public health and social sectors. In 2002, NGOs working on women's issues were very active in encouraging women to vote and to run for office during the municipal council and parliamentary elections. Several of these NGOs were also active on social issues such as health and education, and provision of assistance to women and children, particularly the poor.

Women constituted 23 percent of the workforce. Labor laws do not discriminate against women; however, in practice there was discrimination in the workplace, including inequality of wages and denial of opportunity for advancement. Sexual harassment is prohibited; however, it was a widespread problem for women, especially foreigners working as domestics and other low-level service jobs. The Government encouraged the hiring of women and enacted special laws to promote their entry into the work force. Laws do not recognize the concept of equal pay for equal work, and women frequently were paid less than men.

The number of women holding commercial registrations has increased 41.7 percent since 2001. According to the Ministry of Commerce, commercial registration for women reached 35,802.

The president of the University of Bahrain is a woman. Women compose 70 percent of the students at the country's universities, although some women complained that admissions policies at the University of Bahrain discriminated against qualified female applicants, especially Shi'a women. In June, Canada's McGill University in cooperation with the members of the country's banking and finance community announced plans to open a Royal University for Women for up to 3,000 students.

Large numbers of women's organizations seek to improve the status of women under both civil and Islamic law. However, the influence of religious traditionalists have hampered women's constitutional rights despite their participation in the work force.

On April 7, the Ministry of Interior lifted its ban on wearing headscarves (Hijab) for policewomen. In June, the General Directorate of Traffic trained 20 women to be the first female driving instructors in the country. On July 8, by Royal Decree, the King allowed women to drive while veiled. On November 22, the first group of 10 women successfully completed training to be taxi drivers.

*Children.*—The Government has stated often its commitment to the protection of children's rights and welfare within the social and religious framework of society. It generally honored this commitment through enforcement of civil and criminal laws and an extensive social welfare network. Public education for citizen children below the age of 15 was free. While the Constitution provides for compulsory education at the primary levels (usually up to 12 or 13 years of age), the authorities did not enforce attendance. Limited medical services for infants and preadolescents were provided free of charge.

Tradition and religion shape the social status of children by civil law. Child abuse was rare, as was public discussion of it; the preference of the authorities is to leave such matters within the purview of the family or religious groups. In 2002, a 13-year-old girl who was reportedly abused by members of her family and she then disappeared. According to local media, the case received attention at the highest levels of the Government, but despite the Prime Minister's public charge to the police to find her, she remained missing. The authorities actively enforced the laws against prostitution, including child prostitution, procuring, and pimping. Violators were dealt with harshly and may be imprisoned or, if a noncitizen, deported. In the past, the authorities reportedly returned children arrested for prostitution and other non-political crimes to their families, rather than prosecute them, especially for first offenses. There were no reports of child prostitution during the year.

Independent and quasi-governmental organizations, such as the Bahraini Society for the Protection of Children and the Mother and Child Welfare Society, played an active part in protecting children by providing counseling, legal assistance, advice, and, in some cases, shelter and financial support to distressed children and families. The Child Care Home, funded from both government and private sources, provided shelter for children whose parents were unable to care for them.

There were very few reports of arrests and detentions of juveniles during the year, and those who were arrested reportedly were released soon thereafter. In May, the Bahrain Center for Human Rights held a conference on the rights of children.

On October 18, the National Bank of Bahrain's Home for Disabled Children in conjunction with the Directorate of Social Affairs and Rehabilitation started training 27 children in crafts and skills and then provided them start-up capital to start businesses at home.

On October 23, the Bahrain Friendship Society for the Blind opened the Centre for Handicapped Blind Children in Isa Town. The Center is equipped with basic facilities to help rehabilitate and develop blind children's skills. The Center is able to accept 10 students.

*Persons with Disabilities.*—The law protects the rights of persons with disabilities and a variety of governmental, quasi-governmental, and religious institutions are mandated to support and protect persons with disabilities. A regional Center for the Treatment of the Blind was headquartered in the country, and a similar Center for the Education of Deaf Children was established in 1994. Society tended to view persons with disabilities as special cases in need of protection rather than as fully functioning members of society. Nonetheless, the Government is required by law to provide vocational training for persons with disabilities who wish to work, and maintains a list of certified, trained persons with disabilities. The Directorate of Social Welfare and Rehabilitation announced that 490 students with disabilities will start vocational training at centers for persons with disabilities, an increase of 100 students over last year.

The Labor Law of 1976 also requires that any employer of more than 100 persons must hire at least 2 percent of its employees from the Government's list of workers with disabilities; however, the Government does not monitor compliance. The Ministry of Labor and Social Affairs placed persons with disabilities in public sector jobs, such as the public telephone exchanges. The Government's housing regulations require that access be provided to persons with disabilities. Enforcement is random. Greater emphasis has been given in recent years to public building design that incorporates access for persons with disabilities; however, the law does not mandate access to buildings for persons with disabilities.

*National/Racial/Ethnic Minorities.*—In May, the Royal Court granted 34 citizens living in exile the right to return to the country (see Sections 1.d and 2.d.). In 2001, most bidoon, a group of approximately 9,000 to 15,000 formerly stateless persons, mostly Shi'a of Persian-origin but including some Christians, were granted citizenship. In 2002, the Government granted citizenship to the approximately 1,300 remaining bidoon (see Sections 1.d. and 2.d.). Approximately 1,000 were already were living in the country. The Government paid for the return of some 300 others outside the country in 2002 who were exiled forcibly in the 1980s. Without citizenship, bidoon legally had been prohibited from buying land, starting a business, or obtain-

ing government loans. Bidoon and citizens who speak Farsi rather than Arabic as their first language faced significant social and economic discrimination, including difficulty in finding employment.

*Section 6. Worker Rights*

*a. The Right of Association.*—In 2002, the King promulgated a new law on labor unions that grants workers for the first time the right to form and join unions. The law also grants noncitizens the right to join unions. There were 37 trade unions in the country. In June, the King confirmed the right to form unions at government ministries. Since then, four public unions have been established. This and other legislation also improved the legal status of foreign workers. The establishment of a union for public school teachers was expected by the end of the year.

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

In September, over 150 individuals participated in a labor unions workshop organized by the GFBW. The goal of the workshop was to familiarize participants with the international labor rights of all individuals.

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

During the year, the "union of the unemployed" organized several protests demanding higher salaries and a reduction of the unemployment rate (see Section 1.b.).

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

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

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

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

There were approximately 1,720 licensed taxi drivers in the country. Although they did not form a union and operated as the Public Transportation Drivers Society, the taxi drivers went on strike in August to protest the lack of regulation of nonregistered taxi drivers by the General Directorate of Traffic. The society called off its second strike scheduled for September when the Crown Prince's court intervened and promised to work with the General Director of Traffic to find a solution.

*c. Prohibition of Forced or Bonded Labor.*—Forced or bonded labor is prohibited by law; however, in practice, the labor laws applied for the most part only to citizens, and abuses occurred, particularly in the cases of domestic servants and those working illegally. The law also prohibits forced and compulsory child labor, and the Government enforced this prohibition effectively.

Foreign workers, who make up approximately two-thirds of the workforce, in many cases arrived in the country under the sponsorship of an employer and then switched jobs while continuing to pay a fee to their original sponsor. This practice made it difficult to monitor and control the employment conditions of domestic and other workers. The Government issued new regulations granting foreigners more freedom to change jobs, but the process is legally cumbersome and many foreign workers remain unaware of their rights and obligations under the law. After 1 year in a position, a foreign worker is allowed to break this contract and look for other work. Prospective employees must present the new employer with a release letter from the previous employer. After 2 years in a position, expatriate employees may

change jobs locally without the approval of the original sponsor and within the duration of their contract period, provided the original employer was notified in writing three months in advance. Many foreigners have been unable to obtain release letters to get a new job.

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

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

Some of the most highly publicized cases during the year involved construction workers. In February, fearing deportation, 32 Filipino construction workers, who worked for 11 months or more without proper employment papers and government identity cards, appealed to the Philippine Embassy. On March 19, a warrant for the arrest of the captain for the country's national basketball team was issued after he lost a case brought by eight of his foreign workers for nonpayment of services of 10 months. The court ordered the player to pay the salaries and provide the workers with airline tickets back to India. There have been reports of sponsors using off-duty policemen to pick up foreign employees and deport them as a way to avoid paying indemnity leave or salary.

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

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

It is estimated that there were 40,000 foreign housemaids working in the country who are predominantly of Sri Lankan, Indonesian, Indian, and Filipino origins. During the year there were 19 incidents of seriously abused housemaids reported in the press and another 50 cases that have been reported directly to the Philippine Embassy. In August, the Philippine, Indian, and Bangladeshi embassies proposed a four-point agenda to ensure the protection of housemaids. The agenda included creating a separate labor law for housemaids, formulating a standard contract guiding the hiring of housemaids, setting a standard minimum wage, and abolishing the practice of employers retaining the housemaids' passports. This agenda has not yet been introduced to the National Assembly.

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

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

On March 11, an Indonesian housemaid fell and died from her injuries as she tried to escape from her Arab sponsor's house by lowering herself from the third floor balcony. On April 23, an Indian maid killed herself by setting herself on fire in the kitchen of her employer. On October 1, another Indonesian maid fell and broke her back as she tried to escape from her employer's home. In October, an Indian housemaid had her head bashed through a wall by the employer's wife. She was treated at the Salmaniya Medical Complex for a head wound and multiple bruising.

There were persistent reports that some foreign women working as hotel and restaurant staff were locked in a communal house or apartment when not working and driven to work in a van. Many reportedly traded sexual favors with hotel managers in exchange for time off from work (see Section 6.f.). In September, allegations of corrupt Ministry of Tourism inspectors the press reported. The inspectors' job ensures hotels' compliance with tourism and labor laws. At year's end, an investigation into the problem remained pending.



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

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

*e. Acceptable Conditions of Work.*—The country does not have an official minimum wage; however, the Government issued guidelines in 2002 that the public and private sectors should pay workers no less than \$398 (BD 150) per month, and the Government observed this standard in paying its employees. Compliance with these guidelines was not actively monitored, and few unskilled foreign laborers earned as much as the guidelines suggested. For foreign workers, employers considered benefits such as annual trips home, housing, and education bonuses as part of the salary. However, these guidelines did not provide a decent standard of living for a worker and family.

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

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

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

In March, 50 Asian workers filed complaints at the Ministry of Labor and Social Affairs after falling victim to fraud by a local company. Offices in India arranged for employees to buy their visas for up to \$2,120 (BD 800). After one month, they were told to leave the country or face detention by the General Directorate for Immigration and Passports. Some of these cases have been brought to court.

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

Under the Labor Law, workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

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

The law provides that fines and jail sentences would be imposed upon private sector employers who failed to pay wages required by law. This law applied equally to employers of citizens and foreign workers and was intended to reduce abuses against foreign workers, who at times were denied the required salaries (see Section

6.c.). The law provides equal protection to citizen and foreign workers; however, all foreign workers require sponsorship by citizens or locally based institutions and companies. According to representatives of several embassies with large numbers of workers in the country, the Government was generally responsive to embassy requests to investigate foreign worker complaints regarding unpaid wages and mistreatment. However, foreign workers, particularly those from developing countries, often were unwilling to report abuses for fear of losing residence rights and having to return to their countries of origin.

Legislation introduced in 2002 allowed all workers except domestics to change jobs without obtaining a "No Objection" letter from their employers. However, the process for utilizing these new rules was not well understood among expatriate workers. They were also often unwilling to challenge their employers for fear of being punished or deported. In addition, domestic workers were exempted from this legislation, and many of them remained in essence indentured workers, unable to change employment or leave the country without their sponsors' consent (see Section 6.c.).

Foreign women who worked as domestic workers often were beaten or sexually abused (see Section 5). Between 30 and 40 percent of attempted suicide cases handled by the Government's psychiatric hospitals were foreign maids (see Section 6.c.). Unverified reports suggested that unskilled foreign laborers were also at risk of suicide.

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

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

The Government has begun to take steps to combat trafficking. In 2002, it recognized that trafficking is a problem and created an inter-ministerial "National Task Force" committee to formulate a comprehensive plan to combat trafficking. The committee published pamphlets on expatriate workers' rights in Thai, Singhaiese, Urdu, and Tagalog, provided manuals on these rights to local diplomatic missions and installed a telephone hotline for victims. The 2003 Trafficking-in-Persons report gave the country Tier Two status. Victims of trafficking may seek assistance from their embassies, although the Government did not provide direct assistance to victims.

In January, the Government sought out the cooperation of source countries in combating trafficking.

In February, the Ministry of Information imposed a 3-month ban on live entertainment on 22 hotels found to have broken new rules intended to clean up the industry. The violations included foreigners working in hotels without contracts, not working for the sponsor(s) who obtained their visas, and hotel management allowing prostitution on their premises. To help combat trafficking, the Ministry increased the number of labor inspectors and granted them the authority to inspect foreign labor camps (see Section 6.e.).

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

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## EGYPT

Egypt is a republic with Islam as the state religion. The National Democratic Party (NDP) has governed since its establishment in 1978. The NDP continues to dominate national politics and has maintained an overriding majority in the popu-

larly elected People's Assembly and the partially elected Shura (Consultative) Council. In 1999, President Hosni Mubarak was reelected unopposed to a fourth 6-year term in a national referendum. The President appoints the Cabinet and the country's 26 governors and may dismiss them at his discretion. The Constitution provides for an independent judiciary; however, application of the 1981 Emergency law undermined its independence. The Government continued to use the Emergency law to try non-security cases in the Emergency and Military courts.

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

The country is transforming from a government-controlled economy to a free market system; however, state-owned enterprises still dominated some key sectors of the economy. The country had a population of approximately 68 million. Approximately 30 percent of the population worked in the almost entirely privately owned agriculture sector, including an estimated 3 to 5 percent of subsistence farmers. Income from tourism, remittances from approximately 2 million citizens working abroad, petroleum exports, and Suez Canal revenues were the other principal sources of foreign currency and were vulnerable to external shocks. Approximately 17 percent of the population live in poverty, but the poor performance of the economy over the past 3 years likely has increased that figure.

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

During the year, the Government prosecuted 13 police officers for abuse and torture of prisoners. The Government abolished State Security Courts but continued to use of State Security Emergency Courts. The Government enacted a law to abolish the hard labor penalty, and passed legislation establishing a National Council for Human Rights. The Government generally permitted human rights groups to operate openly.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, during the year, human rights organizations and the press reported that at least 8 persons died in custody at police stations or prisons.

In April, the Egyptian Organization for Human Rights (EOHR) released a report called "Torture Should be Stopped." It documented five cases of alleged death due to torture which occurred in police stations and detention centers in 2002. The report also included 31 cases of torture, 9 of which the report states "are expected to end in death."

On September 12, Mohammad Abdel-Sattar Musri, an electronics engineer, reportedly died of torture while in custody at the headquarters of El Fayoum SSIS. He was detained 3 days after the detention of his younger brother, Ahmed, who was accused of disseminating anti-war propaganda.

On September 22, the Human Rights Association for the Assistance of Prisoners (HRAAP) called for an investigation into the case of Mohamed Abdel Setar, who

died on September 19, reportedly while in the custody of the local State Security office. The Association alleged that he was tortured to death.

On September 30, the Association for Human Rights and Legal Aid released a report detailing two cases involving deaths in custody allegedly due to torture. According to the report, 31-year-old Mohammed al-Sayyed was arrested on September 7. When his father picked up his body on September 14, he was covered with bruises, his skull was fractured, and his nails had been pulled out. The report also covered the separate death of detainee Ahmad Mohammed Omar, who died from alleged mistreatment.

According to local human rights monitors, on October 4, police officers in the Sayyeda Zeinab district of Cairo arrested Mahmoud Gabr Mohammed while he was sitting in a cafe, for unknown reasons. He was taken to Sayyeda Zeinab police station where he died on October 7. Family members and health officers who examined the body prior to burial reported numerous injuries and bruises. There were no reports of an investigation into the case at year's end.

On November 4, Saad Sayyed Mohammed Kotb, an accountant at the engineer's syndicate, died in custody at the Giza State Security station. He was arrested on November 1 for his alleged association with the banned Muslim Brotherhood. An investigation has reportedly been ordered, but no information on its progress was available by year's end.

The investigation into the 2002 deaths of five prisoners at Ghurbaniyat Prison remained pending at year's end.

*b. Disappearance.*—There were some reports of disappearance during the year. During the year, the EOHR reported the February 9 disappearance of Adel Mohammed Kamiha, a coffee shop owner, who reportedly disappeared following his transfer from police custody to the custody of State Security in Alexandria. His whereabouts remained unknown at year's end. On August 11, Reda Helal, a journalist, disappeared. The police initiated an investigation into his disappearance; however, Helal's whereabouts continued to be unknown at year's end. Despite some speculation to the contrary, there was no evidence to suggest government involvement in his disappearance.

At year's end, at least 50 other cases of disappearance from previous years documented by human rights organizations remained unsolved. Human rights organizations provided names to the U.N. Working Group on Enforced and Involuntary Disappearances; the Government reportedly has denied any involvement in the cases.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the infliction of "physical or moral harm" upon persons who have been arrested or detained; however, torture and abuse of detainees by police, security personnel, and prison guards remained common and persistent. The November, 2002 session of the U.N. Committee Against Torture noted a systematic pattern of torture by the security forces.

Police torture resulted in deaths during the year (see Section 1.a.).

Under the Penal Code, torture or giving orders to torture are felonies punishable by 3 to 10 years' imprisonment. In June, the Government abolished hard labor as a punishment; however, prior to June, some hard labor sentences were imposed.

If the victim dies under torture, the crime is one of intentional murder punishable by a life sentence. Arrest without due cause, threatening death, or using physical torture is punishable by imprisonment. Abuse of power to inflict cruelty against persons is punishable by imprisonment and fines. Victims may also bring a criminal or civil action for compensation against the responsible government agency. There is no statute of limitations in such cases. For example, on January 13, an Administrative Court in Alexandria ruled that the Ministry of Interior should pay \$25,975 (120,000 LE) in compensation to citizen Ramadan Mohammed, who was detained illegally for 9 days and tortured in 1996.

Despite these legal safeguards, there were numerous, credible reports that security forces tortured and mistreated detainees. Human rights groups believed that the SSIS, police, and other Government entities continued to employ torture. Torture was used to extract information, coerce the victims to end their oppositionist activities, and to deter others from similar activities. Reports of torture and mistreatment at police stations remained frequent. While the Government investigated torture complaints in criminal cases and punished some offending officers, the punishments generally have not conformed to the seriousness of the offense.

Principal methods of torture reportedly employed by the police and the SSIS included victims being: stripped and blindfolded; suspended from a ceiling or door-frame with feet just touching the floor; beaten with fists, whips, metal rods, or other objects; subjected to electrical shocks; and doused with cold water. Victims frequently reported being subjected to threats and forced to sign blank papers for use

against the victim or the victim's family in the future should the victim complain of abuse. Some victims, including male and female detainees and children reported that they were sexually assaulted or threatened with rape themselves or family members. The Emergency Law authorizes incommunicado detention for prolonged periods. Detentions under this law were frequently accompanied by allegations of torture (see Section 1.d.). While the law requires security authorities to keep written records of detentions, human rights groups reported that the lack of such records often effectively blocked investigation of complaints.

In April, Amnesty International (AI) reported that seven students, journalists, and activists were subjected to torture and beatings at the Cairo headquarters of the SSIS. Activist Manal Khaled and lawyer Aiad Abdel Hamid al-Uleimi were reportedly beaten severely with sticks and belts and Khaled also was threatened with rape upon arrest. In March, AI also reported that at least five detainees were tortured with electro shock at the Lazoghili SSIS Headquarters.

On September 18, the Hisham Mubarak Law Center issued a report documenting the mistreatment in detention of anti-Iraq war activist Ramez Jihad Abdel Aziz, who was arrested on April 12. Abdel Aziz was allegedly suspended from above the floor, beaten, kicked, and subjected to electric shocks. The report named State Security Officer Walid El Dessouqi as a principal supervisor of the torture. The report added that Dessouqi repeatedly threatened reprisals against Abdel Aziz and his family if a complaint was filed against him. The Government maintained that its own investigation found that the allegations were unsubstantiated.

On October 11, according to media accounts and human rights monitors, police in Helwan stormed a house searching for two persons suspected in a homicide. Although the suspects were not present, police took into custody between 11 and 15 members of their family, including four women. The detained family members allege they were beaten, whipped, suspended, stripped, and molested as police attempted to extract information about the whereabouts of the two suspects. The case reportedly has been referred for investigation; however, no information on its progress was available by year's end.

In April, the EOHR reported 40 documented cases of torture with 9 deaths in 2002 in police stations and other detention centers.

The Government continued efforts during the year to hold security personnel accountable for torturing prisoners in their custody. Human rights organizations and the press reported that 13 police officers in 5 cases were held publicly accountable. Some of the cases involved incidents that took place in previous years. Some but not all of the cases prosecuted involved the deaths of prisoners.

On May 12, a criminal court in Minya sentenced a prison official and four subordinates to 10-year prison sentences for the torture and death of Ahmed Mohamed El Radi Dardir. The court also sentenced two other prison officials, including the prison doctor, to dismissal and 1 year's imprisonment for forging documents related to the case. On May 19, a court of appeal upheld the December 2002 conviction of police officer Arafa Hamza. Arafa Hamza was sentenced to one year in prison for the death from torture of 21-year-old student Ahmed Mahmoud.

On June 5, Luxor Police Major Magdy Awad and an assistant were referred for prosecution for the May 14 torture of Nagdy Mohamed Gad El Rub, who was accused of theft. He reportedly suffered severe burns as a result of torture. His brother and sister were also briefly detained, allegedly to compel a confession. At year's end, the case had not yet been referred to trial.

The Human Rights Center for the Assistance of Prisoners (HRCAP), in an October 2002, report entitled "The Truth," commended judicial efforts to try security officers for torture, but outlined current obstacles, including a vague legal definition of torture, and the inability of victims to sue perpetrators directly.

On August 14, a 3-month sentence was given and then suspended for two officers, Hossam Hassan Abul Ma'alli and Yasser Hussein Yousri, charged with the March 2002 torture and death of Mehat Fahmi Ibrahim at Al Gomrok police station.

On September 15, the public prosecutor referred to trial 12 police officers on charges of forging official documents, torture to extract a confession, and the illegal detention in 1996 of Mohammed Badr Eddine Gomaa. In 1996, Gomaa went to Alexandria police to report the disappearance of his daughter. Months later, after the discovery of the mutilated body of a child, police arrested Gomaa and allegedly extracted from Gomaa through torture a confession. His missing daughter subsequently reappeared alive. Rather than release Gomaa, police charged him with the murder of the discovered unidentified child. The charges against Gomaa were dropped in October 1998. The police who had allegedly illegally detained and tortured Gomaa were not charged until September.

There were no developments in the 2002 case of Mohamed Mahmoud Osman who allegedly died as a result of sustained torture while at Old Cairo Police Station.

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

In prominent criminal cases, defendants alleged that police tortured them during questioning. In 2002, attorneys for 52 allegedly homosexual men, arrested in 2001 and charged with debauchery and "insulting a heavenly religion," claimed that their clients were abused physically during the initial days of their detention, and that several had confessed under torture. Defendants in other cases involving homosexuality also claimed that they were tortured to extract confessions to the charge of "debauchery" (see Sections 1.e. and 2.c.).

Arrests of homosexuals occurred during the year (see Section 5).

In January 2002, police arrested Zaki Saad Zaki Abd al-Malak, a 23-year resident of Ismailia was arrested in an Internet sting operation. HRW reports that police beat him daily during 2 weeks of detention in Agouza Police Station. Malak was sentenced to 3 years imprisonment, followed by 3 years police supervision. According to reports, he is being held in Borg al-Arab prison near Alexandria. A further appeal is pending.

In February, Human Rights Watch (HRW) issued a report on police abuse of children. According to the report, children were routinely detained in adult police facilities and reportedly beaten with batons, whips, rubber hoses, and belts. They were also reportedly subjected to sexual abuse and violence by adult detainees (see Section 5). The Government asserted that the study "drew broad conclusions from a limited base," and that abuses were "individual" transgressions dealt with firmly by Egyptian law."

The Government's investigation of the alleged torture of suspects detained in connection with a 1998 double murder in the town of al-Kush, Sohag Governorate, again appeared to have made no progress by year's end (see Section 2.c.).

In August, Egyptian Association Against Torture (EAAT) was denied registration as an association under the new NGO Law (see Section 4).

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

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

Actions cited by the Government at the hearing include: the 2001 abolition of flogging in prisons; unannounced inspections of places of detention; court decisions that disregarded confessions obtained under duress; increased human rights training for police officials; and the establishment of several human rights committees and departments within government ministries.

The Government did not permit a visit to the country by the U.N. Special Rapporteur on Torture during the year; however, while the Government declined requests for such a visit in the past, it asserted during the year that it "welcomes, in principle," such a visit.

Prison conditions remained poor and tuberculosis was widespread. Prisoners suffered from overcrowding of cells, the lack of proper hygiene, food, clean water, proper ventilation, and recreational activities, and medical care. Some prisons continued to be closed to the public.

In June, a group of inmates at Qanatir Foreigner's Prison went on a hunger strike following the death of a 52-year-old Kuwaiti inmate. Prisoners attributed the Kuwaiti's death and the deaths of two others earlier in the year to poor conditions including inadequate ventilation and medical care. Conditions at Qanatir were generally believed to be better than at other prisons.

There were no reports of an investigation of Qanatir prison conditions during the year.

On July 16, the Government released three members of the Muslim Brotherhood before the expiration of their 5-year prison terms.

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

On May 20, HRAAP criticized the decision of the Assistant Minister of Interior for Prisons banning visitation at two prisons, Istiqbal Tora and Liman Abu Za'bal. Damanhour and Fayyoun prisons reportedly also were closed. The ban was lifted on July 1, although certain prisoners were reportedly still denied visitation rights.

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

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

Lawyers were permitted to visit prisoners in their capacity as legal counsel; however, in practice, they often faced considerable bureaucratic obstacles that prevented them from meeting with their clients.

In December 2002, the Ministry of Interior issued a decree instructing each police station in the Governorate of Cairo to allocate a room specifically for the interrogation and detention of persons without a previous criminal record.

The International Committee of the Red Cross (ICRC) and other domestic and international human rights monitors did not have access to prisons or to other places of detention.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, during the year, security forces conducted large-scale arrests and detained hundreds of individuals without charge. Police also at times arbitrarily arrested and detained persons. The Emergency Law provides that police may obtain an arrest warrant from the Ministry of Interior upon showing that an individual poses a danger to security and public order. This procedure nullified the constitutional requirement of showing that an individual likely has committed a specific crime to obtain a warrant from a judge or prosecutor.

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

Apart from the use of torture, career police officers are generally professional and well trained, although they have limited resources and manpower. There was corruption in the police force below senior levels, but it was not thought to be systemic or widespread. There is an internal affairs mechanism for investigating corruption which is actively employed. Judicial recourse is also employed. Human rights monitors believe the use of torture by police is widespread. Although some police were prosecuted, human rights monitors believed most incidents of torture went unpunished.

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

In January, HRW reported that 11 alleged members of the Egyptian People's Committee for Solidarity with the Palestinian Uprising were arrested shortly after anti-war demonstrations on January 18 in the al-Sayyida Zeinab district of Cairo. In February, all were reportedly released.

On February 8, SSI raided the home of Ibrahim al-Sahary, a journalist writing *Al-Anam Al-Youm* newspaper, and the *New War for Hegemony and Oil* and Sabri Al-Sammak, a film producer and anti-war activist. According to human rights groups, the arresting officers showed no warrant or identification, or an administrative detention order. Al-Sahary was taken to SSI headquarters in Cairo and later transferred to Mazra'at Tora prison where he was reportedly being held in solitary

confinement under administrative detention. Al-Sammak was also being held at Mazra'at Tora prison. In February, both were reportedly released.

On March 20, during an anti-war protest, security forces abused protestors around Cairo's Tahirir Square. The Government claimed that some of the demonstrators were violent. Approximately 800 persons were arrested, some apparently arbitrarily. In November, HRW released a report, "Security Forces Abuse of Anti-War Demonstrators," documenting excessive use of force by security forces to disperse demonstrators protesting in March. Of the approximately 800 persons arrested, almost all were released within 24 hours, except 61 who were held for investigation and charged with destruction of property, promoting disorder and other offenses.

On August 12, National Security Intelligence arrested 12 members of the banned Muslim Brotherhood group from the students and teachers college at Fayoum University. The 12 were reportedly detained in connection with the September student union elections at the University.

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

Hundreds, perhaps thousands, of persons have been detained administratively in recent years under the Emergency Law on suspicion of terrorist or political activity. Several thousand others have been convicted and serving sentences on similar charges (see Section 1.e.). The Human Rights Association for the Assistance of Prisoners estimated that the total figure of persons held in administrative detention was approximately 15,000.

On September 3, the Minister of Interior issued a decree ordering the release of 1,000 political detainees affiliated with the terrorist Islamic Group (IG) after they reportedly renounced violence. Most prominent among those released was former Islamic Group leader Karim Zohdy. HRAAP called the move "an effective and positive step," but called for the Ministry of Interior to release all political prisoners, especially those suffering from health problems, and urged that prisoners be moved to prisons in their home governorates to facilitate family visitation.

In March 2002, HRAAP (then known as HRCAP) began issuing lists of sick prisoners that it alleged were detained illegally. At year's end, the group counted 505 such persons. The lists provided information on the date of arrest (all from the 1990s), the number of court orders for release, present places of detention, and ailments. The reports did not include information on the reasons for detention (political or criminal). HRCAP forwarded the lists to the President, urging the release of the detainees. The Government had not responded to the report at year's end.

On April 12, Ashraf Ibrahim was arrested on charges of defaming the state and with membership in an extremist group plotting the overthrow of the state. On December 6, his trial, and that of four (absent) codefendants, began 6 before the Higher Emergency State Security Court (see Section 1.e.). Human rights activists argued that Ibrahim was prosecuted for peaceful political activities. These groups condemned Ibrahim's trial in an emergency court, in which the defendant's rights are restricted.

In August, 37 men suspected of belonging to a banned Islamist group Al-Gama'a al-Islamiya, which took part in a violent campaign to overthrow the government in the 1990s, were arrested. The men remained in detention at year's end.

There were no further developments in the 2002 investigation of allegations that Tawfiq Wail was tortured while in detention.

During the year, security forces arrested approximately 65 persons allegedly associated with the Muslim Brotherhood, which has been an illegal organization since 1954. Charges leveled against members typically included: belonging to and attempting to revive the activities of a banned organization; obstructing the laws and constitution of the country; inciting the masses against the Government; organizing demonstrations critical of the government's policies and attempting to infiltrate student bodies to spread the ideology of a banned organization.

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

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, under the Emergency Law, cases involving terrorism and national security may be tried in military, or State Security Emergency Courts, in which the accused does



not receive all the normal constitutional protections of the civilian judicial system. The authorities ignored judicial orders in some cases. The Government has used the Emergency Law, which was established to combat terrorism and grave threats to national security, to try cases with no obvious security angle.

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

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

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

A lawyer is appointed at the state's expense if the defendant does not have counsel. Appointed lawyers are drawn from a roster that is chosen by the Bar Association. Any denial of this right is a ground for appeal of the ruling. However, detainees in certain high security prisons continued to allege that they were denied access to counsel or that such access was delayed until trial, thus denying counsel the time to prepare an adequate defense. A woman's testimony is equal to that of a man's in court. There is no legal prohibition against a woman serving as a judge; however, none did (see Section 5).

In 1992, following a rise in extremist violence, the Government began trying cases of defendants accused of terrorism and membership in terrorist groups before military tribunals. In 1993, the Supreme Constitutional Court ruled that the President may invoke the Emergency Law to refer any crime to a military court. The 1993 ruling in effect removed hundreds of civilian defendants from the normal process of trial by a civilian judge. The Government defended the use of military courts as necessary to try terrorism cases, maintaining that trials in the civilian courts were protracted and that civilian judges and their families were vulnerable to terrorist threats. One case involving civilian defendants was referred to a military court during the year. On January 23, the Government referred 43 suspected members of the outlawed terrorist organization the Islamic Group to a military court on charges of planning to conduct terrorist operations against foreign interests.

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

The State Security Emergency Courts shared jurisdiction with military courts over crimes affecting national security. The President appointed judges to these courts from the civilian judiciary upon the recommendation of the Minister of Justice or, if he chose to appoint military judges, the Minister of Defense. Sentences were subject to confirmation by the President. There was no right of appeal. The President may alter or annul a decision of a State Security Emergency Court, including a decision to release a defendant.

During the year, State Security Emergency Courts handed down verdicts in four cases. One new case was referred to trial in an emergency court. On January 30, an English language teacher was sentenced to 1-year imprisonment after allegedly sending a threatening e-mail to a foreign Ambassador. On February 28, Nabil Ahmad Rizq was sentenced to 5 years after being convicted of playing a role in the 1981 assassination of President Sadat. On March 17, Ahmad Abdel Hafiz Soliman

was sentenced to 10 years imprisonment for setting fire to video stores and a cinema in 1985. On July 28, a State Security Emergency Court announced that its verdict in the case of 26 persons alleged to be members of the outlawed Islamic Liberation Party, would be released on December 25. However, on December 25, judges announced that the verdict would be delayed until March of next year. Several of the defendants, including five Britons, alleged they had been tortured to compel them to sign confessions. On December 6, the State Security Emergency Court began hearing the trial of Ashraf Ibrahim and four co-defendants. The co-defendants were listed as fugitives and remained at large. The trial was ongoing at year's end (see Section 1.d.).

In March, a court sentenced Sherif El-Filali to 15 years' hard labor on espionage charges. On March 5, a court convicted eight persons from the city of Matariya of "insulting a heavenly religion." Sentences ranged from 3 years in prison to a 1-year suspended sentence (see Section 2.c.). In April, courts sentenced to 10 years at hard labor Mohammed El-Sayid Soliman, an alleged member of the banned terrorist Islamic Jihad group, as well as an alleged associate of Al-Qai'da leader Ayman Al-Zawahiri. In June, a court sentenced Magdi Anwar Tawfiq to 10 years of hard labor for spying for Israel.

In June, the Government enacted a law abolishing hard labor.

In a July retrial, Mahmoud Abdel Ghani, an alleged member of the IG, was sentenced to life in prison for having joined the military wing of the group in Assiut and subsequently killing a police officer. At his first trial, Abdel Ghani had been sentenced to 5 years, but a military governor, on behalf of the President, refused to ratify the ruling and ordered a retrial. There were no further judgments concerning terrorism issued by emergency courts after July.

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

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

The Government did not permit access by international humanitarian organizations to political prisoners (see Section 1.c.). In 2002, an AI delegation was permitted to visit the country, but authorities denied the group's request to visit detainees. There were no prison visits during the year.

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

In February, the Parliament approved a new telecommunications law which allows telephone and Internet wiretaps only by court order. However, some alleged that the Government routinely violated this law.

Although the law does not explicitly criminalize homosexual acts, police have targeted homosexuals using Internet-based "sting" operations leading to arrests on charges of "debauchery." Local activists estimated there have been at least 40 such entrapments since 2001, with 15 new instances during the year (see Sections 1.c, 1.e., and 2.a.).

The Ministry of Interior has the authority to stop specific issues of foreign-published newspapers from entering the country on the grounds of protecting public order. It exercised this authority sporadically during the year (see Section 2.a.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government partially restricted these rights in practice. The Government used the Emergency Law to infringe on citizens' civil liberties. Citizens openly expressed their views on a wide range of political and social issues, including vigorous criticism of government officials and policies, but generally avoid-

ed certain topics, such as direct criticism of the President. Journalists and writers practiced self-censorship.

Ending a long-standing legal case that had broad implications for freedom of expression and human rights advocacy, the Court of Cassation on March 18 acquitted Saad Eddin Ibrahim and his codefendants on charges of defaming the state and illegally accepting foreign funds.

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

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

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

On July 30, the Press Syndicate held its board elections which were generally considered to be credible and transparent. Nasserist Galal Aref was elected president of the board. Twelve other members were elected including four Muslim Brothers, three Nasserists/leftists, and five journalists considered supporters of the Government.

On June 11, the Higher Council for the Press at the Shura Council approved the registration of eight new newspapers. On July 8, the same body approved the registration of an additional 20 newspapers and magazines. On December 30, the Higher Council for the Press approved the registration of 10 new newspapers.

These actions brought the total number of licensed periodicals in the country to 518, including 64 national papers, 40 opposition party papers, seven private newspapers, 252 "specialized" publications, 142 scientific journals, and 67 local publications.

On July 4, the Ministry of Interior acting without court order banned distribution of the second issue of the Al Saada newspaper, which was associated with the Takaful Party. State Security officials summoned paper chairman and party secretary-general Essam Abdel Razzak, and told him that the Government objected to the paper's editorial policy.

In September, the Government issued a ban on the London-based Arabic newspaper Al-Quds al-Araby following its publication of an article perceived to be critical of the Egyptian presidency. On November 23, the Arab Program for Human Rights Activists issued a statement condemning a decision by the council of Ministers to extend the ban to year's end.

Because of the difficulties in obtaining a license, several publishers of newspapers and magazines aimed at a domestic audience obtained foreign licenses. The Department of Censorship in the Ministry of Information has the authority to censor or halt their distribution.

The Supreme Constitutional Court still had not reached a decision on a 1999 legal challenge to the constitutionality of the Information Ministry's censorship of offshore publications. The Supreme Constitutional Court began hearing the case in 2000 and held another hearing in January, but still had not issued a decision by year's end.

The Penal Code, Press Law, and Publications Law govern press issues. The Penal Code stipulates fines or imprisonment for criticism of the President, members of the Government, and foreign heads of state. The Supreme Constitutional Court agreed in 1998 to review the constitutionality of those articles of the Penal Code that specify imprisonment as a penalty for journalists convicted of libel, but had not begun hearing the case by year's end. The Press and Publication Laws ostensibly provide protection against malicious and unsubstantiated reporting. In recent years, opposition party newspapers have published within limits articles critical of the President and foreign heads of state without being charged or harassed. However, the Government continued to charge journalists with libel. An editor-in-chief found to be negligent could be considered criminally responsible for libel contained in any portion of the newspaper.

During the year, the courts tried a number of prominent cases of slander, filed both by government officials and private citizens. For example, on March 1, a court

of misdemeanors dismissed a libel suit brought by businessman Naguib Sawaris in 2002 against Adel Hamoud and Essam Fahmy, the editor and publisher of the tabloid *Sawt al-Umma*.

On March 4, the misdemeanor court of appeals overturned a lower court ruling fining the tabloid, *Sawt el-Umma*, \$1,670 (10,000 LE) in another civil case brought by Sawaris.

On June 1, the Court of Cassation upheld a lower court decision to imprison Mustafa and Mahmoud Bakry, the editor and deputy editor of the tabloid *al-Osboa*, in a libel suit brought by Mohamed Abdel Aal, head of the Social Justice Party and editor of *al-Watan al-Arabi* newspaper. On June 24, the Bakry brothers filed a motion to dismiss the case against them, noting Abdel Aal's May 25 indictment by another court on charges of bribery and extortion. The motion resulted in the Bakry's interim release.

On June 24 and 25, a civil court dismissed two libel cases against *Al-Osboa* journalist Ateya Hussein, each seeking \$164,000 (1,000,000 LE) in damages.

On July 6, the office of the Public Prosecutor began reviewing a libel case brought by Deputy Prime Minister and Minister of Agriculture Youssef Wally against Ahmed Ezz Eddine, a journalist from the tabloid *Al-Osboa*. Wally accused Ezz Eddine of wrongly accusing him of perjury and corruption. On October 5, the Public Prosecutor referred the case to Cairo criminal court for trial.

On July 20, a criminal court dismissed a libel case brought by an academic official against journalist Mustafa Soliman of the tabloid *Al-Osboa*.

On July 24, a State Security Emergency Court sentenced Talaat Hashem, editor of *Misr al-Fatah* newspaper, to 1-year imprisonment for publishing a newspaper without a license. *Misr al-Fatah's* license was frozen in the mid-1990s, but the paper continued to publish for some time.

On December 1, Mustafa Bakry, Chief Editor of the tabloid *al-Osboa*, filed a lawsuit with the office of the Public Prosecutor accusing activist Saad Eddin Ibrahim of working for a foreign government in exchange for financial support. One week later, Ibrahim filed a libel suit against Bakry. The investigation was ongoing at year's end.

Under the law, the Public Prosecutor may issue a temporary ban on the publication of news pertaining to cases involving national security in order to protect the confidentiality of the cases. The length of the ban is based on the length of time required for the prosecution to prepare its case.

On December 30, the Public Prosecutor issued a press ban on an ongoing corruption investigation involving the director of the National Heart Institute.

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

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

The law authorizes various ministries to ban or confiscate books and other works of art upon obtaining a court order. There were no court-ordered book confiscations during the year. However, during the Cairo International book Fair in January, the censorship department banned entry of copies of "Zorba the Greek," by Nikos Kazantzakis, and "The Unbearable Lightness of Being" and "Life is in Another Place" by Milan Kundera, both printed in Arabic by a Lebanese publisher. Other titles denied entry into the country were "The Yearning Flying Creatures" by Edward Kharrat, "Satan's Paradise" by Nawal el-Saadawi, and "Life is Better than Heaven" a memoir by a repentant former member of the IG.

On June 23, the North Cairo Court overturned a decision by the Public Prosecutors office to arrest author Mohamed Abdel Salam El 'Amry and confiscate his book "Beauties: A Novel of Knowledge." The court ordered the release of the book and the writer.

On July 13, the South Cairo Court ordered the confiscation of the book series "The Jurisprudence of the Sunna" by the late Sheikh Mohammed Sayyed Sabek. The series was reprinted by a publishing house without the permission of the heirs.

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

The Ministry of Interior regularly confiscated leaflets and other works by Islamists and other critics of the State. Members of the illegal Muslim Brotherhood also were arrested in connection with publications (see Sections 1.d. and 3). In many

cases, the press reported that police confiscated written materials such as leaflets during the arrests.

The Ministry of Interior sporadically prevented specific issues of foreign-published newspapers from entering the country on the grounds of protecting public order (see Section 1.f.). The Ministry of Defense may ban works about sensitive security issues. The Council of Ministers may order the banning of works that it deems offensive to public morals, detrimental to religion, or likely to cause a breach of the peace.

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

Plays and films must pass Ministry of Culture censorship tests as scripts and as final productions.

The Ministry of Culture censored foreign films to be shown in theaters, but was more lenient regarding the same films in videocassette format. Government censors ensured that foreign films made in the country portrayed the country in a favorable light. On June 9, the Censorship Authority banned the film "The Matrix Reloaded" for public viewing. The authority justified the ban by saying that it dealt with creation and existence, issues considered religiously sensitive. The authority also cited the film's "excessive violence."

On November 5, the authority banned from viewing in the country the film "Bruce Almighty" "because it incarnates the Almighty by an actor."

On December 5, the censorship authority announced it would censor four Egyptian-made films featuring child actors because they "exploit youngsters for commercial against and contradict educational values." Censored scenes involved drugs, improper language, or violence.

Government and private industry experts estimated that approximately 2 million persons in the country were Internet users. The Government did not restrict Internet use and did not monitor citizens' Internet use on a broad scale, although law enforcement officials resulted in some prosecutions for crimes such as "incitement to commit debauchery" (see Section 1.f.).

During the year, other cases of arrest related to the Internet also have included homosexuals in police "sting" operations (see Sections 1.f. and 5).

The Government did not restrict directly academic freedom at universities; however, deans were government-appointed rather than elected by the faculty. The Government justified the measure as a means to combat Islamist influence on campus. Unlike in the past, the Government did not ban books for use on campuses during the year.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association; however, the Government significantly restricted freedom of assembly. Citizens must obtain approval from the Ministry of Interior before holding public meetings, rallies, and protest marches. Many demonstrations were not approved; however, the Government tightly controlled public demonstrations that did occur to prevent them from spreading into the streets or other areas. The Interior Ministry selectively obstructed some meetings scheduled to be held on private property and university campuses (see Section 4).

During the year, the Government permitted two major antiwar demonstrations (one tacitly organized by the Muslim Brotherhood and the other organized by the ruling National Democratic Party in tightly controlled settings) to take place. On a number of occasions, worshippers at the Al-Azhar mosque in Central Cairo held mainly impromptu demonstrations at the conclusion of Friday prayers. These were tolerated but carefully watched by the Government.

Many smaller antiwar demonstrations were held with and without permission. In both cases, the Government deployed large numbers of security personnel to contain the demonstrations. In a number of unauthorized demonstrations, police detained suspected organizers, some of whom alleged mistreatment while in detention (see Sections 1.c. and 1.d.). On March 20–21, at the launch of the military campaign in Iraq, thousands of demonstrators convened in Tahrir and Abdel Moneim Riad Squares in Central Cairo. Many of the demonstrators were violent and clashed with police. Dozens were injured and detained, including four opposition members of parliament, although almost all were released by mid-April.

The Constitution provides for freedom of association; however, the Government significantly restricted it in practice. The 2002 Law 84 grants to the Minister of In-

surance and Social Affairs the authority to dissolve by decree NGOs, a power previously reserved to the courts. The law also requires NGOs to obtain permission from the Government before accepting foreign funds. According to government officials, funds from foreign government donors with established development programs in the country were excluded from this requirement.

During the year, a number of organizations active in human rights advocacy and civil society development were allowed to register with the Ministry of Social Affairs and thus became officially recognized. However, several other groups were denied registration. In at least two cases, obscure "security objections" were cited in their rejection letters. These groups were challenging these decisions at year's end. In September, one of the groups denied, the "New Woman Center for Research" won a court judgment ordering the Ministry of Social Affairs to allow it to register as an NGO. However, the judgment had not been implemented at year's end (see Section 4).

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

*c. Freedom of Religion.*—The Constitution provides for freedom of belief and the practice of religious rites; however, the Government places restrictions on these rights. The Constitution provides that Islam is the official state religion and the primary source of legislation. Religious practices that conflict with Islamic law (Shari'a) are prohibited. However, the practice of Christianity or Judaism does not conflict with Shari'a and significant members of the non-Muslim minority worship without harassment and maintain links with coreligionists in other countries.

Most citizens are Sunni Muslims. There is a small number of Shi'a Muslims. Approximately 8 to 10 percent of the population are Christian, the majority of whom belong to the Coptic Orthodox Church. There are other small Christian denominations, a small Baha'i community, and a Jewish community that numbers approximately 200 persons.

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

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

There were no restrictions in practice on the conversion of non-Muslims to Islam; however, in cases involving conversion from Islam to Christianity, authorities have charged several converts with violating laws prohibiting the falsification of documents. In such instances, converts have altered their identification cards and other official documents themselves to reflect their new religious affiliation because of fear of government harassment if they officially register the change from Islam to Christianity. The law prescribes steps to register the conversion of non-Muslims to Islam but does not recognize the conversion of Muslims to other religions. Converts to Islam are not permitted to revert to their original religion. The minor children of converts to Islam, and in some cases adult children, may automatically become classified as Muslims in the eyes of the state regardless of the status of the other spouse. This is in accordance with established Shari'a rules, which dictates "no jurisdiction of a non-Muslim over a Muslim."

Converts from Islam to Christianity continued to report societal discrimination. In some cases they reported being subjected to harassment from the Government included regular questioning and restriction of travel abroad. Converts from Islam to Christianity cannot amend civil records to reflect their new religious status.

For example, on December 29, 2002, Malak Fahmi, a Christian, and his wife Sarah, a Christian convert from Islam, were arrested while attempting to leave the country with their two children. The couple was charged with falsification of documents. Sarah, who changed her name and religious affiliation on her marriage cer-

tificate only, reportedly stated that she did so without her husband's assistance. At year's end, the couple remained in prison.

In December, State Security forces arrested and detained without charge eight Shi'a Muslims; according to an Egyptian NGO they were questioned intensely about their religious beliefs. Three remained in detention at year's end (see Sections 2.c. and 5).

In June 2002, SSIS detained convert Hisham Samir Abdel-Lateef Ibrahim in Alexandria. He was held for 52 days at SSIS facilities in Alexandria and Cairo before being transferred to Torah Farms Prison, where he was interrogated at least three times (see Section 1.d.). Ibrahim is believed to have been charged with forging identity documents and "contempt of religion;" however, at year's end, his case had not been referred to court. In a letter smuggled out of the prison, Ibrahim claimed that other converts to Christianity were detained in the same prison. He admitted to having procured a falsified identity document that showed his new religious affiliation. Ibrahim's case came to the attention of Coptic activists during the summer, when they retained legal counsel for him and began to sue for his release (see Section 1.d.).

Local and international Christian activists reported in October that 20 persons were arrested in October, for allegedly bribing local officials to alter their civil records to identify them as Christians. Some of those arrested were reportedly converts from Islam, and others were reportedly Christians who had converted to Islam and wished to revert to their original status. Of the 20 reportedly arrested, two remained in custody at year's end, in addition to three Government officials accused of accepting bribes for the alterations.

Repairs to all places of worship are subject to a 1976 civil construction code which governs church repairs. The decree was significant symbolically because it made churches and mosques equal under the law. Christians reported that local permits still were subject to approval by security authorities. According to the Official Gazette, the Government issued 11 permits for church-related construction.

The approval process for church construction suffered from delays and was considered to be insufficiently responsive to the Christian community, although the President reportedly approved all requests for permits that were presented to him. The incidence of blocked or delayed orders varied, often depending on the church's relationship with local security officials and the level of support of the local governor.

In July 2002, following a complaint by Muslim villagers, Sohag security authorities closed a building used as a church since 1975 in Nag'a al Kiman on the grounds that it had no permit. They briefly arrested some of the congregation. Church officials maintained that most churches in the area had no permit and the security authorities were aware of that fact. There was no resolution of the problem by year's end and the church remained closed.

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

The Government occasionally prosecuted members of religious groups whose practices deviated from mainstream Islamic beliefs and whose activities were believed to jeopardize communal harmony (see Sections 1.d. and 1.e.).

In December, State Security Court forces arrested and detained without charge eight Egyptian Shi'a. A leading Egyptian civil rights group reported they were questioned intensely about their religious beliefs. Three remained in detention at year's end (see Sections 1.e. and 5).

During the year, several writers also were charged with expressing unorthodox religious beliefs and practices (see Section 2.a.).

The Islamic Research Center of Al-Azhar University has authority to recommend to the Government the censorship of a book on religious grounds (see Section 2.a.). In December, the Islamic Research Center recommended banning the 2000 book "Discourse and Interpretations" by Nasr Abou Zeid. IRC member Dr. Mohammed Emara was quoted as claiming the book contradicted Islamic tenets. The Government had not acted on the recommendation at year's end.

On May 7, a Supreme Administrative Court postponed a review of an appeal filed by the Ministry of Culture, urging that the tomb of a Jewish spiritual leader, Abu Hasera, be declared a protected archaeological site. The appeal contested a 2001 ruling by a lower court rejecting the Ministry of Culture's designation of the site and canceling an annual festival held there by Jewish pilgrims. The court had not ruled on the case as of year's end.

The Constitution provides for equal public rights and duties without discrimination based on religion or creed; however, discrimination against minority religions, including Christians and Baha'is, existed. There were no Christians serving as governors, police commissioners, city mayors, university presidents, or deans. There were few Christians in the upper ranks of the security services and armed forces.

Discrimination against Christians also continued in public sector employment, in staff appointments to public universities, in failure (with the exception of one case in 2002) to admit Christians into public university training programs for Arabic language teachers that involved study of the Koran, and payment of Muslim imams through public funds (Christian clergy are paid with private church funds).

There were no new reports of violent assaults by the IG or other suspected terrorists against the approximately 6 million Coptic Christians. Several riots and conflicts with injuries and property damage occurred during the year some Christians alleged that the Government was lax in protecting Christian lives and property. In a number of cases, in particular regarding murder, it was difficult to determine whether religion was a factor.

On February 28, the retrial of 95 defendants tried in connection with the 2000 violence which left 21 Christians and 1 Muslim dead in the village of Al-Kush, ended with the acquittal of 93 and the conviction of two. Of those, one Muslim defendant was found guilty of killing the sole Muslim victim mistaken for a Christian. He was sentenced to 15 years in prison. Another Muslim defendant was judged an accomplice in the same killing and sentenced to 3 years. Charges against a third deceased defendant were dropped (see Section 1.a.). The outcome of the trial was criticized because it failed to find anyone accountable for the deaths of the 21 Christians. On March 13, Public Prosecutor Maher Abdel Wahed appealed the verdict, citing misapplication of the law and inadequate justification of the verdict.

In mid-August, at the historic St. Anthony's Monastery at a remote desert location in the Red Sea Governorate, dozens of monks confronted at least 100 government security personnel who had been deployed to the site and were reportedly under orders to demolish a fence constructed by the monks enclosing land which belonged to the State. The existence of a permit to build the fence was disputed, and the Church was in negotiations to buy the land in question. At the end of August, the Church and government security personnel reached a compromise which satisfied both parties.

There were reports of forced conversions of Coptic girls to Islam. Reports of such cases were disputed and often included inflammatory allegations and categorical denials of kidnapping and rape. Observers, including human rights groups, found it extremely difficult to determine whether compulsion was used, as most cases involved a Coptic girl who converted to Islam when she married a Muslim. According to the Government, in such cases the girl must meet with her family, with her priest, and with the head of her church before she is allowed to convert. However, there were credible reports of government harassment of Christian families that attempted to regain custody of their daughters. The law states that a marriage of a girl under the age of 16 is prohibited. Between the ages of 16 and 21 is illegal without the approval and presence of her guardian. The authorities also sometimes failed to uphold the law in cases of marriage between underage Christian girls and Muslim boys.

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

In April 2002, a court ruled in the case of Iman 'Atiya Soliman, born a Christian in 1982, who "disappeared," or was "kidnapped," (according to her family) in 1999, reportedly converted to Islam in 1999, and married in 2000. The girl's father sued for custody and abolition of the marriage, alleging that authorities had issued her a falsified identity card, which showed her to be 22 at the time of her marriage. The court ruled that the father lost custody of his daughter when she converted to Islam.

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

In 2002, Dream TV aired a historical drama series titled "Horseman without a Horse." The series contained numerous anti-Semitic depictions of Jewish characters and drew significant international protests."

A 1960 ban on Baha'i institutions and community activities remained in place at year's end. All Baha'i community properties, including Baha'i centers, libraries, and cemeteries, that were confiscated in 1960 remained closed. "Baha'i" is not permitted as a religious identity, which is a required category on official documents.



According to media reports, al-Azhar's Islamic Research Center reiterated fatwas issued in previous decades condemning Baha'is as apostates.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

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

The Constitution includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government limited the ease with which the refugee population could integrate locally. The Government generally did not issue work permits to refugees. The Government admitted refugees on the understanding that their presence in the country was temporary. Because the country lacked national legislation or a legal framework governing the granting of asylum, the Office of the U.N. High Commissioner for Refugees (UNHCR) assumed full responsibility for the determination of refugee status on behalf of the Government. The Government generally cooperated with the UNHCR and treated refugees in accordance with minimum standards and agreed arrangements. The UNHCR provided recognized refugees with a refugee identification card that was considered a residence permit and bore the stamp of the national authorities. Refugees generally may not obtain citizenship. During the year, approximately 9,000 recognized refugees, the majority of whom were Sudanese, resided in the country. In addition, 70,000 Palestinian refugees registered with government authorities. There were also approximately 16,000 asylum seekers awaiting status determination. Although there was no pattern of abuse of refugees, during random security sweeps the Government temporarily detained some refugees who were not carrying proper identification. Following intervention by the UNHCR, the refugees were released.

There were occasional reports that human rights activists were briefly detained for questioning at international ports of entry. On June 14, Mohamed Zarei, director of the Human Rights Association for the Assistance of Prisoners, was detained for 1 hour at the Cairo International Airport and questioned about his activities and Egyptian colleagues during their attendance of a human rights conference in Beirut (see Section 4).

On July 20, the EOHR issued a statement criticizing security officials at Cairo International Airport for questioning human rights activist Yasser Hassan while departing to and returning from a U.N. sponsored conference in Morocco.

During the year, there was also at least one report that converts from Islam to Christianity were prevented from boarding an international flight, a practice that also reportedly occurred in 2002 (see Section 2.c.).

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

In 1999, President Hosni Mubarak was elected unopposed to a fourth 6-year term in a national referendum. According to official results, he received 94 percent of the vote. Mubarak had been previously nominated by the People's Assembly. Under the Constitution, the electorate is not presented with a choice among competing presidential candidates.

Despite the overall improvement in the electoral process, there still were problems affecting the fairness of the 2000 parliamentary elections, particularly in the period leading up to elections and outside some polling stations on election day. During the months preceding the elections, the Government arrested thousands of members of the Muslim Brotherhood on charges of belonging to an illegal organization. Most ob-

servers believed that the Government was seeking to undermine the Muslim Brotherhood's participation in the People's Assembly and professional syndicate elections through intimidation. In addition, previous convictions on such charges legally precluded many potential candidates from running.

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

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

There were 17 recognized opposition parties.

The Political Parties Committee may withdraw recognition from existing political parties. The Labor Party, which lost recognition in 2000 remained suspended at year's end (see Section 2.a.).

On April 12, an administrative court upheld a decision of the Political Parties Committee rejecting the proposed Mubarak Renaissance Party. Seven appeals of Committee rejections were pending before the courts at year's end.

In January, the Political Parties Committee rejected the Egypt youth party's request. In November, the Committee rejected the establishment of the el-Ghad el-Masri (Egypt's Tomorrow) party. Both parties were contesting the decision in the courts, but there was no outcome at year's end.

Three requests to establish new parties remain before the Political Parties Committee: the Social Constitutional Party, the "Mother Egypt" Party and a second request by Muslim Brotherhood figure Abul Ella Madi to establish the Wasat Party. The Wasat Party's first rejection was in 1998.

In July, the Higher Administrative Court postponed a decision on the disbanding of two political parties. The Social Labor Party was granted three months to contest its rejection before the Supreme Constitutional Court. Consideration of the order disbanding the Social Justice Party, whose head was sentenced in May to 10 years imprisonment for bribery and extortion, was postponed to the October 11 session.

The law prohibits political parties based on religion, and the Muslim Brotherhood remained an illegal organization; however, Muslim Brotherhood members were known as such publicly and openly spoke their views, although they did not explicitly identify themselves as members of the organization. They remained subject to government pressure (see Section 1.d.). Seventeen candidates affiliated with the Muslim Brotherhood were elected to the People's Assembly as independents in 2000. One of the 17 was unseated on January 8, when Gamal Heshmat, lost in a snap by-election result. There were reports of heavy-handed police interference on polling day in favor of his opponent.

There were 11 women in the in the 454-seat People's Assembly. Two women served among the 32 ministers in the Cabinet. There were no women on the Supreme Court. In February, the Government appointed a female jurist to serve on the Supreme Constitutional Court. She became the first female citizen to serve on the bench.

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

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

Some domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials were selectively cooperative and responsive to their views. Some human rights activists were briefly detained for questioning at international ports of entry (see Section 2.d.).

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

In June, years after it first applied, the EOHR was officially registered. Another established and credible human rights group, the HRAAP, also was granted registration. At least three human rights groups were denied registration for obscure "security reasons." The status of some others was pending at year's end. In September, one of the groups denied, the "New Woman Center for Research," won a court judgment ordering the Ministry of Social Affairs to allow it to register as an NGO. However, the judgment had not been implemented at year's end (see Section 2.b.).

On August 18, organizers of the proposed EAAT received notice that the Ministry of Social Affairs had denied their application to register as an association under the new NGO Law (see Section 1.c.). In June, the Ministry of Social Affairs also denied registration of the Land Centre for Human Rights.

On November 19, the Arab Program for Human Rights Activists and the Word Center for Human Rights announced the rejection by the Ministry of Social Affairs of the Word Center's application for NGO status, citing "security objections." The Ministry also contended that the Center is a group based on religion and therefore not eligible for NGO status under the NGO Law (Law 84/02).

EOHR and other groups at times obtained the cooperation of government officials. EOHR field workers visited some prisons in their capacity as legal counsel, but not as human rights observers. They called on some government officials and received funding from foreign human rights organizations.

Government restrictions on NGO activities, including limits on organizations' ability to accept funding, continued to inhibit significantly reporting on human rights abuses.

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

In July 2002, the Land Center for Human Rights (LCHR) issued a statement signed by eight other human rights organizations in which they complained of harassment by security officials and the Azbakiya Public Prosecutor's office regarding its irregular publication "Al Ard." According to LCHR, a prosecutorial investigation was continuing at year's end (see Section 2.b.).

In July 2002, a State Security Court convicted Dr. Saad Eddin Ibrahim and his codefendants of defaming the state and illegally accepting foreign funds. Ibrahim was acquitted in March and on June 30, the Ibn Khaldoun Center was reopened. In its March 18 judgment, the Court of Cassation decisively cleared Ibrahim of wrongdoing and excoriated the Government's case against him.

The Government generally cooperated with international organizations. According to the delegate to the November session of the CAT, it had not agreed to a requested visit by the UNCHR Special Rapporteur on Torture by year's end because of an incompatibility of timetables (see Section 1.c.).

In June, the Parliament passed legislation establishing a National Human Rights Council, which was to become operational in early 2004. The Council is composed of 25 members, a Chairman and a Deputy Chair, who serve 3-year terms. The Council's mandate is to receive human rights complaints and request competent Government authorities to investigate them, to consult with the Government on the development of legislation that promotes good human rights practices, to increase public awareness on human rights and coordinate and network with other entities focused on human rights.

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

The Constitution provides for equality of the sexes and equal treatment of non-Muslims; however, aspects of the law and many traditional practices discriminated against women and religious minorities. Anti-Semitism is found in both the progovernment and opposition press; however, there have been no violent anti-Semitic incidents in recent years.

Attorneys for 52 allegedly homosexual men, arrested in 2001 and charged with debauchery and "insulting a heavenly religion," claimed that their clients were abused physically during the initial days of their detention, and that several had confessed under torture. Defendants in other cases involving homosexuality also claimed that they were tortured in order to extract confessions to the charge of "debauchery" (see Sections 1.e. and 2.c.).

During the year, 15 men were arrested by Egyptian undercover police through an Internet sting operation and charged with the habitual practice of debauchery and advertising "against public morals" and inciting passers-by to commit indecent acts. HRW reported that in April another 16 allegedly homosexual men were held in iso-

lation for 15 days in the women's section of the Giza police station and guards beat them three times daily, at every change of shift (see Sections 1.c. and 1.e.).

On February 17, a court rejected the appeal of Lebanese national Wissam Toufic Abyad, who had been arrested on January 16 and convicted of "habitual debauchery" on January 20, after arranging to meet a police informant posing as a gay man on an Internet site (see Sections 1.c. and 1.f.). Abyad's lawyers had argued that there were numerous violations of procedure in his arrest and interrogation, and that no act of sex was even alleged to have taken place, as required by the debauchery statute. The same judge who convicted Abyad in January heard his appeal in February. Abyad, serving a 15-month sentence, was unable to get his case heard by the Court of Cassation at year's end.

On February 23, a Court of Appeal in Agouza, Cairo upheld the 3-year sentences of 11 allegedly gay men convicted of "habitual debauchery." A 12th defendant was tried in juvenile court and later sentenced to 2 years imprisonment. Lawyers for the 12 appealed the case to the Court of Cassation, Egypt's highest appeals court, but no date had been set and the 12 remained in prison at year's end.

On March 15, a criminal court convicted 21 alleged homosexuals of "habitual debauchery" and issued the maximum 3-year sentences. The case, widely known as the "Queen Boat Trial," was originally heard in 2001 by a State Security Emergency Court, which convicted 23 of 50 original defendants. However, President Mubarak declined to ratify all but two of the convictions and in May 2002 ordered the case retried by a criminal court. Nonetheless, observers who had expressed concerns about the first trial were also critical of the criminal court's handling of the case. The criminal court held no substantive sessions before handing down guilty verdicts, effectively allowing defense lawyers no opportunity to argue their clients' cases.

In subsequent court sessions on June 4 and July 16, 14 defendants from the "Queen Boat" case had their sentences reduced to time-served. Although released from prison, under the terms of their probation, they were required to stay overnight in police custody. Seven other defendants, two of whom did not attend their appeal hearings, and five who did not appeal, remained technically "fugitives."

On July 20, a Cairo appeals court acquitted 11 allegedly homosexual men charged with debauchery. The judge who acquitted them was quoted in the press as castigating the men for their alleged orientation, but conceded that procedural errors "left him no choice" but to acquit. The 11 were among 16 arrested in April and had been convicted by a lower court and received 3-year sentences. International human rights monitors alleged the men had been subject to degrading and humiliating treatment following their arrest. Individuals suspected of homosexual activity and arrested on "debauchery" charges regularly reported being subjected to humiliation and abuse while in custody.

In December, State Security Forces arrested and detained without charge eight Egyptian Shi'a Muslims. Leading Egyptian civil rights group reported that they questioned intensely about their religious beliefs. Three remained in detention at year's end (see Sections 1.e. and 2.c.).

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

Established by Presidential Decree in 2000, the National Council for Women (NCW) plays an important role in proposing and advocating policies that promote women's empowerment and also designs development programs that benefit women. The Office of the National Ombudsman for Women, provided counseling, advice, referrals, and other assistance to women pursuing a range of complaints including discrimination in employment and housing to domestic violence, sexual assault, and child custody disputes.

The law prohibits rape; however, marital rape is not illegal. The Government prosecuted rapists, and punishment for rape ranges from 3 years to life imprison-

ment with hard labor. Although reliable statistics regarding rape were not available, activists believed that it was not uncommon, despite strong social disapproval. If a rapist is convicted of abducting his victim, he is subject to execution.

The law does not specifically address "honor killings" (men killing women for perceived lack of chastity). In practice, the courts sentenced perpetrators of honor killings to lesser punishments than those convicted in other cases of murder. There were no reliable statistics regarding the extent of honor killings; however, it was believed that they were not common.

A 1996 decree banned FGM; however, it remained widespread despite the Government's commitment to eradicating the practice and NGO efforts to combat it. Traditional and family pressures remained strong. A study conducted in 2000 estimated 97 percent of women who have ever been married had undergone FGM. The survey showed that attitudes may be changing slowly. Over a 5-year period, the incidence of FGM among the daughters (from ages 11 to 19) of women surveyed fell from 83 to 78 percent. FGM was equally prevalent among Muslims and Christians. The "Cairo Declaration on Female Genital Mutilation" calls on Governments to adopt legislation to combat the practice.

The Government supported a range of efforts via television and by religious leaders to educate the public about FGM. However, illiteracy impedes some women from distinguishing between the deep-rooted tradition of FGM and religious practices. Moreover, many citizens believed that FGM was an important part of maintaining female chastity, and the practice was supported by some Muslim religious authorities and Islamist political activists.

Prostitution and sex tourism are illegal but occurred, mostly in Cairo and Alexandria.

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

The law provides for equality of the sexes; however, aspects of the law and many traditional practices discriminated against women. By law unmarried women under the age of 21 must have permission from their fathers to obtain passports and to travel. Married women do not, but police sometimes did not apply the law consistently. Only males may confer citizenship; children born to women with foreign husbands are not conferred the benefits of citizenship. In rare cases, this meant that children born to Egyptian mothers and stateless fathers were themselves stateless. A woman's testimony is equal to that of a man's in the courts. There is no legal prohibition against a woman serving as a judge, although in practice no women served as judges. In February, Counselor Tahany al-Gabbani was appointed to the Supreme Constitutional Court, the first, and only, female citizen to be appointed to the bench. At year's end, the Court of Cassation still was examining the cases of two female attorneys, Fatma Lashin and Amany Talaat, who challenged the Government's refusal to appoint them as public prosecutors.

Laws affecting marriage and personal status generally corresponded to an individual's religion. The Law provides that a Muslim woman may obtain a divorce without her husband's consent, provided that she was willing to forego alimony and the return of her dowry. The Coptic Orthodox Church permits divorce only in specific circumstances, such as adultery or conversion of one spouse to another religion.

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

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

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

*Children.*—The Government remained committed to the protection of children's welfare and attempted to do so within the limits of its budgetary resources. The Child Law provides for privileges, protection, and care for children in general. Six of the law's 144 articles set rules protective of working children (see Section 6.d.).

Other provisions include a requirement that employers set up or contract with a child care center if they employ more than 100 women; the right of rehabilitation for children with disabilities; a prohibition on sentencing defendants between the ages of 16 and 18 to capital punishment; and a prohibition on placing defendants under the age of 15 in preventive custody, although the prosecution may order that they be lodged in an "observation house" and be summoned upon request. International donors provided many of the resources for children's welfare, especially child immunization.

During the year, the country's National Council of Childhood and Motherhood (NCCM), a Government organ which partners with foreign donors, implemented a variety of projects aimed at: expanding the availability and quality of pre-schools programs, combating abuses involving child labor; promoting literacy among women and children; discouraging drug and tobacco abuse among children, and improving educational opportunities. NCCM developed a national plan to increase educational opportunities for girls, to combat the worst forms of child labor (in collaboration with the ILO), and to implement a reproductive health awareness program for public schools. At year's end, implementation was underway.

In February, HRW issued a report documenting police practices of arresting, sometimes en masse, street children and other children deemed "vulnerable to delinquency." The report also documented abuses these children may face during their detention, as well as violations of legal procedures in processing their cases (see Section 1.c.). The Government responded to the HRW report, maintaining that it 'drew general conclusions from a limited base' and said that the cases cited "if true, involved individual transgressions dealt with firmly by Egyptian law."

In a move intended to protect underage detainees, on May 26 the Suggestions and Complaints Committee of the People's Assembly approved a draft law that would allocate special holding cells for minors at police stations. The proposal had not been adopted by the entire Parliament at year's end. The move followed on a December 2002 instruction by the Ministry of Interior to police stations in the Cairo Governorate to establish specially designated rooms for the detention of those without prior criminal records (see Section 1.c.).

The Government provided public education, which is compulsory for the first 9 academic years (typically until the age of 15). The Government treated boys and girls equally at all levels of education.

There were no statistics available regarding the prevalence of child abuse.

Children with foreign fathers were not considered citizens and thus could not attend public school or state universities. They were also barred from certain professional schools and could not work without meeting foreign residency requirements and obtaining work permits. There were an estimated 400,000 such children in the country. However, the Egyptian media reported in September that the Ministry of Interior would begin examining requests by female citizens married to foreigners who wished to transmit their nationality to their children. According to the report, the Minister of Interior would examine these requests to see if "required conditions" were met. The requirements were not specified in any of the reports. This new direction was amplified by President Mubarak on September 29, who announced amendments to this part of the existing nationality law were under consideration. It appeared that children of Palestinian fathers would continue to be ineligible for citizenship.

FGM generally was performed on girls between the ages of 7 and 12 (see Section 5, Women).

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

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

*Section 6. Worker Rights*

*a. The Right of Association.*—There are no legal obstacles to establishing private sector unions, although such unions were uncommon. Workers may join trade unions, but are not required to do so. A union local or workers' committee may be formed if 50 employees express a desire to organize. Most union members, about one-quarter of the labor force, were employed by state-owned enterprises. Unionization decreased in the past several years as a result of early retirement plans in public sector enterprises, and the privatization of many of these enterprises. In June, a new labor law (Law 12) was passed and 35 ministerial decrees and 9 prime ministerial decrees complementing the new law were issued between June and November by the Ministry of Manpower and Migration.

There were 23 trade unions, all required to belong to the ETUF, the sole legally recognized labor federation. The International Labor Organization's (ILO) Committee of Experts emphasized that a law that requires all trade unions to belong to a single federation infringes on freedom of association. The ILO also criticized ETUF control over the nomination and election procedures for trade union officers. It also criticized the lack of protection of the right of workers' organizations to organize their administration, including their financial activities, without interference from public authorities. However, the Government showed no sign that it intended to accept the establishment of more than one federation. ETUF officials had close relations with the NDP, the ruling party, and some were members of the People's Assembly or the Shura Council. They spoke vigorously on behalf of worker concerns, but public confrontations between the ETUF and the Government were rare.

Some unions within the ETUF were affiliated with international trade union organizations. Others were in the process of becoming affiliated.

*b. The Right to Organize and Bargain Collectively.*—The new law calls for the establishment of a labor consultative council, including representatives from the Government, from employers and workers associations. With labor experts these representatives address tripartite issues and problems and review labor-related local and international legislation. Only one member of the council was named during the year, and the council has not met. Collective bargaining exists in the law allowing tripartite negotiations to improve labor terms and conditions, enhance cooperation between the parties to increase employees' social development, and resolve disputes between workers and employers. Collective negotiation may be set in motion by any of the concerned parties without the consent of other parties involved with the assistance of the concerned administrative authority.

The Ministry of Manpower and Migration established an administrative unit on November 30 for collective negotiations and agreements affairs. It also is to monitor implementation of collective agreements. The Government sets wages, benefits, and job classifications for public sector and government employees, and the private sector sets compensations for its employees in accordance with the Government's laws regarding minimum wages.

The new labor law also regulates litigation related to collective bargaining. As opposed to the previous labor law, the new law allows collective bargaining in what are identified as strategic and vital establishments, but the ability to call a strike at strategic workplaces is still limited.

The new labor law provides for a limited form of striking, but only after a protracted negotiation process. Wildcat strikes are prohibited. Peaceful strikes are allowed, provided they are announced in advance and organized by the trade union to defend vocational, economic and social interests. To call a strike, the trade union would notify the employer and concerned administrative authority at least 10 days in advance of the strike date, giving the reason for the strike and the date it would commence. Prior to this formal, notification, the strike action would have to be approved by a two-third's majority of the ETUF Board of Directors. This advance notice process effectively eliminates wildcat strikes. Strikes are prohibited by law during the validity of collective bargaining agreements and during the mediation and arbitration process. Strikes are also prohibited in strategic or vital entities in which the interruption of work could result in a disturbance of national security or basic services. A recently issued prime ministerial decree complementing the new labor law identifies strategic and vital entities: national security and military production facilities; hospitals and medical centers; pharmacies; bakeries; public transportation and cargo transportation; civil defense facilities; public utilities (water, waste water, gas, electricity, and communications); ports and airports; and educational institutions.

There were at least a dozen strikes during the year. Strikes mainly concerned delayed payment of salaries, wage cuts, terminations, increased working hours, and suspension of job promotions. Under the new labor law that was approved in June,

workers in strategic utilities are denied the right to strike. Some opposition members of parliament have threatened to challenge the constitutionality of the new law.

Employers are allowed for economic reasons, to completely or partially close down or downsize firms. Under such circumstances, they are granted the right to fire employees after coordinating and consulting with the trade unions. Termination of employee's contracts seems to have become easier under the new law for companies in financial distress, but the new law's provisions in this regard have not been tested. Employers appear to have won more flexibility in contract terms under the new law as well. During the year, an Emergency Unemployment Fund was established under the 2002 Social Insurance Fund to compensate workers laid off from companies in distress.

Firms, apart from large ones in the private sector, generally did not adhere to government-mandated standards. Although they are required to observe some government practices, such as the minimum wage, social security insurance, and official holidays, firms often did not adhere to government practice in non-binding matters, including award of the annual Labor Day bonus. Labor law and practice are the same in the six existing export-processing zones (EPZs) as in the rest of the country. A new Special Economic Zones (SEZ) law was issued in 2002 laying the legal foundation for the establishment of special economic zones that will be export-oriented. According to the SEZ law, rules governing labor in the SEZs will be more flexible as the authority regulating the SEZ can tailor contracts in accordance with business needs while adhering to the general requirements of the labor law.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor. The labor law and child law do not specifically prohibit forced and bonded labor by children, but they do prohibit working conditions that could harm children mentally and physically in accordance with ILO Convention 182 on the Worst Forms of Child Labor. It has started implementing programs that remove and prevent children from working in hazardous conditions and activities (see Section 6.d.). Ministerial decrees have been issued by the Ministry of Manpower and Migration prohibiting the employment of children under 14, 16, and 18 in specific activities that are hazardous to children defined by ILO Convention 182. The Child Labor Unit of the Ministry of Manpower investigates reports of children working in hazardous conditions. The Ministry reported that it conducted "several" raids, assisted by police, including two on car-painting workshops employing children.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor was previously a common practice. The Government took steps to address the problem of child labor. During the year, the Ministries of Manpower and Agriculture conducted three workshops for labor inspectors to sharpen their awareness of child labor law violations that can occur when children work in agriculture. The Ministry of Manpower also offered training to its employees in the provisions of the new labor law that deal with child labor. The National Council on Childhood and Motherhood set up a 24-hour hotline to receive calls from children in distress. When callers complained about working in unsafe or unhealthful conditions, the Ministry of Manpower Child Labor Unit was notified. With the help of international organizations and donor agencies, the Government is trying to implement stricter child labor policies. During the year, the ILO/IPEC conducted two training workshops for labor inspectors on the laws and regulations governing child labor inspections. ILO/IPEC also helped the Ministry of Manpower draft a training program for "Capacity Building and Policy Development for Combating Child Labor." The USAID-funded AFL-CIO Solidarity Center collaborated with the Egyptian Trade Union Federation to conduct four workshops in Cairo and nine in rural areas dealing with child labor. Enforcement is still an issue. In nonagricultural work the minimum age for employment is 14 years of age or the age of completing basic education (15) whichever is higher. UNICEF reported on the widespread practice of poor rural families making arrangements for a daughter to be employed as a domestic servant in the homes of wealthy citizens.

The law limits the type and conditions of work that children below the age of 18 may perform legally. Provincial governors, with the approval of the Minister of Education, may authorize seasonal work for children between the ages of 12 and 14, provided that duties are not hazardous and do not interfere with schooling. During the summer, the President and the Ministry of Education authorized governors to delay the start of the school year in their governorates pending the end of the crop season. According to media reports, one provincial governor delayed school for 1 week pending the end of a crop season. The Minister of Manpower and Migration canceled a 1965 decree that required each family in rural areas to engage at least one child in cotton picking and pest control. The Minister also made several statements to the press against children working in hazardous agricultural activities.



Preemployment training for children under the age of 12 is prohibited. Children are prohibited from working for more than 6 hours a day and one or more breaks totaling at least 1 hour must be included. Several other restrictions apply to children: they may not work overtime, during their weekly day(s) off or official holidays, or between 7 p.m. and 7 a.m. Children are also prohibited from working for more than 4 hours continuously.

The Government worked closely during the year with international organizations—in particular UNICEF and the ILO—as well as international and domestic NGOs and labor unions to implement programs designed to address child labor and its root causes. In 2000, the Ministry of Manpower child labor unit created a database for tracking child labor in the country and inspectors began raids to uncover violations in 2001. Inspection raids increased during the year. Enforcement was still spotty, and in the cases where offenders of the child labor laws have been prosecuted, the fines imposed are often too small (e.g., \$3.25 or 20 LE) per offense to act as a deterrent. Regulations proposed in June under the new labor law would sharply increase the minimum amount of fines in child labor cases, to \$81 (500 LE), but they not yet been implemented by year's end.

Statistical information regarding the number of working children was difficult to obtain and often out-of-date. NGOs estimated that up to 1.5 million children worked. Government studies indicate that the concentration of working children was higher in rural than in urban areas. Approximately 78 percent of working children were in the agricultural sector. However, children also worked in light industry. In 2001, the Central Agency for Public Mobilization and Statistics (CAPMAS) conducted a household survey at the request of the NCCM for use in formulation of appropriate national child labor policies. The results of the survey were not made public during the year.

While local trade unions reported that the Ministry of Labor adequately enforced the labor laws in state-owned enterprises, enforcement in the private sector, especially in the informal sector, was lax. Many working children were abused, overworked, and exposed to potentially hazardous conditions by their employers and the restrictions in the Child Law have not improved conditions due to lax enforcement on the part of the Government. The Minister of Manpower and Migration has been vocal about the need to address the enforcement issue and the Ministry is working with the ILO at the grass roots level in governorates to increase effective enforcement of child labor regulations. The First Lady, Suzanne Mubarak, is sponsoring activities aimed at improving the conditions for children in general and working children specifically. During the year, she chaired four workshops in to raise awareness of the social and long-term economic problems associated with child labor. The National Council on Childhood and Motherhood, whose Technical Secretariat is headed by the First Lady, is taking the lead on formulating a national plan to eliminate hazardous forms of child labor that exist in the country. During the year, this national strategy was expected to be announced in but was postponed.

*e. Acceptable Conditions of Work.*—During the year, the minimum wage for government and public sector employees increased to \$ 28.4 (174 LE) per month for a 6-day, 36-hour workweek. The new law stipulates that 48 hours is the maximum number of hours that may be worked in 1 week. Overtime for hours worked beyond 36 per week is payable at the rate of 25 percent extra for daylight hours and 50 percent extra for nighttime hours. The nationwide minimum wage generally was enforced effectively larger private companies; however, smaller firms did not always pay the minimum wage. The minimum wage frequently did not provide a decent standard of living for a worker and family; however, base pay commonly was supplemented by a complex system of fringe benefits and bonuses that may double or triple a worker's take-home pay and provide a decent standard of living. In September the new labor law established a National Wages Council headed by the Minister of Planning that held its first meeting. The Council's mandate is to set minimum wages at a national level considering costs of living and address issues related to employees compensations. The new law also established a Supreme Human Resources Development Council headed by the Minister of Manpower and Migration. In September, the Prime Minister established an executive committee for the Council including representatives from the Ministries of Manpower, Social Affairs, Housing, Administrative Development, Foreign Trade, Petroleum, Electricity, Communication and Agriculture. In addition, representatives from the ETUF, Federation of Egyptian Industries, chambers of tourism, commerce, construction and contracting will also sit on the Council.

The Ministry of Labor sets worker health and safety standards, which also apply in the EPZs; however, enforcement and inspections were uneven. A new council for occupational health and safety has also been established by the new labor law to address health and safety issues nation-wide.

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

In August, the Minister of Manpower said that the total number of foreign workers holding work and residence permits was 18,177, not including Sudanese, Palestinians, and foreigners married to citizens. Unofficial estimates of undocumented workers were as high as 116,000. Foreign workers with the required permits enjoyed legal protections. In December, the Ministry of Manpower and Migration issued ministerial decrees regulating foreigners' employment in the country. The 10 percent ratio of foreign/national workers remained in effect.

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

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

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## IRAN<sup>1</sup>

The Islamic Republic of Iran is a constitutional, theocratic republic in which Shi'a Muslim clergy dominate the key power structures. The Supreme Leader of the Islamic Revolution, Ayatollah Ali Khamene'i, dominates a tri-cameral division of power among legislative, executive, and judicial branches. Khamene'i directly controls the armed forces and exercises indirect control over the internal security forces, the judiciary, and other key institutions. The executive branch was headed by President Mohammad Khatami, who won a second 4-year term in June 2001, with 77 percent of the popular vote in a multiparty election. The legislative branch featured a popularly elected 290-seat Islamic Consultative Assembly, Majlis, which develops and passes legislation. Reformist and moderate candidates won a landslide victory for 4-year terms in the 2000 Majlis election, gaining a clear majority of that body. However, the 12-member Guardian Council, which reviews all legislation passed by the Majlis for adherence to Islamic and constitutional principles, blocked much of the reform legislation. The 34-member Expediency Council is empowered to resolve legislative impasses between the Guardian Council and the Majlis. The Constitution provides that "the judiciary is an independent power"; however, the judicial branch is widely perceived as heavily biased against pro-Khatami reformist forces.

Several agencies share responsibility for law enforcement and maintenance of order, including the Ministry of Intelligence and Security, the Ministry of Interior, and the Islamic Revolutionary Guards Corp, a military force established after the revolution. Paramilitary volunteer forces known as Basijis, and various gangs of men known as the Ansar-e Hezbollah (Helpers of the Party of God), or more simply "plain clothes," acted as vigilantes aligned with extreme conservative members of the leadership. Civilian authorities did not fully maintain effective control of the security forces and there were instances in which elements of the security forces acted independently of government authority. The regular and the paramilitary security forces both committed numerous, serious human rights abuses.

The mixed economy depends on oil and gas for 80 percent of its export earnings. The population was approximately 68 million. All large-scale industry is publicly owned and administered by the State. Large para-statal charitable foundations called bonyads, most with strong connections to the clerical regime, controlled as much as a third of the country's economy and exercised considerable influence. The Government heavily subsidized basic foodstuffs and energy costs. Government mismanagement and corruption negatively affected economic performance. The official

<sup>1</sup>The United States does not have an embassy in Iran. This report draws heavily on non-U.S. Government sources.

unemployment rate was approximately 16 percent, although other estimates were higher. Estimated inflation was 17 percent with economic growth at 6 percent during the year.

The Government's poor human rights record worsened, and it continued to commit numerous, serious abuses. The right of citizens to change their government was restricted significantly. Continuing serious abuses included: summary executions; disappearances; torture and other degrading treatment, reportedly including severe punishments such as beheading and flogging; poor prison conditions; arbitrary arrest and detention; lack of habeas corpus or access to counsel and prolonged and incommunicado detention. Citizens often did not receive due process or fair trials. The Government infringed on citizens' privacy rights, and restricted freedom of speech, press, assembly, association and religion.

An intense political struggle continued during the year between a broad popular movement favoring greater liberalization in government policies, particularly in the area of human rights, and certain hard-line elements in the Government and society, which viewed such reforms as a threat to the survival of the Islamic Republic. In many cases, this struggle was played out within the Government itself, with reformists and hard-liners squaring off in divisive internal debates. As in the past, reformist members of parliament were harassed, prosecuted, and threatened with jail for statements made under parliamentary immunity.

The Government restricted the work of human rights groups; however, it permitted visits during the year by the U.N. Working Group on Arbitrary Detention and the U.N. Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression. Violence and legal and societal discrimination against women were problems. The Government restricted the work of human rights groups. The Government discriminated against minorities and severely restricted workers' rights, including freedom of association and the right to organize and bargain collectively. Child labor persisted. Vigilante groups, with strong ties to certain members of the Government, enforced their interpretation of appropriate social behavior through intimidation and violence. There were reports of trafficking in persons.

In October, lawyer and human rights activist Shirin Ebadi was awarded the Nobel Peace Prize for her work in advancing human rights both in the country and internationally.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of political killings. The Government was responsible for numerous killings during the year, including executions following trials in which there was a lack of due process. Government affiliated vigilante groups also were responsible for extrajudicial killings.

The law criminalized dissent and applied the death penalty to offenses such as "attempts against the security of the State, outrage against high-ranking officials, and insults against the memory of Imam Khomeini and against the Supreme Leader of the Islamic Republic." Citizens continued to be tried and sentenced to death in the absence of sufficient procedural safeguards.

Exiles and human rights monitors alleged that many of those supposedly executed for criminal offenses, such as narcotics trafficking, actually were political dissidents. Supporters of outlawed political groups, or in the case of the Mujahedin-e Khalq, a terrorist organization, were believed to constitute a large number of those executed each year.

In July, an Iranian-Canadian photographer, Zahra Kazemi, died in custody after being arrested for taking photographs at Evin prison in Tehran. After initially claiming that she had died as a result of a stroke, the Government subsequently admitted that she died as a result of a blow to the head and charged individuals involved in her detention. The Government also denied Canada's request, based on her son's statement, that Kazemi's remains be sent to Canada for further autopsy and burial. The Government claimed to be following the wishes of her mother that she be buried in the country, but the mother later said that she was coerced into making the request.

Two political activists associated with the outlawed Komala party, Sassan al-Kanaan and Mohammad Golabi, were executed in February and March. The Democratic Party of Iranian Kurdistan (KDPI), an opposition party, alleged that the Government executed party member Jalil Zewal in December, after 9 years in prison during which he was reportedly subjected to torture. KDPI member Ramin Sharifi was also executed in December after his arrest in July. Mohammad Golabi was reportedly tortured while in detention. Sassan al-Kanaan's execution was reportedly

carried out while his mother was in Tehran meeting on his behalf with the U.N. Working Group on Arbitrary Detention. KPI reports that hard-line vigilante groups killed at least seven other Kurdish civilians were killed during the year.

The 1998 murders of prominent political activists Darioush and Parvaneh Forouhar, writers Mohammad Mokhtari and Mohammad Pouyandeh, and the disappearance of political activist Pirouz Davani continued to cause controversy about what is perceived to be the Government's cover-up of involvement by high-level officials. Prominent investigative journalist Akbar Ganji, who was arrested in 2000 and sentenced to 6 years in prison for his reporting on the case, remained in prison (see Sections 1.d. and 1.e.). In 2001, the Special Representative for Iran of the Commission on Human Rights (UNSR) also reported claims that there were more than 80 killings or disappearances over a 10-year period as part of a wider campaign to silence dissent. Members of religious minority groups, including the Baha'is, evangelical Christians, and Sunni clerics were killed in recent years, allegedly by government agents or directly at the hands of authorities.

*b. Disappearance.*—Little reliable information was available regarding the number of disappearances during the year.

The Government announced that approximately 4,000 persons—both protesters and vigilantes—were arrested in connection with pro-reform protests in June and stated that roughly 2,000 remained in jail in mid-July. There were no reliable statistics to indicate how many protestors were still being held at year's end.

According to Baha'i sources, since 1979 15 Baha'i have disappeared and are presumed dead. The KDPI noted the continued detention of six Iranian Kurds arrested in 1996 with no subsequent word on their whereabouts. The Families of Iranian Jewish Prisoners (FIJP) have heard anecdotal stories that some of 12 Jewish citizens, who disappeared while attempting to escape from the country in the 1990s, were being held in prison (see Section 2.c.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the use of torture; however, there were numerous credible reports that security forces and prison personnel continued to torture detainees and prisoners. Some prison facilities, including Tehran's Evin prison, were notorious for the cruel and prolonged acts of torture inflicted upon political opponents of the Government. Common methods included suspension for long periods in contorted positions, burning with cigarettes, sleep deprivation, and most frequently, severe and repeated beatings with cables or other instruments on the back and on the soles of the feet. Prisoners also reported beatings about the ears, inducing partial or complete deafness, and punching in the eyes, leading to partial or complete blindness.

In August, the Council of Guardians rejected a bill on accession to the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The Majlis amended the bill in late December, reportedly addressing Council of Guardians concerns over the monetary costs of joining the convention. The Council of Guardians also rejected in mid-2002 a bill passed by the Majlis to end torture and forced confessions.

In July 2002, in an effort to combat "un-Islamic behavior" and social corruption among the young, the Government announced the formation of a new "morality force." The force was meant to enforce the Islamic Republic's strict rules of moral behavior. Press reports indicated that members of this force chased and beat persons in the streets for offenses such as listening to music, or in the case of women, wearing makeup or clothing that was not modest enough (see Section 1.f.). While not uniformly enforced, in November, 7 women in Shiraz were reportedly sentenced to 50 lashes for disrespectful behavior during the month of Ramadan.

In March, activist Siamak Pourzand was re-imprisoned after his provisional release in November 2002. After his arrest in 2001, Siamak Pourzand was tried in March 2002 behind closed doors and sentenced to 11 years in prison for "undermining state security through his links with monarchists and counter-revolutionaries." Press reports said that he had confessed to his crimes at his trial, but his wife claimed that the confession was extracted under duress. Pourzand suffered severe health problems while held incommunicado, reportedly including a heart attack, and was allegedly denied proper medical treatment. At year's end, he remained in jail.

In April, Former Deputy Prime Minister and longtime political dissident, Abbas Amir-Entezam was re-imprisoned, after his release in 2002 for medical reasons. Amir-Entezam was reportedly incarcerated for calling for a referendum on whether the country should remain under clerical rule during a speech at Tehran University. He was reportedly a frequent victim of torture in prison and has had numerous medical problems as a result, including a ruptured eardrum due to repeated beatings, kidney failure resulting from denial of access to toilet facilities, and an un-

treated prostate condition. He reported having been taken on numerous occasions before a firing squad (see Section 1.e.).

In July, an Iranian-Canadian photographer, Zahra Kazemi, died in custody as a result of a blow to the head (see Section 1.a.).

In November, four men were reportedly sentenced to death by stoning for involvement in kidnapping and rape. In December 2002, the Government officially suspended the practices of amputation and lapidation or stoning—a form of capital punishment for adultery and other crimes, although the law has not been rescinded.

During the year, Amnesty International (AI) reported at least six cases of amputation.

Prison conditions in the country were poor. Some prisoners were held in solitary confinement or denied adequate food or medical care to force confessions. After its February visit, the U.N. Working Group on Arbitrary Detentions reported that “for the first time since its establishment, [the Working Group] has been confronted with a strategy of widespread use of solitary confinement for its own sake and not for traditional disciplinary purposes.” The Working Group described Sector 209 of Evin Prison as a “prison within a prison,” designed for the “systematic, large-scale use of absolute solitary confinement, frequently for long periods.”

The 2001 report by the UNSR noted a significant increase in the prison population and reports of overcrowding and unrest. In March, the nongovernmental organization (NGO) Penal Reform International (PRI) reported that 180,000 prisoners occupied facilities constructed to hold a maximum of 65,000 persons. In July, the head of the National Prisons Organization (NPO) assessed the number of prisoners at 156,000.

The UNSR reported that much of the prisoner abuse occurred in unofficial detention centers run by the secret service and military. The UNSR further reported that the unofficial detention centers were to be brought under the control of the NNPO during 2001; however, November press reports indicated that a number of unofficial detention centers continued to operate outside NPO control. The U.N. Working Group on Arbitrary Detention raised this issue with the country’s Article 90 Parliamentary Commission, generating a Commission inquiry that reportedly confirmed the existence of numerous unofficial prisons.

In March, PRI announced a cooperative initiative with authorities to improve prison conditions through workshops and training of judges and prison administrators. The report of the U.N. Working Group on Arbitrary Detention noted that the judicial authorities expressed the need for prison reform, but observed that implementation had been limited.

The Government generally has not granted access to human rights monitors other than the International Committee of the Red Cross (ICRC); however, it permitted visits to imprisoned dissidents by U.N. human rights officials during the year (see Section 4). U.N. Working Group on Arbitrary Detention officials visited Evin prison in Tehran—including sector 209, in which many political prisoners were believed held—as well as Esfahan and Shiraz prisons, the Shiraz military prison, and police stations in each city. The Working Group interviewed approximately 140 “ordinary” prisoners plus 14 out of a requested 45 inmates described as political prisoners and prisoners of conscience. The Working Group described the authorities’ cooperation as “on the whole positive,” although it noted problems with fulfillment of follow-up requests generated by the visit and disappointment over arrests carried out after the Group’s departure. Following his November visit to the country, the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression noted that his delegation met with almost 40 dissidents, both in and out of prison.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, these practices remained common. There is reportedly no legal time limit for incommunicado detention, nor any judicial means to determine the legality of detention. In the period immediately following arrest, many detainees were held incommunicado and denied access to lawyers and family members. Suspects may be held for questioning in jails or in local Revolutionary Guard offices.

The security forces often did not inform family members of a prisoner’s welfare and location. Authorities often denied visits by family members and legal counsel. In addition, families of executed prisoners did not always receive notification of the prisoners’ deaths. Those who did receive such information reportedly were forced on occasion to pay the Government to retrieve the body of their relative.

In January, the Government released Ayatollah Hossein Ali Montazeri, amid reports of health problems after 5 years of house arrest. Montazeri was formerly the designated successor of the late Spiritual Leader, Ayatollah Khomeini, who became an outspoken critic of the Supreme Leader (see Section 2.a.). In recent years, the Government has used the practice of house arrest to restrict the movements and

ability to communicate of senior Shi'a religious leaders whose views regarding political and governance issues were at variance with the ruling orthodoxy.

In July, the press reported that Iranian-American academic Dariush Zahedi was detained during a private visit to the country and reportedly held in solitary confinement in Evin prison. Parliament officials noted that Zahedi was held on suspicion of espionage but, after a 40-day investigation, was cleared by the Ministry of Intelligence. However, Zahedi remained in detention after the case was transferred to the judiciary, reportedly at the intervention of Tehran's chief prosecutor. Zahedi was released on \$250,000 (approximately 2 million rials) bail in November and, though technically free to leave the country, is still subject to criminal prosecution.

In November, security agents briefly arrested two sons of Ayatollah Hossein Ali Montazeri, the dissident cleric released from house arrest in January (see Section 1.d.). The arrests were reportedly in response to the sons' attempts to refurbish a building purchased by the family for use as a teaching facility. The Qom mosque and Koranic school at which Montazeri formerly taught has remained closed since 1997, when comments by the cleric questioning the authority of the Supreme Leader sparked attacks on the school and his home by Ansar-e Hezbollah mobs.

In November, student activist Ahmed Batebi met with the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression, while on medical leave from prison where he is serving a 15-year sentence for participating in the 1999 student demonstrations. He was re-arrested shortly afterward and at year's end, he was reportedly being held in Evin prison.

In July 2002, the Government permanently dissolved the Freedom Movement, the country's oldest opposition party, and sentenced over 30 of its members to jail terms ranging from 4 months to 10 years on charges of trying to overthrow the Islamic system. Other members were barred from political activity for up to 10 years, and ordered to pay fines up to more than \$6,000 (approximately 48,000 rials).

Numerous publishers, editors, and journalists were either detained, jailed, and fined, or were prohibited from publishing their writings during the year (see Section 2.a.).

Adherents of the Baha'i faith continued to face arbitrary arrest and detention. According to Baha'i sources, four Baha'is remained in prison for practicing their faith at year's end, one facing a life sentence, two facing sentences of 15 years, and the fourth a 4-year sentence. A small number of Baha'is were and have been in detention at any given time. Sources claimed that such arrests were carried out to "terrorize" the community and to disrupt the lives of its members. Others were arrested, charged, and then quickly released. However, the charges against them often were not dropped, generating continued apprehension (see section 2.c.).

During the year, the Government continued to exchange with Iraq prisoners of war (POWs) and the remains of deceased fighters from the 1980-88 Iran-Iraq war. In March, the Government agreed to release over 900 remaining Iraqi POWs in exchange for 349 Iranian POWs.

The Government did not use forced exile, and no information was available regarding whether the law prohibits forced exile; however, the Government used internal exile as a punishment. Many dissidents and ethnic and religious minorities left and continue to leave the country due to a perception of threat from the Government.

*e. Denial of Fair Public Trial.*—The Constitution provides that the judiciary is "an independent power"; however, in practice the court system was subject to government and religious influence. It served as the principal vehicle of the Government to restrict freedom and reform in the society. U.N. representatives, including the UNSR, and the U.N. Working Group on Arbitrary Detention, and independent human rights organizations noted the absence of procedural safeguards in criminal trials.

There are several different court systems. The two most active are the traditional courts, which adjudicate civil and criminal offenses, and the Islamic Revolutionary Courts. The latter try offenses viewed as potentially threatening to the Islamic Republic, including threats to internal or external security, narcotics and economic crimes, and official corruption. A special clerical court examines alleged transgressions within the clerical establishment, and a military court investigates crimes committed in connection with military or security duties by members of the army, police, and the Revolutionary Guards. A press court hears complaints against publishers, editors, and writers in the media. The Supreme Court has limited review authority.

After the revolution, the judicial system was revised to conform to an Islamic canon based on the Koran, Sunna, and other Islamic sources. Article 157 provides that the Head of the Judiciary, currently Ayatollah Mahmoud Hashemi Shahrudi,

shall be a cleric chosen by the Supreme Leader. The head of the Supreme Court and Prosecutor General also must be clerics. Women were barred from serving as judges.

Many aspects of the pre-revolutionary judicial system survived in the civil and criminal courts. For example, defendants have the right to a public trial, may choose their own lawyer, and have the right of appeal. Panels of judges adjudicate trials. There is no jury system in the civil and criminal courts. If post-revolutionary statutes did not address a situation, the Government advised judges to give precedence to their own knowledge and interpretation of Islamic law.

The U.N. Working Group on Arbitrary Detention noted in its report failures of due process in the court system, caused by the absence of a "culture of counsel" and the concentration of authority in the hands of a judge who prosecutes, investigates, and decides cases. The Working Group called for active involvement of counsel in cases, from the custody and investigation phase through the trial and appeals phases. The Working Group welcomed the 2002 reinstatement of prosecution services, after a 7-year suspension, but noted that the reforms have thus far only been applied in three jurisdictions.

Trials in the Revolutionary Courts, in which crimes against national security and other principal offenses are heard, were notorious for their disregard of international standards of fairness. Revolutionary Court judges acted as both prosecutor and judge in the same case, and judges were chosen in part based on their ideological commitment to the system. Pretrial detention often was prolonged and defendants lacked access to attorneys. Indictments often lacked clarity and included undefined offenses such as "anti-revolutionary behavior," "moral corruption," and "siding with global arrogance." Defendants did not have the right to confront their accusers. Secret or summary trials of 5 minutes duration occurred. Others were show trials that were intended merely to highlight a coerced public confession.

The legitimacy of the Special Clerical Court (SCC) system continued to be a subject of debate. The clerical courts, which investigate offenses and crimes committed by clerics, and which are overseen directly by the Supreme Leader, were not provided for in the Constitution, and operated outside the domain of the judiciary. In particular, critics alleged that the clerical courts were used to prosecute clerics for expressing controversial ideas and for participating in activities outside the sphere of religion, such as journalism. The recommendations of the U.N. Working Group on Arbitrary Detention included a call to abolish both the Special Clerical Courts and the Revolutionary Courts, which were described as "responsible for many of the cases of arbitrary detention for crimes of opinion."

No accurate estimates were available regarding the number of citizens imprisoned for their political beliefs. In November, the UNSR for the Promotion and Protection of the Right to Freedom of Expression and Opinion estimated the number to be in the hundreds. The Government has arrested, convicted, and sentenced persons on questionable criminal charges, including drug trafficking, when their actual "offenses" were political. The Government has charged members of religious minorities with crimes such as "confronting the regime" and apostasy, and conducted trials in these cases in the same manner as threats to national security.

In March 2002, after a trial behind closed doors but with his lawyer present, Nasser Zarafshan, the attorney representing the families of the victims of the 1998 extrajudicial killings of dissidents by intelligence ministry officials, was sentenced to 5 years in prison and 70 lashes. He was charged with leaking confidential information pertaining to the trial. Human Rights Watch (HRW) reported that he was also charged with "having weapons and alcohol at his law firm." Zarafshan was originally arrested in 2000 but released after a month pending trial. An appeals court upheld his conviction in July 2002. In November, the Supreme Court reportedly dismissed his appeal (see Section 1.a.).

Several other human rights lawyers were also reportedly abused, among them Mohammad Dadkhah, who participated in the defense of members of the Iran Freedom Movement and is a founding member of the Iranian Center for Protection of Human Rights, and Abdol Fattah Soltani, who was reportedly charged for raising accusations of torture during the 2002 defense of a number of political prisoners. In 2002, Dadkhah was sentenced to 5 months in jail and banned from practicing law for 10 years; Soltani was sentenced to 4 months in prison and barred from practicing law for 5 years. Both men reportedly began their jail terms in January. The U.N. Working Group on Arbitrary Detention included among its recommendations the need for guaranteeing the immunity of counsel in pleading cases as an essential element of the right to due process.

In November 2002, academic Hashem Aghajari was sentenced to death at a closed trial for the crime of blaspheming against Islam during a speech in Hamedan. In addition to the death sentence, he was sentenced to 74 lashes, exile to a remote

desert location, 8 years in jail, and a ban on teaching for 10 years. The death sentence was widely denounced both domestically and abroad. President Khatami and hundreds of Majlis members questioned the verdict. In February, the Supreme Court revoked his death sentence, but the case was sent back to the lower court for retrial. No verdict was issued by year's end (see Section 2.b.).

Former Deputy Prime Minister and longtime political dissident, Abbas Amir-Entezam was re-imprisoned in April, after his release in 2002 for medical reasons. Amir-Entezam, who has spent much of the past 24 years in prison, was reportedly incarcerated for calling for a referendum on whether the country should remain under clerical rule during a speech at Tehran University (see Section 1.c.).

The trials in 2000 and 2001 of 13 Jewish citizens on charges related to espionage for Israel were marked by a lack of due process. Ten of the original 13 were sentenced to jail terms ranging from 4 to 13 years. The last five in prison were reportedly released in April (see Section 2.c.).

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution states that “reputation, life, property, (and) dwelling(s)” are protected from trespass except as “provided by law;” however, the Government infringed on these rights. Security forces monitored the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization.

Vigilante violence included attacking young persons considered too “un-Islamic” in their dress or activities, invading private homes, abusing unmarried couples, and disrupting concerts or other forms of popular entertainment. Attacks targeted women whose clothing did not cover their hair and all parts of their body except the hands and face, or those who wore makeup or nail polish.

Authorities entered homes to remove television satellite dishes, or to disrupt private gatherings in which unmarried men and women socialized, or where alcohol, mixed dancing, or other forbidden activities were offered or took place. The Government campaign against satellite dishes continued, although enforcement appeared to be arbitrary and sporadic, varying widely with the political climate and the individuals involved. Press reports from November noted that, after a roughly 4-month hiatus, security authorities resumed efforts to remove satellite dishes from Tehran homes, confiscating 450 dishes in 1 neighborhood during a single day. A Revolutionary Court order reportedly mandated the security forces to dismantle all satellite dishes in Tehran and confiscate any satellite-related equipment found during house searches.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of the press, except when published ideas are “contrary to Islamic principles, or are detrimental to public rights;” however, the Government restricted freedom of speech and of the press in practice. Since the election of President Khatami, the independent press, especially newspapers and magazines, played an increasingly important role in providing a forum for an intense debate regarding reform in the society. However, basic legal safeguards for freedom of expression did not exist, and the independent press was subjected to arbitrary enforcement measures by elements of the Government, notably the judiciary, which treated such debates as a threat.

The Government continued to harass senior Shi'a religious and political leaders and their followers who dissent from the ruling conservative establishment. In July 2002, the Friday prayer leader of Isfahan, Ayatollah Jalaleddin Taheri, resigned and, in a written statement, said he could no longer tolerate the corruption and repression of the country's clerical leadership. The Supreme Leader of the Islamic Republic appoints Friday prayer leaders, who are the senior religious authorities in their districts. According to HRW, the conservative establishment attempted to limit the damage by restricting coverage of Taheri's statement.

In October, reformist parliamentarian and outspoken critic Mohsen Armin was sentenced to 6 months in prison for insulting a conservative parliament member, according to press reports. The judge reportedly also stripped Armin of his “social rights” for 1 year for not appearing in court. Armin ascribed his absence from court to his assumption that he held parliamentary immunity. At year's end, Armin had not been imprisoned.

In January 2002, reformist members of Parliament staged a walkout to protest pro-reform Parliamentarian Hossein Loqmanian's imprisonment, which led the Supreme Leader to pardon him after he had spent several weeks in prison. In late 2001, Loqmanian began serving a 13-month sentence for insulting the judiciary. He became the first Majlis member to serve a jail sentence.

In spring 2001, security forces arrested parliament member Fatima Haghghatjoo for inciting public opinion and insulting the judiciary for criticizing the arrest of a



female journalist and claiming that the Government tortured prisoners. She was the first sitting Majlis member to face prosecution for statements made under cover of immunity. Haghghatjoo was sentenced to 17 months in prison, though she has not yet served time.

Newspapers and magazines represented a wide variety of political and social perspectives, many allied with members of the Government. Many subjects were tolerated, including criticism of certain government policies. However, the Press Law prohibits the publishing of a broad and ill-defined category of subjects, including material "insulting Islam and its sanctities" or "promoting subjects that might damage the foundation of the Islamic Republic." Prohibited topics include fault-finding comments regarding the personality and achievements of the late Leader of the Revolution, Ayatollah Khomeini; direct criticism of the Supreme Leader; assailing the principle of velayat-e faqih, or rule by a supreme religious leader; questioning the tenets of certain Islamic legal principles; publishing sensitive or classified material affecting national security; promotion of the views of certain dissident clerics, including Ayatollah Montazeri; and advocating rights or autonomy for ethnic minorities.

The Press Law established the Press Supervisory Board, which is composed of the Minister of Islamic Culture and Guidance, a Supreme Court judge, a Member of Parliament, and a university professor appointed by the Minister of Islamic Culture and Guidance. The Board is responsible for issuing press licenses and for examining complaints filed against publications or individual journalists, editors, or publishers. In certain cases, the Press Supervisory Board may refer complaints to the Press Court for further action, including closure. Its hearings were conducted in public with a jury composed of clerics, government officials, and editors of government-controlled newspapers. The jury was empowered to recommend to the presiding judge the guilt or innocence of defendants and the severity of any penalty to be imposed, although these recommendations were not legally binding.

Since 2000, approximately 100 newspapers and magazines have been closed for varying lengths of time. In the last few years, some human rights groups asserted that the increasingly conservative Press Court assumed responsibility for cases before Press Supervisory Board consideration, often resulting in harsher judgments. Recent efforts to amend the press laws have not met with success, although in October, parliament passed a law limiting the duration of temporary press closures to a maximum of 10 days for newspapers, 4 weeks for weeklies or bi-weeklies, 2 months for monthlies, and 3 months for other publications. The importance of the legislation was to stop the practice of extending "temporary" bans indefinitely.

Public officials frequently lodged complaints against journalists, editors, and publishers. Offending writers were subject to lawsuits and fines. Suspension from journalistic activities and imprisonment were common punishments for guilty verdicts for offenses ranging from "fabrication" to "propaganda against the State" to "insulting the leadership of the Islamic Republic."

Freedom of the press continued to deteriorate during the year. Many newspapers and magazines were closed, and many of their managers were sentenced to jail and, sometimes, lashings. Several dozen pro-reform newspapers continued to publish, most with heavy self-censorship. When shut down, others often opened to take their place. A number of Internet news sites continued to operate from outside the country. There is little information on the extent of readership inside the country.

Dozens of individual editors and journalists have been charged and tried by the Press Court in recent years, and several prominent journalists were jailed for long periods without trial. Others have been sentenced to prison terms or exorbitant fines. At year's end, at least 10 journalists, editors, and publishers remained in prison, according to Reporters Without Borders (RSF). Journalists imprisoned during the year include: Ali-Reza Jabari, arrested in March and sentenced to 3 years in prison and 253 lashes; Iraj Jamshidi, imprisoned without trial and held mostly in isolation since July; Taghi Rahmani, held in solitary confinement since June and reportedly sentenced in a separate case to 13 years in jail; and Reza Alijani and Hoda Saber, both held since June, and reportedly sentenced in separate cases to 6 and 10 years, respectively. In October, journalist Mohsen Sazgara was released from jail amid rumors of ill health, after 4 months in prison on charges of inciting protest.

In January, the judiciary halted efforts by deputy speaker of the Majlis, Mohammad-Reza Khatami, to re-open the banned newspaper Norouz under the new name Rouz-e No, by extending the 6-month ban on the original publication. Khatami was slated to replace former Norouz editor and parliament member Mohsen Mirdamadi, who was sentenced despite parliamentary immunity in May 2002 to 6 months in jail and banned from practicing journalism for 4 years for "insulting the state, pub-

lishing lies, and insulting Islamic institutions.” At year’s end, there were no reports that Mirdamadi had been imprisoned.

In January, the newspaper *Hayat-e No* was banned and editor Alireza Eshraghi arrested after the paper reprinted a 1937 U.S. cartoon about President Franklin Roosevelt’s battle with the Supreme Court. The authorities deemed that the judge portrayed too closely resembled the late Ayatollah Ruhollah Khomeini. The daily *Hamshahri* was also temporarily suspended in January after refusing to print an article from the chief of a state-run trade union.

In January, the Press Court also closed the reformist daily *Bahar* after the newspaper ran an article about a company whose shareholders include former president Hashemi Rafsanjani, former judiciary head Ayatollah Yazdi, and Ahmad Janati, head of the Council of the Guardians of the Revolution. *Bahar* was first closed in 2000 and had only re-opened in December 2002.

In February, according to AI, Abbas Abdi and Hussein Qazian, were sentenced to 8 and 9 years, respectively, in the National Institute for Research Studies and Opinion Polls case. In April, an appeals court reduced the sentences to 4 years and 6 months for each. The third defendant in the case, Behrouz Geranpayeh, was reportedly released on bail in January, pending a final ruling. The case originated in October 2002, when the judicial authorities closed the Institute which had found in a poll commissioned by the Majlis that a majority of citizens supported dialogue with the United States. The defendants were charged with spying for the United States, illegal contacts with foreign embassies, working with anti-regime groups, and carrying out research on the order of a foreign polling organization. Government intelligence officials had publicly stated that the accused were not spies. According to press reports, President Khatami also rejected the charges, stating that the Intelligence and Foreign Ministries had cleared the pollsters’ work. Reformist parliamentarians were reportedly barred from the court and the defendants were not allowed to see their families or their attorneys.

In October, RSF reported that the Government closed the newspaper *Avay-e Kordestan*, marking the first time a Kurdish language newspaper was banned in the country.

The Government directly controlled and maintained a monopoly over all television and radio broadcasting facilities; programming reflected the Government’s political and socio-religious ideology. Because newspapers and other print media had a limited circulation outside large cities, radio and television served as the principal news source for many citizens. Satellite dishes that received foreign television broadcasts were forbidden; however, many citizens, particularly the wealthy, owned them. In December 2002, the Majlis passed a bill legalizing private ownership of satellite receiving equipment. However, the Guardians Council rejected the legislation in January on constitutional and religious grounds. The Government reportedly acted to block foreign satellite transmissions during the year using powerful jamming signals (see Section 1.f.).

The Ministry of Islamic Culture and Guidance was in charge of screening books prior to publication to ensure that they did not contain offensive material. However, some books and pamphlets critical of the Government were published without reprisal. The Ministry inspected foreign printed materials prior to their release on the market. In August, author of “Iran’s women Musicians,” Toka Maleki, its publisher Jaafar Homai, and cultural critic Banafsheh Samgis received prison terms for publishing and publicly commenting on the book, which was deemed to contain “lies” about Islamic history. Translator of the book, “Women behind Veil and Well-Dressed Men,” Maliheh Moghazei and Ministry of Culture and the Islamic Guidance Director General Majid Sayyad also received prison terms in connection with the book’s publication.

The Government effectively censored domestic films, since it remained the main source of production funding. Producers must submit scripts and film proposals to government officials in advance of funding approval. However, such government restrictions appeared to have eased in recent years.

The Government censored Internet sites. In May, a government spokesman acknowledged state attempts to block access to “immoral” websites. The judiciary also announced the creation of a special unit to handle Internet-related issues. According to press reporting, the judiciary highlighted over twenty subject areas to be blocked, including: insulting Islam, opposing the Constitution, insulting the Supreme Leader or making false accusations about officials, undermining national unity and solidarity, creating pessimism among the people regarding the Islamic system, and propagating prostitution and drugs.

The Government restricted academic freedom. Government informers were common on university campuses. Admission to universities was politicized; all applicants had to pass “character tests” in which officials screened out applicants critical

of the Government's ideology. To obtain tenure, professors had to refrain from criticism of the authorities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution permits assemblies and marches “provided they do not violate the principles of Islam;” however, in practice the Government restricted freedom of assembly and closely monitored gatherings to prevent anti-government protest. Such gatherings included public entertainment and lectures, student gatherings, labor protests, funeral processions, and Friday prayer gatherings.

During a wave of student protests in June, vigilantes beat many protestors, and police arrested approximately 4,000 persons (both protestors and vigilantes), according to government figures shortly after the protests. The Government banned demonstrations planned for July 9 to commemorate the killing of several students by security forces in demonstrations held in 1999 and arrested more student activists at that time (see Sections 1.b. and 1.f.).

Paramilitary organizations such as the Ansar-e Hezbollah, a group of vigilantes who seek to enforce their vision of appropriate revolutionary comportment upon the society, harassed, beat, and intimidated those who demonstrated publicly for reform. Ansar-e Hezbollah gangs were used to harass journalists, intimidate dissident clerics, and disrupt peaceful gatherings (see Section 2.b.). Ansar-e Hezbollah cells were organized throughout the country and some were reportedly linked to individual members of the country's leadership.

In June, during a wave of pro-reform protests, members of vigilante groups, such as Ansar-e Hezbollah, attacked protestors, according to press reports. Ansar-e Hezbollah members reportedly stormed a university dormitory in Tehran, destroyed student property, and injured more than 50 students. Some vigilantes were reportedly included among those arrested by authorities during the clashes. Vigilantes who attacked a demonstration in Shiraz reportedly killed one protestor. Before being transferred to Government custody, vigilantes reportedly seized and beat journalist Ensafali Hedayat. Vigilante groups were also reported to have attacked protestors during pro-reform demonstrations near Tehran University in December.

In December, vigilantes beat reformist parliamentarian, Mohsen Mirdamadi, as he began a speech in Yazd. President Khatami ordered a crackdown on vigilantes after the attack; five individuals were subsequently arrested. At year's end, there was no further information on the status of their detention.

In November 2002, the Aghajari verdict sparked large and ongoing protests at universities throughout the country (see Section 1.e.). Students boycotted classes for almost 2 weeks and staged the largest pro-reform demonstrations in 3 years, with crowds of up to 5,000 at any given location. In late December 2002, two students were given jail terms for their protests against the Aghajari sentence. Hojatollah Rahimi was sentenced to 2 years in prison and 70 lashes for “insulting religious sanctities and issuing an insulting declaration.” Co-defendant Parviz Torkashvand was sentenced to 4 months in jail and 40 lashes.

A government clampdown using Basiji and other forces restored quiet for 2 weeks, until a large demonstration occurred at the University of Tehran, attended by over 2,000 within the walls of the campus, and with a larger crowd outside. Law enforcement officials and “plainclothes” forces wielding batons, whips, and belts suppressed the protest. Basiji violently dispersed subsequent demonstrations.

The Constitution provides for the establishment of political parties, professional associations, Islamic religious groups, and organizations for recognized religious minorities, provided that such groups do not violate the principles of “freedom, sovereignty, and national unity,” or question Islam as the basis of the Islamic Republic; however, the Government limited freedom of association, in practice.

In 2001, the Government provisionally closed the 50-year-old Iran Freedom Movement political party for “attempting to overthrow the Islamic regime,” and the Government permanently banned it in 2002. In response to the permanent dissolution of the movement, President Khatami warned against the banning of political groups, saying that suppression did not eliminate ideas; they were simply forced underground and continue to grow (see Sections 1.d. and 1.e.).

*c. Freedom of Religion.*—The Constitution declares that the “official religion of Iran is Islam and the doctrine followed is that of Ja'fari (Twelver) Shi'ism.” The Constitution also states that “other Islamic denominations are to be accorded full respect,” and recognizes Zoroastrians, Christians, and Jews, the country's pre-Islamic religions, as “protected” religious minorities; however, in practice The Government restricted freedom of religion. Religions not specifically protected under the Constitution did not enjoy freedom of religion. This situation most directly affected the approximately 300,000 followers of the Baha'i faith, who were not recognized by the Government as a community and were considered to belong to an outlawed political

organization. The central feature of the country's Islamic republican system is rule by a "religious jurisconsult." Its senior leadership, including the Supreme Leader of the Revolution, the President, the Head of the Judiciary, and the Speaker of the Islamic Consultative Assembly (Parliament) was composed principally of Shi'a clergymen.

The Ministry of Intelligence and Security (MOIS) monitored closely religious activity. Adherents of recognized religious minorities were not required to register individually with the Government. However, their community, religious, and cultural organizations, as well as schools and public events, were monitored closely. The population was approximately 99 percent Muslim, of which 89 percent were Shi'a and 10 percent Sunni (mostly Turkomans, Arabs, Baluchis, and Kurds). Baha'i, Christian, Zoroastrian, and Jewish communities constituted less than 1 percent of the population.

Members of the country's religious minorities, particularly Baha'is, reported imprisonment, harassment, and intimidation based on their religious beliefs. All religious minorities suffered varying degrees of officially sanctioned discrimination, particularly in the areas of employment, education, and housing. The Government generally allowed recognized religious minorities to conduct religious education of their adherents, although it restricted this right considerably in some cases. Religious minorities, by law and practice, are barred from election to a representative body, except to the five Majlis seats reserved for minorities, and from holding senior government or military positions. Members of religious minorities were allowed to vote, but they could not run for President. Although the Constitution mandates an Islamic Army, members of religious minority communities sometimes served in the military.

The Government allowed recognized religious minorities to establish community centers and certain privately-financed cultural, social, sports, or charitable associations. However, since 1983 the Government has denied the Baha'i community the right to assemble officially or to maintain administrative institutions.

The legal system discriminated against religious minorities, awarding lower monetary compensation in injury and death lawsuits for non-Muslims than for Muslims and imposing heavier punishments on non-Muslims than on Muslims. In April, the Council of Guardians rejected a bill passed by the Majlis in late 2002 equalizing the "blood money" paid to the families of male crime victims except for Baha'is. Proselytizing of Muslims by non-Muslims is illegal and the Government was harsh in its response, in particular against Baha'is and evangelical Christians. The Government did not ensure the right of citizens to change or recant their religion. Apostasy, specifically conversion from Islam, is punishable by death.

Although Sunni Muslims are accorded full respect under the terms of the Constitution, some Sunni groups claimed to be discriminated against by the Government.

Baha'is were considered apostates because of their claim to a religious revelation subsequent to that of the Prophet Mohammed. The Government defined the Baha'i faith as a political "sect" linked to the Pahlavi monarchy and therefore, as counterrevolutionary. Historically at risk, Baha'is often have suffered increased levels of mistreatment during times of political unrest. Baha'is may not teach or practice their faith or maintain links with co-religionists abroad. The Government continued to imprison and detain Baha'is based on their religious beliefs. A 2001 Ministry of Justice report indicated that government policy aimed at the eventual elimination of the Baha'is as a community.

In 2001, the UNSR estimated the Christian community at approximately 300,000. Of these, the majority were ethnic Armenians and Assyro-Chaldeans. Protestant denominations and evangelical churches also were active, but reported restrictions on their activities. The authorities became particularly vigilant in recent years in curbing proselytizing activities by evangelical Christians.

Estimates of the size of theewish community varied from 25,000 to 30,000, a substantial reduction from the estimated 75,000 to 80,000 Jews in the country prior to the 1979 revolution. While Jews were a recognized religious minority, allegations of official discrimination were frequent. The Government's anti-Israel stance, and the perception among many citizens that Jewish citizens supported Zionism and the State of Israel, created a threatening atmosphere for the small community. Jews limited their contact with and did not openly express support for Israel out of fear of reprisal. Jewish leaders reportedly were reluctant to draw attention to official mistreatment of their community due to fear of government reprisal.

The Government carefully monitored the statements and views of the country's senior Muslim religious leaders. It has restricted the movement of several who have been under house arrest for years.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government placed some restrictions on these rights. Citizens may travel within the country and change their place of residence without obtaining official permission. The Government required exit permits (a validation stamp in the passport) for foreign travel for draft-age men and citizens who were politically suspect. Some citizens, particularly those whose skills were in short supply and who were educated at government expense, must post bonds to obtain exit permits. The Government restricted the movement of certain religious minorities and several religious leaders (see Sections 1.d. and 2.c.).

Citizens returning from abroad sometimes were subjected to searches and extensive questioning by government authorities for evidence of anti-government activities abroad. Recorded and printed material, personal correspondence, and photographs were subject to confiscation.

The Government permitted Jews to travel abroad, but often denied them multiple-exit permits issued to other citizens. Baha'is often experienced difficulty in obtaining passports.

Women must obtain the permission of their husband, father, or other male relative to obtain a passport. Married women must receive written permission from their husbands before being allowed to leave the country.

The law contains provisions for granting refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no reports of the forced return of persons to a country where they feared persecution; however, there were reports that the Government deported refugees deemed "illegal" entrants into the country. In times of economic uncertainty, the Government increased pressure on refugees to return to their home countries. The Government generally cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The country hosted a large refugee population, mostly Afghans, as well as a significant number of Iraqis. At year's end, UNHCR estimated that approximately 1 million refugees from Afghanistan remained in the country. Up to 500,000 Afghan refugees have returned to Afghanistan since early 2002, including approximately 100,000 during the first half of the year, according to UNHCR. The Government denied UNHCR concerns that the Government was pressing them to leave. Most refugees subsisted on itinerant labor. The Government accused many Afghans of involvement in drug trafficking. After the September 2001 terrorist attacks, the Government sealed its border in anticipation of a war in Afghanistan and a resulting wave of refugees. The Government set up several refugee camps just inside Afghanistan to deal with the crisis.

The UNHCR estimated that there were approximately 200,000 Iraqi refugees in the country, the majority of whom were Iraqi Kurds, but also including Shi'a Arabs. Iraq expelled many of the Iraqi refugees at the beginning of the Iran-Iraq war because of their suspected Iranian origin. In numerous instances, both the Iraqi and Iranian Governments disputed their citizenship, rendering many of them stateless. Other Iraqi refugees arrived following Iraq's invasion of Kuwait in 1990. During the year, the Government took substantial steps to prepare for the possibility of new Iraqi refugees, but significant outflows never appeared. In November, UNHCR initiated a pilot repatriation of refugees from the country and had repatriated a few hundred to Iraq by early December. According to press reports, refugee officials speculated that up to three-quarters of the 200,000 refugees in the country may have crossed back into Iraq without formal assistance since April.

Although the Government claimed to host more than 30,000 refugees of other nationalities, including Tajiks, Bosnians, Azeris, Eritreans, Somalis, Bangladeshis, and Pakistanis, it did not provide information about them or allow the UNHCR or other organizations access to them.

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

The right of citizens to change their government is restricted significantly. The Supreme Leader, the recognized Head of State, is elected by the Assembly of Experts, and can only be removed by a vote of this same Assembly. The Assembly itself is restricted to clerics, who serve an 8-year term and are chosen by popular vote from a list approved by the Government. There is no separation of state and religion, and clerical influence pervades the Government, especially in appointed, rather than elected, positions. The Government effectively controlled the selection of candidates for elections. The Council of Guardians, which reviews all laws for consistency with Islamic law and the Constitution, also screens candidates for election for ideological, political, and religious suitability. It accepts only candidates who support a theocratic state; clerics who disagree with government policies or with a

conservative view of the Islamic state also have been disqualified. Two bills approved by the Majlis in late 2002 to expand presidential power and limit the Council of Guardians's ability to disqualify candidates were rejected by the Council of Guardians at mid-year.

Regularly scheduled elections are held for the Presidency, the Majlis, and the Assembly of Experts. Mohammad Khatami, a former Minister of Culture and Islamic Guidance who was impeached in 1992 by the Majlis for "liberalism" and "negligence," was elected President in 1997 and reelected in 2001 with 77 percent of the vote. The UNSR reported that the Guardian Council significantly limited the number of candidates permitted to run in elections and noted that the Interior Minister denounced the "unprincipled disqualification" of candidates.

Elections were held in the fall of 1998 for the 86-member Assembly of Experts. The Council of Guardians disqualified numerous candidates, which led to criticism from many observers that the Government improperly predetermined the election results.

Elections were last held for the 290-seat Majlis in 2000 and were scheduled to be held again in February 2004. Of more than 6,000 candidates, the Council of Guardians disqualified 576 before the 2000 elections, a substantial decrease from the 44 percent of candidates disqualified before the 1996 elections. Most of those disqualified were outspoken advocates of political reform, including some of the most prominent supporters of President Khatami. In 2001, by-elections were held for vacant Majlis seats. The Council of Guardians reportedly disqualified 100 potential candidates, more than one-quarter of those wishing to run. Furthermore, the Supreme Leader and other conservatives within the Government used constitutional provisions to block much of the early reform legislation passed by the Majlis.

In 1999, elections for nationwide local councils were held for the first time since the 1979 revolution. Government figures indicated that roughly 280,000 candidates competed for 130,000 council seats across the nation. Women were elected to seats in numerous districts. However, the Councils did not appear to wield significant autonomy or authority. A second series of municipal council elections took place in February. A combination of low voter turnout (below 50 percent) and popular dissatisfaction with both the performance of the councils and the record of reformists swept many reformists from office.

Women held 9 out of 290 Majlis seats. There were no female cabinet members, although several held high-level positions, such as Vice-President, and a woman served as Presidential Adviser for Women's Affairs, and another as head of the Environmental Protection Agency.

Majlis seats were reserved for elected Christian (three), Jewish (one) and Zoroastrian (one) deputies. Religious minorities were barred from being elected to any other seats on a representative body and from holding senior government or military positions.

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

The Government continued to restrict the work of local human rights groups. The Government denies the universality of human rights and has stated that human rights issues should be viewed in the context of a country's "culture and beliefs."

Various professional groups representing writers, journalists, photographers, and others attempted to monitor government restrictions in their fields, as well as harassment and intimidation against individual members of their professions. However, their ability to meet, organize, and effect change was curtailed severely by the Government. There were domestic NGOs working in areas such as health and population, women and development, youth, environmental protection, human rights, and sustainable development. Some reports estimate a few thousand local NGOs currently in operation.

International human rights NGOs such as HRW and AI were not permitted to establish offices in or conduct regular investigative visits to the country. Authorities barred HRW and AI representatives from attending the European Union's late 2002 human rights talks in Tehran, despite the EU's invitation. An October EU-Iran human rights dialogue was held in Brussels to facilitate the participation of NGO representatives. The Government also opened a human rights dialogue with Australia in 2002 and with Switzerland in October.

The ICRC and the UNHCR both operated in the country. However, the Government did not allow the UNSR to visit the country from 1997 to 2001, the last year his mandate to monitor human rights in the country was in effect. The Government allowed two visits by U.N. human rights representatives during the year, one by the UNSR for the Promotion and Protection of the Right to Freedom of Opinion and Expression and one by a U.N. Working Group on Arbitrary Detention. In December,

the Plenary of the U.N. 58th General Assembly adopted a resolution condemning the country for human rights abuses, include public executions, amputation, torture, suppression of free speech, and discrimination against women and minorities.

The Islamic Human Rights Commission (IHRC) was established in 1995 under the authority of the head of the judiciary, who sits on its board as an observer. In 1996 the Government established a human rights committee in the Majlis, the Article 90 Commission, which receives and considers complaints regarding violations of constitutional rights. However, many observers believed that these committees lacked independence.

In October, the Article 90 Commission issued a report on the death in custody of Iranian-Canadian photojournalist Zahra Kazemi. The report identified Tehran's Chief Prosecutor and other members of the judiciary as being directly involved in subjecting Kazemi to violent interrogations in Evin Prison, and later attempting to cover up the cause of her death. The report noted that Kazemi had applied for and received official government permission to act as a journalist and photographer while in the country. The Article 90 Commission findings reportedly dismissed allegations of MOIS involvement in Kazemi's death, though an MOIS officer was charged with her murder.

In October, lawyer and human rights activist Shirin Ebadi was awarded the Nobel Peace Prize for her work in advancing human rights both in the country and internationally. Ms. Ebadi, who served as one of the first female judges in the country before being forced to resign after the revolution, has campaigned on behalf of women, children, and victims of government repression. She represented the family of Darius and Parvaneh Forouhar, killed in 1998, and of a student killed during the 1999 student protests, which exposed links between vigilante groups and government officials and led to her arrest in 2000. Ms. Ebadi is a founder of the Center for the Defense of Human Rights, which represents defendants in political cases. She has also agreed to represent the family of Ms. Kazemi.

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

In general the Government did not discriminate on the basis of race, disability, language, or social status; however, it discriminated on the basis of religion, sex, and ethnicity. Kurds, Azeris, and Ahwazi Arabs were not allowed to study their languages.

*Women.*—Although spousal abuse and violence against women occurred, statistics were not available. Abuse in the family was considered a private matter and seldom was discussed publicly. Rape is illegal, and subject to strict penalties, but remained a widespread problem. The UNSR published statistics provided by the IHRC indicating that, at the end of 2001, an estimated 1,000 of approximately 3,000 active files were related to women's issues.

Prostitution was illegal. Accurate information regarding the extent of the problem was not widely available, although the issue received greater attention as a result of the public's growing interest in social problems. Press reports described prostitution as a widespread problem.

Provisions in the Islamic Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women. Shortly after the 1979 revolution, the Government repealed the Family Protection Law, a hallmark bill adopted in 1967 that had given women increased rights in the home and workplace, and replaced it with a legal system based largely on Shari'a practices. In 1998, the Majlis passed legislation that mandated segregation of the sexes in the provision of medical care. In August, the Guardian Council rejected a bill that would require the country to adopt U.N. conventions on eliminating torture and ending discrimination against women.

Even though the law permits it, marriage at the minimum age of 9 was rare. In mid-2002, authorities approved a law that requires court approval for the marriage of girls below the age of 13 and boys younger than 15. All women must have the permission of their father or a male relative to marry. The law allowed for the practice of temporary marriages based on a Shi'a custom in which a woman or a girl may become the wife of a married or single Muslim male after a simple and brief religious ceremony. The temporary marriage may last any length of time. According to Shi'a Islamic law, men may have as many temporary wives as they wish. Such wives are not granted rights associated with traditional marriage.

The Penal Code includes provisions for the stoning of women and men convicted of adultery, although judges were instructed at the end of 2002 to cease imposing such sentences (see Section 1.c.). Women have the right to divorce if their husband has signed a contract granting that right or if the husband cannot provide for his family, is a drug addict, insane, or impotent. However, a husband is not required

to cite a reason for divorcing his wife. In December 2002, a new law made the adjudication of cases in which women demand divorces less arbitrary and less costly.

A widely used model marriage contract limits privileges accorded to men by custom, and traditional interpretations of Islamic law recognize a divorced woman's right to a share in the property that couples acquire during their marriage and to increased alimony. Women who remarry are forced to give the child's father custody of children from earlier marriages. However, the law granted custody of minor children to the mother in certain divorce cases in which the father is proven unfit to care for the child. In November, women were granted the right to custody of both male and female children up to 7 years of age; previously divorced women were allowed to retain custody over boys only until two years of age.

The testimony of a woman is worth half that of a man in court. The "blood money" paid to the family of a female crime victim is half the sum paid for a man. A married woman must obtain the written consent of her husband before traveling outside the country (see Section 2.d.).

Women had access to primary and advanced education; however, social and legal constraints limited their professional opportunities. Women were represented in many fields of the work force, and the Government has not prevented women from entering many traditionally male-dominated fields. However, women are barred from seeking the presidency and from appointment to the judiciary. The law provides maternity, child care, and pension benefits.

The Government enforced gender segregation in most public spaces, and prohibited women from mixing openly with unmarried men or men not related to them. Women must ride in a reserved section on public buses and enter public buildings, universities, and airports through separate entrances. Women were prohibited from attending male sporting events, although this restriction did not appear to be enforced universally. While the enforcement of conservative Islamic dress codes varied, what women wore in public was not entirely a matter of personal choice. The authorities sometimes harassed women if their dress or behavior was considered inappropriate, and women may be sentenced to flogging or imprisonment for such violations (see Section 1.c.). The law prohibits the publication of pictures of uncovered women in the print media, including pictures of foreign women. There are penalties for failure to observe Islamic dress codes at work.

*Children.*—There is little current information available to assess Government efforts toward assuring the welfare of children. Except in isolated areas of the country, children had access to free education through the 12th grade (compulsory to age 11), and to some form of health care.

There was not enough information available to reflect how the Government dealt with child abuse (see Sections 6.c. and 6.d.).

*Persons with Disabilities.*—There is no current information available regarding whether the Government has legislated or otherwise mandated accessibility for persons with disabilities, or whether discrimination against persons with disabilities is prohibited.

*National/Racial/Ethnic Minorities.*—The Kurds sought greater autonomy from the central Government and continued to suffer from government discrimination. Sunni Kurdish tensions with the Shi'a dominated government predate the 1979 revolution. Kurds often were suspected of harboring separatist or foreign sympathies. These suspicions have led to sporadic outbreaks of fighting between government forces and Kurdish groups. In recent years, greater Kurdish cultural expression has been allowed and Kurdish publications and broadcasting have expanded. However, there was still no public school education in the Kurdish language.

The KDPI claimed that the Government executed at least four Kurdish party members and activists during the year. According to KDPI, plainclothes vigilantes in five separate attacks killed seven more Kurds during the year (see Section 1.a.). Other activists were reported imprisoned.

Azeris comprise roughly one-quarter of the country's population and are well integrated into the Government and society. The Supreme Leader is of Azeri descent, but complained of ethnic and linguistic discrimination, including banning the Azeri language in schools, harassing Azeri activists or organizers, and changing Azeri geographic names. The Government traditionally viewed Azeri nationalism as threatening, particularly since the dissolution of the Soviet Union and the creation of an independent Azerbaijan. Azeri groups also claimed that there were a number of Azeri political prisoners jailed for advocating cultural and language rights for Iranian Azerbaijanis. The Government has charged several of them with "revolting against the Islamic state."

Foreign representatives of the Ahwazi Arabs of Khuzistan, whose numbers could range as high as 4 million or more, claimed that their community in the southwest



of the country suffered from discrimination, including the right to study and speak Arabic. In July, authorities reportedly closed two bilingual Arabic/Farsi newspapers, and imprisoned scores of political activists. They asserted that the Government has ignored their appeals to de-mine the vast stretches of Khuzistan, mined during the Iran-Iraq War. They further stated that many Arabs, both Shi'a and Sunni, have been imprisoned and tortured for criticizing government policies. According to Ahwazi sources, political activist with the Islamic Wafagh Party, Kazem Mojaddam, was sentenced to 2 years imprisonment in November after his initial arrest in June on charges of secession and endangering internal security.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Code provides workers the right to establish unions; however, the Government did not allow independent unions to exist. A national organization known as the Workers' House was the sole authorized national labor organization. It served primarily as a conduit for the Government to exert control over workers. The leadership of the Workers' House coordinated activities with Islamic labor councils, which were made up of representatives of the workers and one representative of management in industrial, agricultural, and service organizations of more than 35 employees. These councils also functioned as instruments of government control, although they frequently were able to block layoffs and dismissals.

According to the International Confederation of Free Trade Unions (ICFTU), the role of the Worker's House changed in recent years, and there was more tolerance of workers' organizations, which included four nurses organizations, a health workers' union, and a textile workers' union. The report also notes that a 2000 law exempted companies with up to five employees from the need to comply with labor legislation for 6 years. This law affected approximately 3 million workers, making them easier to hire and fire. The Labor Code allows employers and employees to establish guilds. The guilds issued vocational licenses and helped members find jobs. Instances of late or partial pay for government workers reportedly were common.

There were no known affiliations with international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers did not have the right to organize independently and negotiate collective bargaining agreements. The ICFTU noted that the presence of security/intelligence forces in the workplace, as well as increasing use of temporary contracts, acted as obstacles to organizing.

The law prohibits public sector strikes and the Government did not tolerate any strike deemed to be at odds with its economic and labor policies; however, strikes occurred. In addition to strikes, there were also work stoppages and protests by oil, textile, electrical manufacturing, and metal workers, as well as by the unemployed. Many of these protests were due to non-payment of wage arrears, according to the ICFTU. In May, textile workers in Behshar staged a hunger strike to protest non-payment of overdue wages. Teachers staged demonstrations and sit-ins in several cities during the year for improved working conditions and wage benefits.

It is not known whether labor legislation and practice in the export processing zones (EPZs) differ from the law and practice in the rest of the country. According to the ICFTU, labor legislation did not apply in the EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The Penal Code provides that the Government may require any person who does not have work to take suitable employment; however, this did not appear to be enforced regularly. The International Labor Organization (ILO) has criticized this provision frequently as contravening ILO Convention 29 on forced labor. The law prohibits forced and bonded labor by children; however, this was not enforced adequately, and such labor by children was a serious problem.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits forced and bonded labor by children; however, there appears to be a serious problem with child labor. The Labor Law prohibits employment of minors less than 15 years of age and places restrictions on the employment of minors under age 18; however, laws pertaining to child labor were not enforced adequately. The law permits children to work in agriculture, domestic service, and some small businesses. The law prohibits the employment of women and minors in hard labor or night work. Information regarding the extent to which these regulations were enforced was not available.

*e. Acceptable Conditions of Work.*—The Labor Code empowers the Supreme Labor Council to establish annual minimum wage levels for each industrial sector and region; however, no information was available regarding mechanisms used to set wages. It was not known if the minimum wages were adjusted annually or enforced. The Labor Code stipulates that the minimum wage should be sufficient to meet the

living expenses of a family and should take inflation into account. However, under poor economic conditions, many middle-class citizens must work at two or three jobs to support their families.

The Labor Code establishes a maximum 6-day, 48-hour workweek, with 1 weekly rest day, normally Fridays, and at least 12 days of paid annual leave and several paid public holidays.

According to the Labor Code, a Supreme Safety Council, chaired by the Labor Minister or his representative, is responsible for promoting workplace safety and health. Labor organizations outside the country have alleged that hazardous work environments were common in the country and have resulted in thousands of worker deaths per year. It was not known how well the Ministry's inspectors enforced regulations. It was not known whether workers could remove themselves from hazardous situations without risking the loss of employment.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and persons reportedly were trafficked to, through, and from the country during the year. It was difficult to measure the extent of the Government's efforts to curb human trafficking, but national and international press reporting indicated that Tehran has taken action against bandits involved in abducting women and children and pursued agreements with neighboring states to curb human trafficking. The Government has also reportedly arrested, convicted, and executed numerous human trafficking offenders. During the year, police reportedly arrested numerous members of prostitution rings and closed down brothels.

In April, a court in Mashhad reportedly sentenced 53 individuals to 281 years in prison and 222 lashes on charges of abduction and slavery for trafficking scores of young girls to Pakistan.

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## IRAQ<sup>1</sup>

On April 9, Coalition-led forces militarily overthrew the Ba'athist regime of Saddam Hussein in Operation Iraqi Freedom. Under U.N. Security Council Resolutions 1483, 1500, and 1511, an Interim Administration, comprised of the Coalition Provisional Authority (CPA) and the Iraqi Governing Council, administers the country until an internationally recognized, representative government is established and assumes responsibility.

The regime's 1968 provisional Ba'athist Constitution claimed the country to be a democratic republic. However, political power rested exclusively in a harshly repressive one-party apparatus dominated by Saddam Hussein Al-Tikriti and members of his extended family. According to the Constitution, the Arab Ba'ath Socialist Party governed the country through the Revolutionary Command Council (RCC), which exercised both executive and legislative authority. President Saddam Hussein, who was also Prime Minister, Chairman of the RCC, and Secretary General of the Regional Command of the Ba'ath Party, therefore wielded absolute decisive power. Hussein and his regime claimed 99.96 percent of the votes cast in a nondemocratic "referendum" on his presidency held in October 2002 that did not include secret ballots; many credible reports indicated that voters feared possible reprisal for a dissenting vote. The judiciary was not independent, and the President had the ability to override any ruling or refer any case to a secret system of Special Courts outside the normal judiciary.

Under the RCC and Ba'ath party structure, the Tikriti family maintained total effective control of the security forces and the military. The regime's security apparatus included militias attached to the President, the Ba'ath Party, and the Interior Ministry. The military and these paramilitary forces often played an internal security role and were central to maintaining the environment of intimidation and fear on which regime power depended. The regime historically made little attempt to acknowledge, investigate, or punish officials or members of the military or security forces accused of human rights abuses; however, in February 2002, it admitted that state police were commonly accused of human rights violations. Members of the military and security forces committed numerous, serious human rights abuses.

The country has an estimated population of 24.7 million. The regime owned all major industries and controlled most of the highly centralized economy, which was based largely on oil production. The Iran-Iraq and gulf wars damaged the economy, and the country was subject to U.N. sanctions from its 1990 invasion of Kuwait

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<sup>1</sup>This report draws to a large extent on non-U.S. Government sources. The Coalition Provisional Authority has furnished additional information. This 2003 report covers the human rights record of the regime of Saddam Hussein until its fall on April 9.

until the suspension of sanctions following Operation Iraqi Freedom. Although the economy suffered from the regime's channeling resources to large military and internal security forces and to key supporters, the U.N.'s Oil-for-Food Program beginning in 1996 helped improve the standard of living for the average citizen.

Ethnically and linguistically the country's population includes Arabs, Kurds, Turkmen, Chaldeans, Assyrians, and Armenians. The religious mix likewise is varied and consists of Shi'a and Sunni Muslims (both Arab and Kurdish), Christians (including Chaldeans and Assyrians), Kurdish Yazidis, and a small number of Jews, Sabean Mandaeans, and Baha'i. Civil uprisings have occurred in various areas over the past 3 decades, especially in Kurdish areas in the North and Shi'a areas in the South. The minority Arab Sunni regime reacted with extreme repression against those who opposed or even questioned it. The regime also systematically forced the removal of ethnic minorities under its admitted policy of "Arabizing" arable land.

The regime's human rights record remained extremely poor and it continued to commit numerous, serious human rights abuses. Citizens did not have the right to change the Government. The regime continued to summarily execute alleged political opponents and leaders of the Shi'a religious community. Persons were executed arbitrarily because of their association with an opposition group or as part of a continuing effort to reduce prison populations. Until its fall, the regime continued to be responsible for disappearances and to kill and torture persons suspected of or related to persons suspected of oppositionist politics, economic crimes, military desertion, and a variety of other activities. Mass graves related to five major atrocities were identified by year's end. More remained to be investigated. The number of those buried in the graves already discovered was difficult to estimate, but many observers believed that the total will reach 300,000.

Security forces routinely tortured, beat, raped, and otherwise abused detainees. Prison conditions were extremely poor and frequently life-threatening. The regime at times conducted "prison cleansing" campaigns to kill inmates in order to relieve overcrowding in the prisons. The authorities routinely used arbitrary arrest and detention, prolonged detention, and incommunicado detention, and continued to deny citizens the basic right to due process.

Until April 9, Saddam Hussein and his inner circle of supporters continued to impose arbitrary rule. The regime continued to infringe on citizens' privacy rights. The regime severely restricted freedoms of speech, the press, assembly, association, religion, and movement. Violence and discrimination against women occurred. The regime neglected the health and nutritional needs of children, and discriminated against religious minorities and ethnic groups. The regime restricted severely trade union rights. Child labor persisted, and there were instances of forced labor.

Since the 1991 Kurdish uprising and the regime's subsequent military withdrawal, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK) controlled most areas in the northern provinces of Erbil, Duhok, and Sulaymaniah. Despite conflict from 1994–1997, a unified Assembly of PUK and KDP members convened for the first time in October 2002.

The KDP, PUK, and other opposition groups have committed human rights abuses in the past. However, prior to the fall of the regime, the PUK and KDP enacted laws establishing an independent judiciary, providing for freedom of religion, freedom of the press, freedom of assembly, the right to form political parties, and women's' and workers' rights. According to press reporting and independent observers, both groups generally observed such laws in practice. In addition, both the PUK and KDP established human rights ministries to monitor human rights conditions, to submit reports to relevant international bodies, and to recommend ways to end abuses

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The regime, in power until the fall of Baghdad on April 9, continued to commit numerous political and other extrajudicial killings, especially by executing perceived or alleged political opponents. The U.N. Special Rapporteur of the U.N. Commission on Human Rights on the situation of Human Rights in Iraq had repeatedly criticized the regime for the "sheer number of executions" taking place in the country, the number of "extra judicial executions on political grounds," and "the absence of a due process of the law." Arbitrary or summary executions were widespread.

The discovery of mass graves, considered to be unmarked sites containing at least six bodies, provided evidence of the vast dimension of the practice. Immediately following the fall of the regime and throughout the remainder of the year, mass graves were reported from sources throughout the country. By the end of the year, 275

mass graves had been reported to the CPA and 55 of these mass graves had been confirmed.

Sites have been discovered in all regions and contained members of every major religious and ethnic group in the country, as well as foreign citizens, including Iranian POWs, Kuwaitis and Saudis. Graves contained forensic evidence of atrocities, including signs of torture, decapitated or mutilated corpses, or evidence that victims had been shot in the head at close range. According to results published by the CPA, most of the graves discovered by year's end corresponded to one of five major atrocities perpetrated by the regime:

In the 1983 attack against Kurdish citizens, the regime rounded up 8,000 members of the Barzani tribe in the North and executed them in deserts at great distances from their homes.

In the 1988 Anfal campaign, as many as 182,000 persons disappeared. Most of the men were separated from their families and were executed in deserts in the west and southwest of the country. The remains of some of their wives and children have also been found in mass graves. Chemical attacks against Kurdish villages from 1986 to 1988, including the Halabja attack, when the Air Force dropped sarin, VX and tabun chemical agents on the civilian population, killing 5,000 people immediately and causing long-term medical problems, related deaths, and birth defects among the children of thousands more.

The 1991 massacre after the Shi'a uprising at the end of the gulf war killed tens of thousands of Shi'a in such regions as Basra and Al-Hillah.

The 1991 massacre of Kurds targeted civilians and soldiers who fought for autonomy in the North after the gulf war.

At or near prisons or military establishments, opponents and critics of the regime from all religious and ethnic groups were also executed and buried in mass graves.

These crimes have acquired a measure of notoriety and salience. However, thousands of other citizens, including Marsh Arabs, Shi'a citizens in the 1970s and 1980s, and students involved in uprisings in Najaf in 1999 may also be in as-yet undiscovered mass graves.

There have also been mass extrajudicial executions of prisoners. In a prison cleansing campaign between 1997 and 1999 approximately 2,500 prisoners were executed. In October 2001, 23 political prisoners were executed at Abu Ghraib prison.

The list of offenses with mandatory death penalties grew substantially in the last years of the regime and included minor offenses such as smuggling cars and spare parts. More significantly, the Special Rapporteur has noted that mere membership in certain political parties was punishable by death, and that fear of death for any act or expression of dissent was pervasive. There were recurrent reports of the use of the death penalty for such offenses as "insulting" the President or the Ba'ath Party. The Special Rapporteur also noted that even the "suggestion that someone was not a supporter of the President carried the prospect of the death penalty." In response to the Special Rapporteur's request for information concerning those executed in 2000 and 2001, the regime responded that the number was 249—for the crimes of homicide, drug-related offenses and immoral offenses. The Special Rapporteur commented that compliance with his request was "limited."

Apart from the mass graves, the regime practiced a policy of selective elimination of prominent Shi'a clerics and their followers suspected of disloyalty to the Government. Regime agents publicly targeted family members of defectors and dissidents for torture and killing (see Section 1.f.). Regime security forces killed numerous political prisoners, minority group members, criminal suspects, and others during attempted apprehension or while in custody.

Land mines continued to kill civilians. Approximately 7 million landmines left over from the Iran/Iraq war remained in place in the North. PUK representatives reported that the population living in the region under its control suffered approximately 250 casualties per month from exploded mines. Many of these victims died.

In February 2002, the Minister of Justice specifically informed the Special Rapporteur that prostitution was not punishable by death under the law and claimed that no one had been sentenced to death for prostitution in the country in many years. However, in the past, security forces used allegations of prostitution to intimidate opponents of the regime. Security forces allegedly beheaded at least 130 women between June 2000 and April 2001, and an additional number of men suspected of facilitating such activities in October 2000. Security agents reportedly decapitated numerous women and men in front of their family members. According to Amnesty International (AI), the victim's heads were displayed in front of their homes for several days (see Section 5).

*b. Disappearance.*—There is a substantial overlap between the victims of arbitrary and unlawful killings reported in the previous Section and the "disappeared" in this

Section. Those who disappeared frequently belonged to groups whose corpses were unearthed in mass graves.

Until the regime's fall, there continued to be widespread reports of disappearances. The regime did nothing to address accusations of previously reported disappearances. A large number of citizens remain unaccounted for.

Local human rights associations, international human rights, representatives of the CPA, U.N. officials, the U.N. Special Rapporteur, representatives of the Governing Council, the Interim Authority's Human Rights Ministry, and the regional human rights ministries in Irbil and Sulimaniyah have all provided estimates on the number of missing persons in the country. By the end of the year, it was widely believed among all of these organizations that the regime had executed as many as 300,000 civilians, and probably more. Several of these organizations held the view that as many as 1.3 million persons were missing as a result of wars, executions, and defection.

The majority of the disappearance cases known to the Special Rapporteur were persons of Kurdish origin who disappeared during the 1988 Anfal Campaign. The Special Rapporteur estimated that the total number of Kurds who disappeared during that period could reach several tens of thousands. Human Rights Watch (HRW) estimated the total at between 70,000 and 150,000, and AI at more than 100,000. During the year, the two regional Human Rights Ministers claimed that 182,000 Kurds were executed during the Anfal Campaign. The second largest group of disappearance cases known to the Special Rapporteur consisted of Shi'a who were reported to have disappeared in the late 1970's and early 1980's as their families were expelled to Iran due to their alleged Persian ancestry. Subsequently, there were large-scale killings of Shi'a in the South at the end of the gulf war.

Hundreds were still missing in the aftermath of the brief Iraqi military occupation of Erbil in 1996. Many of these persons may have been killed surreptitiously late in 1997 and throughout 1998, in the prison-cleansing campaign (see Section 1.a.). The missing were primarily from the Kurd minority but included members of the Assyrian, Turkmen, and Yazidi communities.

Despite several well-publicized exchanges with Kuwait, Saudi Arabia, and Iran, the regime ignored requests from those governments to account for those who had disappeared during Iraq's 1990–91 occupation of Kuwait, and regarding prisoners of war captured in the 1980–88 Iran-Iraq war. The regime failed to return, and did little to account for, a large number of Kuwaiti citizens and citizens of other countries who were detained during the Iraqi occupation of Kuwait. Of 609 cases of missing Kuwaiti citizens under review by the Tripartite Commission on Gulf War Missing, only 3 were resolved. In the past, the regime denied having any knowledge of the others and claimed that any relevant records were lost in the aftermath of the gulf war although it subsequently claimed to have provided such records to Kuwait in October 2002.

After the fall of the former regime, officials from the CPA, working with Iraqis, the Human Rights Ministry, the Ministry of Foreign Affairs and the International Committee of the Red Cross (ICRC) through the Tripartite Commission process, have closed 45 cases of Kuwaiti and Saudi Arabian missing persons whose corpses were found in mass graves and confirmed through DNA testing.

Numerous credible reports have alleged the existence of special prison wards that hold individuals whose whereabouts, status, and fate were not disclosed (see Section 1.c.).

Few victims became targets of the regime because of any crime they had committed; rather, they were arrested and held as hostages in order to force a relative, who may have escaped abroad, to surrender. Others were arrested because of their family's link to a political opponent or because of their ethnic origin (see Sections 1.d. and 1.f.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1968 Constitution expressly prohibited torture; however, the security services routinely and systematically tortured detainees. According to former prisoners, torture techniques included branding, electric shock administered to the genitals and other areas, beating, removal of fingernails, amputation without anesthesia, burning with hot irons and blowtorches, suspension from rotating ceiling fans, dripping of acid on the skin, rape, breaking of limbs, denial of food and water, extended solitary confinement in dark and extremely small compartments, and threats to rape or otherwise harm family members and relatives. Evidence of such torture was often apparent when security forces returned the mutilated bodies of torture victims to their families. There were persistent reports that families were made to pay for the cost of executions of loved ones. Refugees often reported to host governments in a variety of countries instances of torture, and displayed scars and mutilations to substantiate their claims. Since the fall of the former regime, Iraqis have repeatedly and

consistently reported to the CPA, human rights organizations, and the international media that they suffered from these types of torture.

Arrested persons routinely were subjected to mistreatment, including prolonged interrogations accompanied by torture, beatings, and various deprivations. Cruel and unusual punishments prescribed by the law, including amputations and branding. In 2000, the authorities introduced tongue amputation as a punishment for persons who criticized Saddam Hussein or his family. Soldiers had their ears cut off as punishment for desertion. An "X" was branded on their foreheads so that citizens would not think that they were wounded war veterans. In February 2002, the Minister of the Interior admitted the existence of this practice, but claimed "it had now definitively ceased." Since the fall of the regime, Iraqis with amputated hands, tongues, and ears have presented themselves to CPA authorities confirming these reports of torture and seeking assistance.

There were numerous allegations of politically motivated torture and reports of torture against family members, including the children, of suspected critics of the regime. For instance, a health coordinator for the refugee health program in Yemen claimed in January 2002 that an Iraqi child under her care in Yemen bearing the marks of needle scars on its wrists and forearms had been injected with an agent that caused severe mental retardation in retaliation for the father's suspected opposition to the regime.

Beyond the use of torture, the regime systematically employed cruel, inhuman, and degrading treatment of people for political purposes. Human rights organizations and opposition groups continued to receive reports of women who suffered from severe psychological trauma after being raped while in custody. Security forces also reportedly sexually assaulted and threatened sexual assault against officials, opposition members and their families, in order to blackmail them into compliance (see Section 1.f.). This continued an alleged pattern of the regime's systematic use of rape for political purposes. One former female prisoner reported to the CPA that she suffered repeated rape, including with metal objects, and burning of her breasts while in the custody of the former regime. She showed significant scarring. Former Mukhabarat (Intelligence Service) member Khalid Al-Janabi reported in 2001 that its Technical Operations Directorate used rape and sexual assault in a systematic and institutionalized manner for political purposes. The unit reportedly also videotaped the rape of female relatives of suspected oppositionists and used the videotapes for blackmail purposes and to ensure their future cooperation (see Section 1.f.). The security forces allegedly also raped women who were captured during the Anfal Campaign in the 1980s and during the 1990 occupation of Kuwait. The regime never acknowledged these reports, conducted any investigation, nor took action against those who committed the rapes.

Prison conditions were extremely poor and life-threatening. There reportedly were numerous official, semi-official, and private prisons throughout the country. Overcrowding was a serious problem. In February 2002, the Minister of Labor and Social Affairs admitted to the Special Rapporteur that its prison system was overcrowded. The regime granted a much-publicized amnesty in October 2002 to all prisoners except those accused of spying for the United States or Israel. This public relations event served mainly to corroborate previous reporting of summary executions, disappearances, torture, and inhuman living conditions within the regime's prison system. Many prisoners remained unaccounted for after the amnesty which released many hardened criminals into the population.

Certain prisons were infamous for routine mistreatment of detainees and prisoners. Abu Ghurayb, Baladiat, Makasib, Rashidiya, Radwaniyah, and other prisons reportedly have torture chambers. Hundreds of Fayli (Shi'a) Kurds and other citizens of Iranian origin, who had disappeared in the early 1980s during the Iran-Iraq war, reportedly were being held incommunicado at the Abu Ghurayb prison. There were numerous mentally ill prisoners at Al-Shamma'iya prison in Baghdad, which reportedly was the site of torture and a number of disappearances. The Al-Radwaniyah detention center was a former prisoner of war (POW) facility near Baghdad and reportedly the site of torture as well as mass executions (see Section 1.a.). Since the fall of the former regime, the CPA has received numerous and consistent complaints of torture during interrogations in secret detention centers immediately following arrest and prior to transfer to prisons. Many of these individuals also claimed that they were tortured in the prisons after their transfer. Al-Radwaniyah has been consistently reported as a site of mass executions, and hundreds of Iraqis have reported that they believed there is a mass grave somewhere in the immediate vicinity of the prison.

The regime did not permit international monitoring of prisons; however, in 2002 the Special Rapporteur visited prisons and noted that the Abu Ghurayb prison's conditions "were appalling."

Kurdish regional officials reported in 2000 that prisons in the three northern provinces were open to the International Committee for the Red Cross (ICRC) and other international monitors. According to the ICRC, regular and consistent improvement in conditions was observed on their weekly prison visits to declared prisons. However, both the PUK and the KDP reportedly maintained private, undeclared prisons, and both groups reportedly deny access to ICRC officials. There were reports that authorities of both the PUK and KDP tortured detainees and prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the legal code explicitly prohibited arbitrary arrest and detention; however, the authorities routinely engaged in these practices. The Special Rapporteur received numerous reports of widespread arbitrary arrest and detention, often for long periods of time, without access to a lawyer or the courts. As indicated in the 1999 AI report, “Iraq: Victims of Systematic Repression,” many thousands of persons were arrested arbitrarily in the last few years of the regime because of suspected opposition activities or because they were related to persons sought by the authorities. Those arrested often were taken away by plainclothes security agents who offered no explanation and produced no warrant to the person or family members (see Section 1.f.). The authorities frequently denied detainees legal representation and visits by family members. In most cases, family members did not know the whereabouts of detainees and did not make inquiries for fear of reprisal. Many persons were taken away in front of family members, who heard nothing further until days, months, or years later, when they were told to retrieve the often-mutilated corpse of their relative. There also were reports of the widespread practice of holding family members and close associates responsible for the alleged actions of others (see Section 1.f.). Since the fall of the former regime, Iraqis have consistently reported to the CPA and national human rights institutions that the former regime arrested them for their political or religious beliefs, ethnic background or disloyalty. Specific allegations have included arrest for membership in the Communist party, refusal to join the Ba’ath party, marriage to or association with foreigners, and being of Shi’a, Kurd, Jewish, Chaldean Christian, Turkmen, Yazidi, or Assyrian background.

According to international human rights groups, numerous foreigners arrested arbitrarily in previous years also remained in detention. Although no statistics were available, observers estimated the number of political detainees to be in the tens of thousands, some of whom have been held for decades. The PUK and the KDP reportedly hold some political prisoners and detainees in the north of the country.

*e. Denial of Fair Public Trial.*—Under the former regime, the judiciary was not independent, and there was no check on the President’s power to override any court decision. Numerous laws facilitated continued repression, and the regime used extrajudicial methods to extract confessions or coerce cooperation. Historically, during the constitutional monarchy, a Council of Judges administered the judiciary independently of the executive branch of Government. The Ba’ath party abolished the Council of Judges and placed the regular courts within the Ministry of Justice.

There were two parallel judicial systems. The regular courts under the Ministry of Justice dealt with the civil courts, courts of personal status and criminal courts. In addition to the Court of Appeal, there was the Court of Cassation or Supreme Court, which was the highest court. The many special courts and tribunals affiliated with, and supervised by, parts of the executive other than the Ministry of Justice operated independently of the regular judicial system. For example, the national security courts tried all cases related to the internal and external security of the state but also could try criminal cases.

National security courts had jurisdiction in all cases involving espionage and treason, peaceful political dissent, smuggling, currency exchange violations, and drug trafficking. Military officers or civil servants with no legal training headed these tribunals, which heard cases in secret. Authorities often held defendants incommunicado and did not permit contact with lawyers (see Section 1.d.). The courts admitted confessions extracted by torture, which often served as the basis for conviction (see Section 1.c.). Many cases appeared to end in summary execution; defendants could appeal to the President for clemency. The Minister of Justice, in February 2002, claimed that they were staffed with judges from the regular judiciary, and trials in such courts were conducted with all the rights and procedures of the normal civil courts. This assertion prompted the Special Rapporteur to conclude that if this were true, such courts were unnecessary.

At the fall of the regime, there were approximately 860 Iraqi judges and prosecutors. A number were not corrupt, connected to the security court or to high levels of the Ba’ath Party. Although far from a model of fairness, the judiciary was not significantly involved in the worst abuses of the prior regime. Pervasive human

rights abuses existed in the regular judicial system, such as the use of tortured confessions. However, the ordinary courts in the Ministry of Justice were marginalized due to the regime's mistrust of many of the regular judges.

Bribery was a chronic problem in the judiciary, as was political influence. The regime intervened in the ordinary judicial system when a person of influence was arrested for the commission of an offense that was prosecuted in the Ministry of Justice Courts or where the victim of the crime had regime ties. However, judges, at times, demonstrated great courage. In one well-known case, the regime removed nine judges from the Supreme Court when the facts made the death penalty inapplicable and they refused to impose the death penalty in a murder case in which the victim was associated with the regime. In another instance, a judge was imprisoned when he authored an opinion declaring that a decision of the RCC was unconstitutional. In another case, the regime refused to appoint an entire class of judges after 2 years of study at the Judicial Institute because they did not clap after a speech by Ali Hassan Al-Majid, Saddam Hussein's cousin who organized the gas killings of the Kurds in 1986.

Procedures in the regular courts in theory provided for many protections; however, the regime often assigned to the security courts cases that, on their legal merits, would appear to fall under the jurisdiction of the regular courts. Trials in the regular courts were public, and defendants were entitled to counsel, at regime expense in the case of indigents. Defense lawyers had the right to review the charges and evidence brought against their clients. There was no jury system; panels of three judges tried cases. Defendants had the right to appeal to the Court of Appeal and then to the Court of Cassation.

The regime shielded certain groups from prosecution for alleged crimes. For example, a 1990 decree granted immunity to men who committed "honor crimes," a violent assault with intent to commit murder against a woman by a relative for her perceived immodest behavior or alleged sexual misconduct (see Section 5). A 1992 decree granted immunity from prosecution to members of the Ba'ath Party and security forces who killed anyone while in pursuit of army deserters. Unconfirmed but widespread reports indicate that this decree was applied to prevent trials or punishment of regime officials.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The 1968 Constitution prohibited such practices; however, the regime frequently infringed on citizens' right to privacy, particularly in cases allegedly involving national security. The law defined security offenses so broadly that authorities effectively were exempt from the legal requirement to obtain search warrants, and searches without warrants were commonplace. The regime routinely ignored constitutional provisions designed to protect the confidentiality of mail, telegraphic correspondence, and telephone conversations. The regime periodically jammed news broadcasts from outside the country, including those of opposition groups (see Section 2.a.). The security services and the Ba'ath Party maintained pervasive networks of informers to deter dissident activity and instill fear in the public.

The authorities systematically detained, abused, and killed family members and close associates of alleged regime opponents (see Sections 1.a., 1.b., 1.d., and 1.g.).

The regime pursued an Arabization campaign of ethnic cleansing designed to harass and expel ethnic Kurds and Turkmen from regime-controlled areas. According to press reports and opposition sources, the regime forcibly displaced hundreds of families. Since the fall of the regime, citizens throughout the country have reported histories of forced expulsion from their homes and relocation by the former regime. It is currently estimated that hundreds of thousands of citizens were forcibly displaced, although actual numbers are unknown. Large numbers of these forced relocations occurred in Kirkuk, Sinjar, throughout the southern Shi'a region, especially in the marshlands and Basra.

Regime officials also took hostage members of minority groups to intimidate their families into leaving their home regions (see Sections 1.d., 2.d., and 5). Authorities demolished the houses and detained and executed family members of Shi'a who protested regime actions (see sections 1.d. and 1.g.).

The Special Rapporteur has noted that guilt by association was facilitated by administrative requirements imposed on relatives of deserters or other perceived opponents of the regime. For example, conscripts were required to secure a guarantor to sign a document stating that the named conscript would not desert military service and that the guarantor would accept personal responsibility if the conscript deserted. Relatives who did not report deserters could lose their ration cards for purchasing regime-controlled food supplies, be evicted from their residences or face the arrest of other family members.



*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—The authorities detained, abused, and killed family members and close associates of alleged regime opponents (see Sections 1.a., 1.b., and 1.f.). The regime directed a campaign of intimidation at U.N. and nongovernmental organization (NGO) relief workers. In 2001, the Foreign Minister threatened to cut official ties to U.N. workers supervising Oil-for-Food Program distribution in the North, and to revoke their visas and deport them. In 2001, the regime expelled six U.N. humanitarian relief workers without explanation.

The regime continued to “Arabize” certain Kurdish areas, such as the urban centers of Kirkuk and Mosul, through the forced movement of local residents from their homes and villages and their replacement by Arabs from outside the area (see Sections 1.d., 1.f., 2.d., and 5).

Landmines in the north, mostly planted by the regime before 1991, continued to kill and maim civilians. Many of the mines were laid during the Iran-Iraq and Gulf Wars; however, the army failed to clear them before it abandoned the area. Kurdish officials estimate that at least 7 million landmines remain in place in Kurdish-controlled areas. Landmines also are a problem along the Iraq-Iran border throughout the central and southern areas in the country. There is no information regarding civilian casualties or the regime’s efforts, if any, to clear old mine fields in areas under the central regime’s control. According to reports by the U.N. Office of Project Services, the Mines Advisory Group, and Norwegian Peoples’ Aid, landmines have killed more than 3,000 persons in the three northern provinces since the 1991 uprising. PUK officials have estimated that mine casualties in its area of control occur at a rate of approximately 250 per month. The Special Rapporteur repeatedly reminded the regime of its obligation under the Landmines Protocol to protect civilians from the effects of mines. Various NGOs continued efforts to remove landmines from the area and increase awareness of mines among local residents. PUK officials have stated that the regime repeatedly refused requests to provide maps of known minefields (see Section 1.a.).

The regime continued to attack Shi’a worshippers (see Section 1.a.). For example, following the 1999 killing of Ayatollah Mohammad Sadeq Al-Sadr and his sons, security forces reportedly killed and tortured hundreds of alleged supporters of Al-Sadr. In 1999 and 2000, as a reprisal for the disturbances following Al-Sadr’s killing, the regime expelled approximately 4,000 Shi’a families from Baghdad.

After the 1991 Gulf War, victims and eyewitnesses described war crimes perpetrated by the regime, including deliberate killing, torture, rape, pillage, and hostage-taking. The remains of Kuwaiti and Saudi citizens captured during the gulf war were discovered in mass graves in during the year, and showed evidence of summary execution.

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

*a. Freedom of Speech and Press.*—The 1968 Constitution provided for freedom of speech and of the press “in compliance with the revolutionary, national, and progressive trend;” however, in practice the regime did not permit freedom of speech or of the press, and did not tolerate political dissent in areas under its control.

The regime, the Ba’ath Party, or persons close to Saddam Hussein owned all print and broadcast media, and operated them as propaganda outlets. They generally did not report opposing points of view that were expressed either domestically or abroad. Several statutes and decrees suppressed freedom of speech and of the press.

The Ministry of Culture and Information periodically issued general guidelines for the press. Foreign journalists had to work from offices located within the ministry building and were accompanied everywhere by ministry officers, who reportedly restricted their movements and made it impossible for them to interact freely with citizens.

According to the Special Rapporteur, citizen journalists were under continuous pressure to join the Ba’ath party and had to follow the mandates of the Iraqi Union of Journalists, headed by the President’s son, Uday Hussein.

The regime regularly jammed foreign news broadcasts (see Section 1.f.). Availability of satellite dishes, modems, and fax machines was highly restricted. Regime-controlled areas had two terrestrial television channels, the official Iraq Television, and Youth TV, owned by Uday Hussein, who also controlled the satellite television service. According to press reports, Internet service was available but highly restricted by the regime. Reportedly, only 500 computers had links to the web within regime-controlled areas and these access points were closely censored. Books could be published only with the authorization of the Ministry of Culture and Information. The Ministry of Education often sent textbooks with pro-regime propaganda to Kurdish regions, which the Kurds routinely removed

The regime did not respect academic freedom and exercised strict control over academic publications and foreign travel by academics. University, secondary and primary school employees were hired and fired depending on their support for the regime.

*b. Freedom of Peaceful Assembly and Association.*—The 1968 Constitution provided for freedom of assembly; however, the regime restricted this right in practice. Citizens could not assemble legally other than to express support for the regime, which regularly orchestrated crowds to demonstrate support for the regime and its policies through financial incentives for those who participated and threats of violence against those who did not.

The Constitution provided for freedom of association; however, the regime restricted this right in practice. The regime controlled the establishment of political parties, regulated their internal affairs, and monitored their activities. New political parties had to be based in Baghdad and were prohibited from having any ethnic or religious character. A 1999 law stipulated that new parties had to “take pride” in the 1958 and 1968 revolutions, which created the republic and brought the Ba’ath party to power. Several parties were outlawed, and membership in them was a capital offense (see Section 3). The law prescribed the death penalty for anyone “infiltrating” the Ba’ath Party.

*c. Freedom of Religion.*—The Constitution provided for freedom of religion provided that it does not violate “morality and public order”; however, the regime severely limited freedom of religion in practice. Islam is the official state religion. The Ministry of Endowments and Religious Affairs monitored places of worship, appointed the clergy, approved the building and repair of all places of worship, and approved the publication of all religious literature.

More than 95 percent of the population is Muslim. The (predominantly Arab) Shi’a constitute a 60 to 65 percent majority, while Sunni make up 32 to 37 percent (approximately 18 to 20 percent are Sunni Kurds, 13 to 16 percent are Sunni Arabs, and the rest are Sunni Turkmen). The remaining approximately 5 percent consist of Christians—Chaldeans (Roman Catholic), Assyrians (Church of the East), Syriac (Eastern Orthodox), and Armenian Orthodox—Yazidis, and a small number of Jews and Sabeans Mandaean.

The regime did not recognize political organizations formed by Shi’a Muslims or Assyrian Christians. There were religious qualifications for government office.

Various segments of the Sunni Arab community, which itself constitutes a minority of the population, effectively controlled the Government since independence in 1932. Sunni Arabs were at a distinct advantage in all areas of secular life, including civil, political, military, and economic. Shi’a and Sunni Arabs are not distinct ethnically. Shi’a Arabs have supported an independent country alongside Sunni Arabs since the 1920 Revolt, many joined the Ba’ath Party, and Shi’a formed the core of the army in the 1980–88 Iran-Iraq War. Shi’a Arabs, the religious majority of the population, have long been economically, politically, and socially disadvantaged. Like the Sunni Kurds and other ethnic and religious groups in the North, the regime targeted Shi’a Arabs in the south for particular discrimination and abuse.

For decades, the regime conducted a brutal campaign of murder, summary execution, and protracted arbitrary arrest against the religious leaders and followers of the majority Shi’a population (see Sections 1.a., 1.d., and 1.g.). Despite nominal legal protection of religious equality, the regime severely repressed the Shi’a clergy and those who follow the Shi’a faith. Forces from the Mukhabarat, General Security (Amin Al-Amm), the Military Bureau, Saddam’s Commandos (Fedayeen Saddam), and the Ba’ath Party killed senior Shi’a clerics, desecrated Shi’a mosques and holy sites, and interfered with Shi’a religious education. Security agents were stationed at all major Shi’a mosques and shrines and searched, harassed, and arbitrarily arrested worshipers.

The following regime restrictions on religious rights remained in effect until April: Restrictions and outright bans on communal Friday prayer by Shi’a; restrictions on the loaning of books by Shi’a mosque libraries; a ban on the broadcast of Shi’a programs on regime-controlled radio or television; a ban on the publication of Shi’a books, including prayer books and guides; a ban on funeral processions other than those organized by the regime; a ban on other Shi’a funeral observances such as gatherings for Koran reading; and the prohibition of certain processions and public meetings that commemorate Shi’a holy days. Shi’a groups report that they captured documents from the security services during the 1991 uprising that listed thousands of forbidden Shi’a religious writings.

Shi’a groups reported numerous instances of religious scholars being subjected to arrest, assault, and harassment in the last several years of the regime, particularly in the internationally renowned Shi’a academic center of Najaf. In 2000, AI reported

that the regime systematically deported tens of thousands of Shi'a (both Arabs and Kurds) to Iran in the late 1970s and early 1980s, on the basis that they were of Persian descent. According to Shi'a sources, religious scholars and Shi'a merchants who supported the schools financially were the principal targets for deportation. After the 1991 popular uprising, the regime relaxed some restrictions on Shi'a attending the schools. However, the revival of the schools appears to have exceeded greatly the regime's expectations, and led to an increased crackdown on the Shi'a religious establishment, including the requirement that speeches by imams in mosques be based upon regime-provided material that attacked fundamentalist trends.

The regime consistently politicized and interfered with religious pilgrimages, both of Iraqi Muslims who wished to make the Hajj to Mecca and Medina and of Iraqi and non-Iraqi Muslim pilgrims who traveled to holy sites within the country (see Section 2.d.).

Twice each year—on the 10th day of the Muslim month of Muharram and 40 days later in the month of Safar—Shi'a pilgrims from throughout the country and around the world travel to Karbala to commemorate the death there centuries ago of the Imam Hussein. The regime for several decades interfered with these Ashura commemorations by preventing processions on foot into the city. In 2000, security forces opened fire on persons who attempted to walk from Al-Najaf to Karbala (see Section 1.g.).

The regime also sought to undermine the identity of minority Christian (Assyrian and Chaldean) and Yazidi groups.

The regime engaged in various abuses against the country's estimated 350,000 Assyrian and Chaldean Christians, especially in terms of forced movements from northern areas and repression of political rights (see Section 2.d.). Most Assyrians live in the northern provinces, and the regime often accused them of collaborating with Iraqi Kurds. Military forces destroyed numerous Assyrian churches during the 1988 Anfal Campaign and reportedly tortured and executed many Assyrians.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The regime restricted movement within the country of citizens and foreigners. Police checkpoints were common on major roads and highways. Persons who entered sensitive border areas and numerous designated security zones were subject to arrest.

The regime required citizens to obtain specific regime authorization and expensive exit visas for foreign travel. Citizens could not make more than two trips abroad annually. Before traveling abroad, citizens were required to post collateral, which was refundable only upon their return. Women were not permitted to travel outside the country alone; male relatives had to escort them (see Section 5).

The law provided for additional penalties for citizens who attempted to leave the country illegally. Under the law, a prison term of up to 10 years and "confiscation of movable and immovable property" could be imposed on anyone who attempted to leave illegally. Similar penalties were given to anyone found to encourage or assist persons banned from travel, including health care professionals, engineers, and university professors.

The regime restricted foreign travel by journalists, authors, university professors, doctors, scientists, and all employees of the Ministry of Information. Security authorities interrogate all media employees, journalists, and writers upon their return from foreign travel.

The regime consistently politicized and interfered with religious pilgrimages, both of Muslim citizens who wished to make the Hajj to Mecca and Medina and of citizen and non-citizen Muslim pilgrims to holy sites in the country (see Section 2.c.).

Non-Arab citizens were forced to either change their ethnicity on their identity documents and adopt Arabic names or be expelled to the Kurd-controlled northern provinces. Persons could avoid expulsion if they relinquished their Kurdish, Turkmen, Chaldean, or Assyrian identity and registered as Arabs. Persons who refused to relinquish their identity had their assets expropriated and their ration cards withdrawn prior to being deported. Those expelled were not permitted to return. Citizens who provided employment, food, or shelter to returning or newly arriving Kurds were also subject to arrest.

According to the U.N. High Commissioner for Refugees (UNHCR), hundreds of thousands of refugees remained abroad. Apart from those suspected of sympathizing with Iran, most fled after the regime's suppression of the civil uprising of 1991; others are Kurds who fled during the Anfal Campaign of 1988. Of the 1.5 million refugees who fled following the 1991 uprisings, the great majority, particularly Kurds, repatriated themselves in northern areas outside of regime control.

The regime did not provide asylum or refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol, did not cooperate with the UNHCR, and did not respect the rights of refugees.

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

Under the regime, citizens did not have the right to change their government. The President wielded power over all instruments of government. Most important officials either were members of Saddam Hussein's family or were family allies from his hometown of Tikrit.

There were strict qualifications for parliamentary candidates; by law the candidates for the National Assembly had to be over 25 years old and "believe in God, the principles of the July 17–30 revolution, and socialism." Elections for the National Assembly were held in March 2000; 220 of the 250 parliamentary seats were contested and presidential appointees filled the 30 remaining seats. Out of the 250 seats, members of the Ba'ath reportedly won 165 seats, independents won 55, and the President appointed 30 Ba'ath party members to represent the northern provinces. According to the Special Rapporteur, the Ba'ath Party allegedly instructed a number of its members to run as nominally independent candidates. Uday Hussein was elected to the National Assembly by 99.9 percent of the vote.

Full political participation at the national level was restricted to members of the Arab Ba'ath Socialist Party, who were estimated to constitute approximately 8 percent of the population. The political system was dominated by the Party, which governed through the RCC. President Saddam Hussein headed the Council. The RCC exercised both executive and legislative authority. The RCC dominated the executive branch and the National Assembly, which was completely subordinate to it.

Opposition political organizations were illegal and severely suppressed. Membership in certain political parties was punishable by death.

The regime did not recognize the various political groupings and parties that were formed by Shi'a Muslims, Kurds, Assyrians, Turkmen, or other communities. These political groups continued to attract support despite their illegal status.

The law provides for the election of women and minorities to the National Assembly; however, representation was token.

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

The regime did not permit the establishment of independent human rights organizations. Monitors from most foreign and international human rights groups were not allowed in the country.

The regime operated an official human rights group that routinely denied allegations of abuses.

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

The 1968 Constitution and the legal system provided for some rights for women, children, and minorities; however, in practice the regime systematically violated these rights.

*Women.*—Domestic violence against women occurred but little is known about its extent. Such abuse customarily was addressed within the tightly knit family structure. There was no public discussion of the subject, and no statistics were published. Under the Constitution, spousal violence constituted grounds for divorce and could be prosecuted; however, suits brought on such charges reportedly were rare. Under a 1990 law, men who committed honor crimes could receive immunity from prosecution (see Section 1.e.).

Law prohibited rape; however, security forces routinely raped family members of persons in the opposition as punishment (see section 1.c). Prostitution is illegal. The regime denied claims that it beheaded women accused of prostitution (see Section 1.a.).

*Children.*—No information was available regarding whether the regime enacted specific legislation to promote the welfare of children. However, the Special Rapporteur and several human rights groups have collected a substantial body of evidence indicating the regime's continued disregard for the rights and welfare of children.

The regime's management of the U.N. Oil-for-Food Program did not take into account the special requirements of children between the ages of 1 and 5, despite the U.N. Secretary General's specific injunction that the regime modify its implementation procedures to address the needs of this vulnerable group. In 1999, UNICEF issued the results of the first surveys of child and maternal mortality in the country that have been conducted since 1991. The surveys were conducted in 1999, in co-

operation with the regime in the southern and central regions, and in cooperation with the local Kurdish authorities in the North. The surveys revealed that in the south and central parts of the country, home to 85 percent of the population, children under 5 years old were dying at more than twice the rate that they were a decade before. In contrast, mortality rates for children less than 5 years old in the Kurdish-controlled North dropped in the period between 1994 and 1999. The Special Rapporteur criticized the regime for “letting innocent people suffer while [it] maneuvered to get sanctions lifted.” Had the regime not waited 5 years to adopt the Oil-for-Food Program in 1996, he stated in October 1999, “millions of innocent people would have avoided serious and prolonged suffering.”

The regime held 3-week training courses in weapons use, hand-to-hand fighting, rappelling from helicopters, and infantry tactics for children between 10 and 15 years of age. Camps for these “Saddam Cubs” operated throughout the country. Senior military officers who supervised the course noted that the children held up under the “physical and psychological strain” of training that lasted for as long as 14 hours each day. Families reportedly were threatened with the loss of their food ration cards if they refused to enroll their children in the course. Similarly, authorities reportedly withheld school examination results to students unless they registered in the Fedayeen Saddam organization (see Section 1.f.).

Regime officials allegedly took children from minority groups in order to intimidate their families to leave cities and regions in which the regime wishes to create a Sunni Arab majority (see Sections 1.d., 1.f., and 2.d.).

*Persons with Disabilities.*—No information was available regarding the regime’s policy towards persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country’s cultural and linguistic diversity was not reflected in the regime’s political and economic structure. Non-Arabs were denied equal access to employment, education, and physical security. Non-Arabs were not permitted to sell their homes except to Arabs, nor to register or inherit property. As part of its “Arabization” policy, the regime forcibly forcibly the non-Arab population, including Kurds, Turkmen, and Assyrians living in Kirkuk, Sinjar, and other districts (see Sections 1.f. and 2.d.). Similarly, the regime forced many Arabs to relocate to regions forcibly vacated by other groups. Both major Kurdish political parties have indicated that the regime occasionally targeted Assyrians, as well as ethnic Kurds and Turkmen, in expulsions from Kirkuk in order to attempt to “Arabize” the city (see Section 2.d.).

Assyrians and Chaldeans are considered by many to be a distinct ethnic group, as well as the descendants of some of the earliest Christian communities. These communities speak a different language (Syriac), preserve traditions of Christianity, and have a rich cultural and historical heritage that they trace back more than 2,000 years. Although these groups do not define themselves as Arabs, the regime, without any historical basis, defined Assyrians and Chaldeans as such, evidently to encourage them to identify with the Sunni-Arab dominated regime (see Section 2.c.).

The regime did not permit education in languages other than Arabic and Kurdish. In areas under regime control, Assyrian and Chaldean children were not permitted to attend classes in Syriac.

The Constitution did not provide for a Yazidi identity. Many Yazidis consider themselves to be ethnically Kurdish, although some would define themselves as both religiously and ethnically distinct from Muslim Kurds. However, the regime, without any historical basis, defined the Yazidis as Arabs. There was evidence that the regime compelled this re-identification to encourage Yazidis to join in domestic military action against Muslim Kurds. Captured regime documents included in a 1998 HRW report describe special all-Yazidi military detachments formed during the 1988–89 Anfal campaign to “pursue and attack” Muslim Kurds. The regime imposed the same repressive measures on Yazidis as on other groups (see Section 2.c.).

Citizens of Iranian origin were required to carry special identification and often are precluded from desirable employment; the regime deported hundreds of thousands of citizens of Iranian origin.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The regime controlled all trade unions. The Trade Union Organization Law of 1987 established the Iraqi General Federation of Trade Unions (IGFTU), a regime-controlled trade union structure, as the sole legal trade federation. The IGFTU was linked to the Ba’ath Party, which used it to promote party principles and policies among union members.

Workers in private and mixed enterprises, but not public employees or workers in state enterprises, had the right to join local union committees. The committees were affiliated with individual trade unions, which in turn belonged to the IGFTU.

The Labor Law restricted the right to strike. According to the International Confederation of Free Trade Unions, such restrictions on the right to strike include penal sanctions. No strike has been reported during the past 2 decades.

The IGFTU was affiliated with the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

In the Kurd-controlled northern region, the law allows persons to form and join trade unions and other organizations, and to use such organizations for political action. Dozens of trade groups have been formed since 1991.

*b. The Right to Organize and Bargain Collectively.*—The regime did not recognize the right to bargain collectively. The regime set salaries for public sector workers, the majority of employed persons. Wages in the much smaller private sector were set by employers or negotiated individually with workers. Public sector workers frequently were shifted from one job and work location to another to prevent them from forming close associations with other workers. The Labor Code did not protect workers from anti-union discrimination, an omission that was criticized repeatedly by the Committee of Experts of the International Labor Organization (ILO).

The Labor Law also restricted the right to strike. According to the International Confederation of Free Trade Unions, such restrictions on the right to strike included penal sanctions.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced labor; however, the Penal Code mandated prison sentences, including compulsory labor, for civil servants and employees of state enterprises for breaches of labor “discipline,” including resigning from a job. According to the ILO, foreign workers in the country were prevented from terminating their employment and returning to their native countries because of regime-imposed penal sanctions on persons who did so. There is no information available regarding forced and bonded labor by children under the former regime.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The regime prohibited the employment of children under the age of 14, except in small-scale family enterprises. However, children reportedly were encouraged increasingly to work in order to help support their families because of the country’s harsh economic conditions. The law stipulated that employees between the ages of 14 and 18 should work fewer hours per week than adults. Each year the regime enrolled children as young as 10 years of age in a paramilitary training program (see Section 5).

*e. Acceptable Conditions of Work.*—There was no information available regarding regime minimum wages. Most workers in urban areas worked a 6-day, 48-hour workweek. The head of each ministry set hours for regime employees. Working hours for agricultural workers varied according to individual employer-employee agreements.

*f. Trafficking in Persons.*—There was no information available regarding whether the law prohibited trafficking in persons, or whether persons were trafficked to, from, or within the country.

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## ISRAEL AND THE OCCUPIED TERRITORIES

Israel is a parliamentary democracy with a multiparty system and free elections. There is no constitution; a series of “basic laws” provide for fundamental rights. The legislature, or Knesset, has the power to dissolve the Government and limit the authority of the executive branch. On January 28, elections for the Knesset were held. Likud Party leader Ariel Sharon was re-elected Prime Minister. The judiciary is independent.

Since the Intifada began in September 2000, and during the year, Palestinians from the West Bank and Gaza continued to perpetrate terrorist attacks against Israeli targets. Terrorist organizations such as the Islamic Resistance Movement (Hamas), Hizballah, Islamic Jihad in Palestine, and the Popular Front for the Liberation of Palestine (PLFP), among others, committed numerous acts of terrorism in Israel and the occupied territories. Between January and November, approximately 130 terrorist attacks occurred within Israel and Jerusalem, killing more than 145 Israelis and injuring more than 720. Israeli security forces prevented numerous terrorist attacks against citizens on a daily basis.

Israel occupied the West Bank, the Gaza Strip, East Jerusalem, and the Golan Heights after the 1967 War. (The human rights situation in the occupied territories is discussed in the annex appended to this report.) The international community

does not recognize Israel's sovereignty over any part of the occupied territories. Since 1991, the Israelis and the Palestinians made repeated attempts at negotiating peace. Despite meetings between high-level Israeli and Palestinian officials, efforts to resolve the conflict yielded few results.

Internal security is the responsibility of the Israel Security Agency (ISA), formerly the General Security Service (GSS) and also known as Shin Bet or Shabak, which is under the authority of the Prime Minister's office. The police are under the authority of the Minister of Internal Security. The Israel Defense Forces (IDF) is under the authority of a civilian Minister of Defense. The IDF included a significant portion of the adult population on active duty or reserve status and played a role in maintaining security. The Foreign Affairs and Defense Committee in the Knesset reviewed the activities of the IDF and the ISA. Security forces were under effective government control. Members of the security forces committed serious human rights abuses in the occupied territories and against Palestinian detainees.

The country's population is approximately 6.7 million (including Israeli settlers in the occupied territories). The country has an advanced industrial economy with a relatively high standard of living. During the year, unemployment was approximately 11 percent, but was substantially higher in the country's peripheral regions, among lower-skilled workers and the country's Arab citizens. The country's economic growth was accompanied by an increase in income inequality. The long-standing gap in levels of income within the Jewish population and between Jewish and Arab citizens increased. Arab citizens populated most of the 17 towns in Israel with the highest unemployment rates. During the year, the country relied heavily on foreign workers, principally from Asia, Africa and Eastern Europe, who were employed in agriculture and construction and constituted approximately 10 percent of the labor force.

The Government generally respected the human rights of its citizens; however, there continued to be problems with respect to its treatment of its Arab citizens. Israeli and international human rights organizations continued to report allegations that security forces tortured detainees during interrogation and that police officers beat detainees. The conditions in military detention camps and Israeli interrogation centers for Palestinian security detainees held in Israel remained poor, and did not meet international standards. Human rights groups issued complaints regarding torture, insufficient living space, and inadequate medical care for those detained in interrogation centers. During the year, the Government detained without charge thousands of persons in Israel, the West Bank, and Gaza. According to human rights nongovernmental organizations (NGOs) in the country, some security prisoners were sentenced on the basis of coerced confessions.

The Government did little to reduce institutional, legal, and societal discrimination against the country's Arab citizens, who constituted approximately 20 percent of the population but did not share fully the rights and benefits provided to, and obligations imposed on, the country's Jewish citizens. The Government interfered with individual privacy in some instances. The Government interfered with an individual's ability to marry within the country by not recognizing Jewish marriages other than those performed by the Orthodox Jewish establishment and by prohibiting civil marriages. Discrimination and societal violence against women persisted, although the Government continued to take steps to address these problems. Discrimination against persons with disabilities persisted. Trafficking in women into the country for the purpose of forced prostitution was a continuing problem. There was evidence of labor trafficking among the country's estimated 236,000 foreign workers. Abuse of foreign workers, including prostitutes, some of whom were trafficked to and employed illegally in the country, continued.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings in Israel during the year.

On September 1, the Orr Legal Commission of Inquiry (COI), established in 2000 to investigate the demonstrations of October 2000, during which police killed 12 Arab citizens and 1 Palestinian, released a report of its findings. The report criticized then Prime Minister Ehud Barak and then Minister of Internal Security Shlomo Ben-Ami for their handling of the situation and recommended personnel action and, in some cases, criminal investigations, against several government and police officials. The report also criticized police practices with regard to the Israeli-Arab population and noted the historical, societal, and governmental discrimination against Arab citizens.

On September 14, the Government established a ministerial committee to advise the Government on implementation of the COI recommendations within 60 days. By year's end, the committee's tenure had been extended.

Several Israeli-Arab advocacy groups alleged that police and security forces wrongfully killed other Arab citizens since the killings of the 12 Arab citizens in the October 2000 demonstrations. On July 22, Israeli Border Police shot and killed unarmed 28-year-old Morassi Jibali, a passenger in a car that the police claimed had failed to stop upon order. The police claimed the victim had been mistaken for a terrorist. It was later discovered that the driver had tried to avoid the roadblock as he was driving without a license. On July 24, the police shot and killed an unarmed Bedouin man, Nasser Abu al Qia'an, who was behind the wheel of a car near a junction. Several witnesses reportedly stated that the victim's car had stopped in traffic, and that a police officer shot Qia'an at point blank range. Police claimed that the victim had tried to run them over. Commenting on a pattern within the Israeli police forces, the COI wrote in its report that the "police must learn to realize that the Arab sector in Israel is not the enemy and must not be treated as such."

On September 11, police and residents of an Arab community, Kfar Qassem, clashed when police reportedly searched for Palestinians who allegedly entered Israel illegally. The police shot and wounded one Israeli Arab when, according to police reports, village residents began to throw stones at them. At year's end, the police were still investigating the incident.

According to the Government, there was a 50 percent decrease in the number of terrorist attacks in the country by Palestinian groups or individuals as compared to 2002. The Government reported that these attacks resulted in the deaths of about 213 Israelis, including about 50 members of the IDF (see Sections 1.a. and 1.c. of the annex). Terrorists injured approximately 900 Israelis during the year. The Government and Israeli society continued to function on a heightened state of alert due to continuous and numerous threats of attacks from these groups.

On January 5, a double suicide bombing killed 23 persons, including 15 Israeli citizens and 8 foreign nationals, and injured approximately 120 persons near the Tel Aviv Central Bus Station. On June 11, 17 people were killed and over 100 wounded in a suicide bombing on a bus on Jaffa Road in Jerusalem. On August 19, 23 persons were killed and over 130 wounded when a suicide bomber detonated a bomb on a bus in Jerusalem. On October 4, 20 people were killed and more than 60 wounded in a suicide bombing at Maxim's restaurant in Haifa.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Laws, judicial decisions, and administrative regulations prohibit the physical abuse of detainees. During the year, there continued to be allegations that security forces tortured Palestinian detainees from the occupied territories during interrogation. The Attorney General has the authority to accept a "necessity defense" in deciding whether to prosecute those accused of alleged abuses. There also were numerous allegations that security officers beat Palestinian detainees from the occupied territories during arrest and on the way to interrogation or detention facilities.

The Public Committee Against Torture in Israel (PCATI) submitted approximately 80 complaints of alleged torture by the ISA to the State Prosecutor during the year. According to the PCATI, the Government did not respond to 27 complaints, and approximately 30 cases were still under investigation. The Government, according to PCATI, claimed that 3 detainees had since been released from detention, and 12 others either withdrew their complaints or refused to meet with the investigator. Human rights groups maintained that no ISA agent has been criminally charged with torture or other ill treatment for the past several years. NGOs and international organizations reported government use of sleep deprivation, prolonged shackling and tightening of shackles, enforced positioning, forcing the detainee to run blindfolded and then tripping him, threats of violence, humiliation, threats against detainees' family members, and threats of house demolition against detainees held for interrogation. Human rights groups further complained that the investigators who did field work for the State Prosecutor's office on such claims were ISA agents and, therefore, biased in favor of their colleagues.

The law provides for the right to live in conditions that do not harm the health or dignity of the detainee, access to adequate health care, a bed for each detainee, and exercise and fresh air daily. Conditions varied in incarceration facilities in the country and the occupied territories that were administered by the Israeli Prison Service (IPS), the IDF, or the national police. IPS prisons, which generally housed citizens accused or convicted of common crimes, generally met international standards. There were some enlargements of IPS facilities to address overcrowding dur-



ing the year, including the addition of 400 prison cells since June. Expansions and initiatives to renovate and repair existing facilities were underway at year's end.

In July 2002, Physicians for Human Rights (PHR) filed a petition with the Supreme Court calling for improved prison conditions. In June, the Supreme Court issued a permanent injunction prohibiting prisoners from being forced to sleep on the floor and demanded every prisoner be provided a bed. The Minister of Internal Security stated publicly that all persons held in the IPS would receive a bed, daily outdoor exercise, telephone and visitation rights, and less crowded facilities. During the year, the Government has begun to ease overcrowding in some facilities thereby freeing up more bed space.

Conditions in interrogation facilities for Palestinians were generally poorer than those of detention facilities and prisons.

In Israel, security detainees were held in IDF detention camps such as the Megiddo and Ketsiot facilities, and in special sections of police detention facilities. In August, hundreds of Palestinian prisoners at Megiddo Prison rioted against the Government's decision to transfer some of them to the Ketsiot detention camp in the south. Ketsiot is further away from most prisoners' homes in the West Bank, making it difficult for families to visit. However, the Government transferred the prisoners.

Conditions in IDF facilities for security detainees were more basic than those of IPS facilities. Detention camps were mainly open-air, makeshift facilities, composed of tents on concrete floors with no heating. Beds were composed of mattresses on wooden palettes on the floor. A new wing opened at the Ketsiot facility alleviated overcrowding to some degree. According to the Government, security detainees may receive financial assistance from the Palestinian Authority (PA), including food required for observing religious holidays from their families and other persons or organizations and medical supplies from the International Committee for the Red Cross (ICRC) and other aid organizations. The IDF detention facilities held mainly male Palestinian detainees. The total number of Palestinian prisoners held by Israel on security grounds reached approximately 6,000 by year's end.

Approximately 650 Palestinians from Gaza and the West Bank were held in administrative detention (that is, not charged or tried and considered security threats) at year's end.

Conditions at the Russian Compound interrogation center in Jerusalem remained extremely poor. According to a PHR report released in November, prisoners in the Russian Compound holding cells were routinely handcuffed with their hands behind their backs to their feet, sometimes for hours. A major Israeli newspaper further reported that the Jerusalem police confirmed the use of this practice but noted it was used only in "extreme cases." According to the PHR, the Israeli Supreme Court has prohibited the use of painful handcuffing. In response to a petition by the PHR, the Attorney General notified the PHR that the Police Commissioner had been instructed to stop the use of this handcuffing position. The PHR report also stated that medical examinations given to arriving prisoners were used to determine if the prisoner could withstand "the application of violent approaches to those jailed." In addition, the report claimed that the Russian Compound was overcrowded.

Since the Intifada began, only Israeli lawyers or Palestinian lawyers with Jerusalem identification cards were permitted to visit Palestinian prisoners in jails as advocates or monitors, which reduced significantly the availability and timeliness of legal aid for such prisoners.

Conditions at some national police detention facilities remained poor. Such facilities were intended to hold criminal detainees prior to trial but often became de facto prisons. Those individuals held included some security detainees and some persons who were convicted and sentenced. Inmates in the national police detention facilities often were not accorded the same rights as prisoners in the IPS system.

Women were held separately from men, and children were held separately from adults. Israeli citizens 18 years and over were treated as adults within the criminal justice system. Military orders, however, provide that Palestinian youth age 16 and above are treated as adults. According to one international organization, as of November, about 180 Palestinian minors were held by Israeli authorities for security violations. In September, according to media reports, the IDF detained a 12-year-old Palestinian boy for security reasons. He was released in December. Overcrowding, poor physical conditions, lack of social workers, and denial of visits by parents remained problems for Palestinian youth. According to the National Council for the Child, detention centers for Israeli juveniles had problems with poor infrastructure and overcrowding.

Various institutions, including government ministries, the Knesset, the ICRC, or human rights groups regularly monitored incarceration facilities (see Section 1.d. of the annex). However, in August, in response to a Supreme Court petition, the Gov-

ernment admitted the existence of a secret IDF detention facility. The Government prohibited the media from publishing the exact location of the prison, the names of persons held, and prison conditions. The Government has not allowed the ICRC, Knesset members, or the media access to the facility. Prisoners, their lawyers, and their families did not know the prison's exact location. On December 1, Supreme Court ordered the Government to release information on this prison by February 20, 2004.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest; however, the Government did not always observe this prohibition. Defendants are considered innocent until proven guilty and have the right to writs of habeas corpus and other procedural safeguards. The law permits, subject to judicial review, administrative or preventive detention (i.e., detention without charge or trial), which was used in a small percentage of security cases. In such cases, the Minister of Defense may issue a detention order for a maximum of 1 year, which can be extended every 3 months. Within 24 hours of issuance of a detention order, detainees must be brought before a district judge who can confirm, shorten, or overturn the order. If the order is confirmed, an automatic review takes place after 3 months. Detainees have the right to be represented by counsel and to appeal detention orders to the High Court of Justice; however, according to the Association for Civil Rights in Israel (ACRI) and Adalah, the Legal Center for Arab Minority Rights in Israel, the police can delay a suspect's meeting with counsel for up to 48 hours in certain extreme cases. If the detainee is suspected of committing a "security offense," the police can delay notification of counsel for up to 10 days with the consent of a judge, which was usually granted. The court can delay the suspect's meeting with counsel for an additional 21 days. The Government may withhold evidence from defense lawyers on security grounds.

The 1997 Arrest and Detention Law limited the grounds for pretrial detention in criminal and security cases and reduced to 24 hours the length of time a person may be held without charge; however, this law does not extend to administrative detention cases. Human rights groups noted abuse of detention orders in cases in which the accused did not pose a clear danger to society.

Some protections afforded to citizens were not extended to Palestinian detainees, who fell under the jurisdiction of military law even if they were detained in Israel.

At year's end, the Government held approximately 8,400 Palestinians in custody. Those held were a combination of common criminals (approximately 1,250), administrative detainees (approximately 650), and ordinary security detainees (approximately 5,650). In 2000, a High Court ruling declared illegal the holding of Lebanese detainees in Israeli prisons as "bargaining chips" to extract concessions or the release of Israeli prisoners held in Lebanon. Since 1989 and 1994, the Government has held, without explicit charges, both Sheikh Obeid, a Lebanese Hezbollah leader, and Mustafa Dirani, a head of security for the Amal militia. The Government claimed both were security threats and that Dirani personally oversaw the detentions of Israeli MIA Ron Arad, to whose release the Government linked Dirani's detention. In 2002, in response to the High Court's 2000 decision that detaining Lebanese captives indefinitely as "bargaining chips" violated the administrative detention law, the Knesset passed the Illegal Combatant Law. This law allows the IDF to detain anyone if there is a basis to assume that he or she "takes part in hostile activity against Israel, directly or indirectly" or "belongs to a force engaged in hostile activity against the State of Israel." Detainees can be held indefinitely and without charge or trial. This law allowed for Dirani's continued incarceration. In June 2002, the ICRC began regularly visiting both Obeid and Durani. At year's end, Obeid, Dirani, and some 25 other Lebanese prisoners (3 on administrative custody as illegal combatants, 19 on security grounds, and 5 on criminal grounds) remained in custody. In October, the Tel Aviv District Court disclosed that a Lebanese citizen imprisoned in the country for 5 years but eligible for release, had been detained under administrative detention for the past year because the IDF decreed him an illegal combatant.

The law prohibits forced exile of citizens, and the Government generally respected this prohibition in practice.

*e. Denial of Fair Public Trial.*—The 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. However, in practice, Arab citizens often received harsher punishments than Jewish citizens did. Palestinians from the occupied territories are prosecuted under a separate system of military law and courts.

The judicial system is composed of civil, military, religious, labor relations, and administrative courts, with the High Court of Justice as the ultimate judicial au-

thority. The High Court of Justice is both a court of first instance (in cases involving government action) and an appellate court (when it sits as the Supreme Court). All courts in the judicial system, including the High Court of Justice, have appellate courts of jurisdiction.

The law provides for the right to a hearing with representation by counsel, and authorities generally observed this right in practice. A regional and national system of public defenders operated by the Ministry of Justice employed approximately 700 attorneys through 5 regional offices. The Public Defenders Office represents all eligible persons, including Palestinians from the occupied territories. Under the system, all persons who were accused of crimes punishable by sentences of 10 years or longer received mandatory legal representation. Defendants who lack means and who are facing possible prison sentences of 5 to 9 years are provided with a public defender on a discretionary basis. Judges also have discretionary power to appoint an attorney in all cases. Counsel represented approximately 70 percent of defendants. All nonsecurity trials were public except those in which the interests of the parties were determined to be best served by privacy.

Cases involving national security may be tried in either military or civil courts, and may be partly or wholly closed to the public. The prosecution must justify closing the proceedings to the public in such cases, and the Attorney General determines the venue. Adult defendants have the right to be represented by counsel even in closed proceedings but may be denied access to some evidence on security grounds. Under the law, convictions may not be based on any evidence denied to the defense, although that evidence may be used to influence a judge's decision.

The 1970 regulations governing military trials are the same as evidentiary rules in criminal cases. Convictions may not be based solely on confessions; however, according to PCATI, in practice, some security prisoners have been sentenced on the basis of the coerced confessions made by both themselves and others. Counsel may assist the accused, and a judge may assign counsel to those defendants when the judge deems it necessary. Charges are made available to the defendant and the public in Hebrew, and the court can order that they be translated into Arabic if necessary. Sentencing in military courts was consistent with that in criminal courts. Defendants in military trials have the right to appeal through the Military High Court. Defendants in military trials also can petition the civilian High Court of Justice (sitting as a court of first instance) in cases in which they believed there were procedural or evidentiary irregularities.

According to human rights organizations, the legal system in practice often imposed harsher punishments on Israeli-Arab citizens than on Israeli-Jewish citizens. A study released in December by Haifa University indicated that there is serious discrimination against Israeli-Arabs in the criminal justice system, including a tendency to render heavier prison terms to Israeli-Arabs. For example, human rights advocates claimed that Arab citizens were more likely to be convicted of murder (which carries a mandatory life sentence for adults) than Jewish citizens. The courts reportedly also were more likely to detain without bail Arab citizens until the conclusion of proceedings. According to the Government, as of December 1, of the 3,572 citizens held in detention, 1,177 were Arab. In May, the former mayor of the Israeli-Arab city of Umm al-Fahm and leader of the Islamic Movement-Northern Branch in Israel, Sheikh Raed Salah, was arrested for allegedly funneling funding to charity organizations associated with a terrorist organization. The current mayor of Umm al-Fahm and other leaders of the Islamic Movement were also arrested. Despite Salah's and the serving mayor's status and ties to the community, they were detained without bail. At year's end, they remained imprisoned pending conclusion of their trial. Human rights groups have criticized their remand during trial as discriminatory.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law generally protected privacy of the individual and the home; however, there also were laws that provide that authorities may interfere with mail and monitor telephone conversations in certain circumstances. In criminal cases, the law permits wiretapping under court order; in security cases, the Ministry of Defense must issue the order. Under emergency regulations, authorities may open and destroy mail based on security considerations. The Government indirectly interferes with an individual's ability to marry by recognizing only religious marriages in Israel. Muslims may marry through the Shari'a court system, and Christians under church jurisdiction. Israeli Jews can only marry in Orthodox Jewish services. Those who wish to have a civil marriage, Jews who wish to marry according to Reform or Conservative Judaism, those not recognized as being Jewish, and those marrying someone from another faith must marry in civil marriages abroad. While civil marriages are available in nearby Cyprus and are recognized by the Government, this requirement pre-

sents a hardship to those seeking such an alternative or having no other choice but to marry in a civil ceremony.

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

*a. Freedom of Speech and Press.*—The cumulative rulings of the Supreme Court provide for freedom of speech. The Prevention of Terrorism Ordinance of 1948 prohibits persons from expressing support for illegal organizations. On occasion, the Government prosecuted persons for allegedly speaking or writing on behalf of terrorist groups.

All newspapers were privately owned and managed. Newspaper licenses were valid only for Israel; separate licenses were required to distribute publications in areas in the occupied territories still under the Government's authority. There were 12 daily newspapers, 90 weekly newspapers, more than 250 periodical publications, and 8 Internet news sites.

Directed by a government appointee, the quasi-independent Israel Broadcast Authority controlled television Channel 1 and Kol Israel (Voice of Israel) radio, both major sources of news and information. There were two privately owned commercial television channels. The Second Television and Radio Authority, a public body that also supervised 14 private radio stations, supervises both channels. There were five cable television companies that carried both domestic and international networks and produced shows specifically for the Israeli audience.

In 2001, the Attorney General announced that he would file an indictment against Knesset Member Azmi Bishara for making statements perceived by some as supportive of Hizballah during Bishara's June visit to Syria (a country still in a state of war with Israel) and during a 2000 visit to the Israeli-Arab city of Umm al-Fahm. In November 2001, the Knesset voted to lift Bishara's immunity so that he could face prosecution. In November, the Nazareth Magistrate Court decided in a preliminary hearing to uphold the charges against Bishara. At year's end, the case was still pending.

The law prohibits hate speech and incitement to violence and individuals, groups, and the press freely addressed public issues and criticized government policies and officials without reprisal. In the past, the Government has investigated a significantly higher number of Arab Members of the Knesset (MKs) than Jewish MKs for the use of hate speech and incitement to violence; however, during the year, there were no reports that the Government investigated any Arab or Jewish MK.

In November, a three-member Supreme Court panel unanimously ruled that the Film Censorship Board's decision to prohibit the screening of the film "Jenin, Jenin" violated freedom of speech. The film depicts fighting in the West Bank refugee camp of Jenin during April 2002. In response to an appeal by the Attorney General, the State Prosecutor, soldiers who fought in Jenin, and families of soldiers who died there, the Supreme Court issued a temporary injunction in December barring the screening of the controversial film until the court decided whether to rehear the case before an expanded panel. Critics claimed that the film contains lies about the events and incites violence against Israel.

The law provides for freedom of the press, and the Government generally respected this right in practice. The law authorizes the Government to censor any material reported from Israel or the occupied territories that it regards as sensitive on national security grounds. Foreign correspondents and news agencies complained of harassment by the Government Press Office (GPO), which falls under the Prime Minister's office. Specifically, foreign agencies complained that their Palestinian employees, whom the agencies claimed were necessary for adequate coverage of events in the territories, were denied press cards (and thereby unable to travel unhindered in the occupied territories) for no valid reason. Since January 2002, the Government has denied press credentials to all Palestinians, based on security grounds. Press credentials were not required in Israel or the occupied territories; however, they were important to facilitate access to official events. As a general rule, Israeli journalists/technicians cover the occupied territories only under IDF protection.

Foreign and domestic media harshly criticized the GPO's proposed eligibility rules for Israeli and foreign journalists as a Government attempt to control the press. The new eligibility rules published in November would have required Israeli and foreign journalists to fill out a 25-page application as well as to pay a fee. The GPO would provide copies of the applications to the ISA for security checks while the GPO examined them. The GPO indicated that it could revoke passes already granted if the ISA found unspecified derogatory information. In the past, only Palestinian journalists were subject to a vetting process by the ISA. After meeting with press representatives, the GPO rescinded the controversial rules.

The security forces detained without charge several foreign media employees. On April 24, security forces arrested without charge Agence France-Presse photog-

rapher Hossam Abu Alan, and on April 30, Reuters cameraman Yusri Al Jamal. Both were released 6 months later without charge. Abu Alan's equipment was confiscated and never returned. Security forces also detained without charge other Palestinians working for foreign agencies. Most were released shortly thereafter. None were charged and they were told only that their detention was based on their alleged assistance to terrorist organizations.

In 2002, the Ministry of Interior closed an Israeli-Arab newspaper, Sawt al-Haqq Wal-Hurriya. The newspaper was affiliated with the northern branch of the Islamic movement in the country and had previously published articles the Government believed supported terrorism. The newspaper has since been allowed to open and continued to publish regularly during the year. A censorship agreement between the Government and media representatives, and applicable to all media organizations in the country, provided that military censorship was to be applied only in cases involving national security issues that had a near certainty of harming the country's defense interests. All media organizations may appeal the censor's decision to the High Court of Justice. Moreover, a clause prohibits the military censor from closing a newspaper for censorship violations and from appealing a court judgment against it. News previously printed or broadcast abroad may be reported in Israel without the censor's review, which permits the media to run previously censored stories that have appeared in foreign sources.

During the year, journalists and professional journalist groups claimed that the Government placed limitations on their freedom of movement within the occupied territories, between the West Bank and Gaza, and between the occupied territories and Israel during violent unrest. The Government and security forces have stated that they did not target journalists due to their profession; however, three journalists were killed, and at least five were injured while covering events in the occupied territories during the year (see Section 2.a. of the annex).

The GPO, on security grounds, required foreign journalists to sign an agreement stating that they would submit to the military censor certain news stories and photographs; however, they rarely were challenged for not doing so. In practice, foreign and Israeli journalists sometimes submitted articles and photographs for military censorship; however, the requirement was not systematically followed or enforced, live broadcasts precluded such submission. The military censor decides whether a violation has occurred after the fact. In December, two major Israeli papers were fined for failing to submit material to the censor.

The Government generally respected academic freedom; however, the Government continued to interfere with the education of Israeli-Arab students because a member of the ISA monitored and approved the appointment of teachers and administrators in Arab schools.

*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. During the year, there were a number of peaceful demonstrations for and against peace negotiations with the Palestinians. According to an Israeli-Arab advocacy NGO, Mossawa Center, on December 27, security forces dispersed a small demonstration in Tel Aviv by surrounding the group and arresting many of the participants. The security forces then declared the demonstration, which had been approved, illegal.

The law provides for the right of association, and the Government generally respected this provision in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right; however, it imposed some restrictions. Approximately 80 percent of citizens consider themselves Jewish, although some persons in that group are not considered Jewish under Orthodox Jewish law or are related by marriage to a Jewish citizen. Muslims, Christians, and Druze make up the remaining 20 percent of the population. The law recognizes certain "religious communities" as carried over from those recognized under the British Mandate. These communities include the Eastern Orthodox Church, several Catholic orders, Maronites, and Jews. Three additional communities have subsequently been recognized by the Government—the Druze, the Evangelical Episcopal Church, and the Baha'i. Several other religious communities are not officially recognized. According to the Government, this lack of official recognition does not affect the ability of these communities to practice their religion freely or to maintain communal institutions.

Each recognized religious community has legal authority over its members in matters of marriage and divorce. For so-called "unrecognized religions," there were no local religious tribunals that had jurisdiction over their members in matters of personal status. The principle consequence of non-recognition is that they do not receive government funding for their religious services, as do many of the recognized

communities. The fact that there was no recognized Muslim community is a vestige of the Ottoman period, during which time Islam was the dominant religion, and does not affect the rights of Muslims to practice their faith. Legislation enacted in 1961 afforded the Muslim courts exclusive jurisdiction to rule in matters of personal status concerning Muslims. Secular courts have primacy over questions of inheritance, but parties, by mutual agreement, may bring cases to religious courts. Jewish and Druze families may ask for some family status matters, such as alimony and child custody in divorces, to be adjudicated in civil courts as an alternative to religious courts. Christians may ask only that child custody and child support be adjudicated in civil courts as an alternative to religious courts. Despite not having legal recognition, Muslims, since 2001, also have the right to bring matters such as alimony and property division associated with divorce cases to civil courts in family-status matters. However, paternity cases remain under the exclusive jurisdiction of the Muslim or Shari'a Court.

Under the Law of Return, the Government grants automatic citizenship and residence rights to Jewish immigrants and their families; the Law of Return does not apply to those not officially recognized by the Orthodox establishment as Jews or to persons of Jewish descent who have converted to another faith (see Section 2.d.). Persons qualifying under the Law of Return as Jews may, nonetheless, fail to meet stricter criteria defining who is a Jew by some government organizations. Members of unrecognized religious groups (particularly evangelical Christians, but also Russian immigrants and others who considered themselves Jewish but were not recognized as such by all Israeli institutions) at times faced problems obtaining marriage certificates or burial services. However, informal arrangements provided relief in some cases.

Many Jewish citizens objected to exclusive Orthodox control over Jewish marriages, and it has been at times a source of serious controversy in society, particularly in recent years, as thousands of immigrants from the former Soviet Union have not been recognized as Jewish by Orthodox authorities (see Section 1 f.).

The 1996 Alternative Burial Law established the individual right to be buried in an alternative civil cemetery and that these cemeteries were to be located throughout the country. The Orthodox Rabbinate must certify the Jewish heritage of Russian immigrants in order for them to receive full Jewish burial rights; however, many Russian immigrants could not obtain approval to be buried in a Jewish cemetery. Several non-Orthodox Jewish and secular groups have complained, however, that the Ministry of Religious Affairs has been slow to implement this law and that there have been an inadequate number of civil cemeteries designated. According to one organization advocating the timely implementation of the 1996 law, many persons who would like a civil interment were forced to finance civil burials privately through a kibbutz, which was costly.

At year's end, the Israeli Religious Action Center, a civil rights NGO in the country, petitioned the Supreme Court to overturn the government practice whereby the Adoption Service of the Ministry of Social Affairs places non-Jewish children only with Orthodox Jewish homes. Pursuant to law, the adopted child must be of the same religion as the parents who adopt him or her. Since conversions to non-Orthodox forms of Judaism are not recognized in the country, the Government argued that by placing these children with Orthodox parents, they would not face any limbo periods during which their conversions could be questioned.

Under the Jewish religious courts' interpretation of personal status law, a Jewish woman may not receive a final writ of divorce without her husband's consent. Consequently, there were thousands of so-called "agunot" in the country who were unable to remarry or have legitimate children because their husbands either disappeared or refused to grant a divorce.

In April, the Women of the Wall, a group of more than 100 Orthodox, Conservative, and Reform women, lost their 14-year legal battle to hold formal women's prayer services at the Western Wall. The High Court ruled that the group instead would be permitted to hold such services at nearby Robinson's Arch.

Some Islamic law courts have held that Muslim women may not request divorces but that a woman may be forced to consent if a divorce is granted to the husband.

The Government provided proportionally greater financial support to Orthodox Jewish institutions than to non-Orthodox or non-Jewish groups, such as Muslim, Christian, and Druze groups. For example, the budget for the Ministry of Religious Affairs for 2000 (the most recent available) allocated only 2.9 percent of its resources to the non-Jewish sector, although Muslims, Christians, and Druze constituted approximately 20 percent of the population. In 2000, the High Court of Justice ordered the Government to allocate resources equitably to cemeteries of the Jewish and Arab communities. During the year, some non-Jewish cemeteries reported enhanced financing and some money to complete long-standing infrastructure

and improvement projects. However, Muslim groups complained that the Government still did not equitably fund the construction and upkeep of Muslim holy sites in comparison to Jewish Orthodox sites, and, that it has been reluctant to refurbish mosques in areas where there was no longer a Muslim population.

In previous years, for security reasons the Government imposed restrictions on citizens who performed the Hajj, including requiring that they obtain permission from the Ministry of Interior and that they be over the age of 30. The Government justified these restrictions on the grounds that Saudi Arabia remained officially at war with Israel and that travel to Saudi Arabia therefore was considered subject to security considerations. However, Israeli Muslims were no longer required to obtain permission from the Ministry of the Interior to travel to Saudi Arabia on the Hajj. Because Israel and Saudi Arabia have no diplomatic relations, Israeli Muslims must travel through another country, usually Jordan, to obtain travel documents for Saudi Arabia. The average number of pilgrims from Israel is 4,500 per year.

Missionaries were allowed to proselytize, although the Church of Jesus Christ of Latter-day Saints voluntarily refrained from doing so under an agreement with the Government. The law prohibits anyone from offering or receiving material benefits as an inducement to conversion; however, there have been no reports of the enforcement of this law.

The 1967 Protection of Holy Sites Law protects holy sites of all religions, and the penal code makes it a criminal offense to damage any holy site. In May, the Government demolished a mosque in the Bedouin village of Tal el-Malah in southern Israel that was constructed without a building permit. This action forced approximately 1,500 residents to travel over 12 kilometers to the nearest mosque. Difficulties in reaching more distant mosques prevented some residents from engaging in public prayer, as required by their religious beliefs.

During the year, the Government continued to refuse recognition to the duly elected Greek Orthodox Patriarch, Eirinaios I. Many local Greek Orthodox Christians perceived the Government's actions as interference with the internal workings of their church. During the year, the Government appointed a ministerial committee chaired by Foreign Minister Silvan Shalom to determine the status of the Patriarch.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights and the Government generally respected them in practice for citizens, except with regard to military or security zones or in instances in which citizens may be confined by administrative order to their neighborhoods or villages. Since the Intifada began in September 2000, the Government has imposed restrictions on the movement of persons between Israel and the West Bank and Gaza, and between cities inside the West Bank and Gaza (see Section 2.d. of the annex).

Citizens generally were free to travel abroad and to emigrate, provided they had no outstanding military obligations and were not restricted by administrative order. Citing confidential security reasons, in 2002, the Government restricted the right of Sheik Raed Salah, leader of the Northern Branch of Israel's Islamic Movement, from foreign travel. The Minister of Interior repeatedly renewed the 6-month travel ban and it remained in effect at year's end. Since imposition of this travel ban, Sheikh Salah has been arrested, detained, and put on trial for allegedly funneling funding to terrorist groups in the occupied territories. His case remained pending at year's end.

The law provides that a male spouse of a non-Jewish citizen may acquire citizenship and enter the country after the spouse passes a 4½-year, multi-stage period of adaptation in Israel, except if the man has a criminal record or is suspected of posing a threat to security. Non-Jewish female citizens who marry non-citizen men, including men from the occupied territories, generally were allowed to retain their citizenship.

In May 2002, the Government stopped processing all residency and citizenship applications for Palestinian spouses, as well as family unification applications in general, on security grounds. The Government stated that 23 Palestinians who received some sort of status prior to May 2002 were suspected of being involved in terrorist incidents. Spouses and children who have resided in the country legally since that time have done so via a series of temporary residency permits. On July 31, the Knesset enacted the "Citizenship and Entry Into Israel Law," which bars Palestinians from the occupied territories from acquiring residence or citizenship rights through marriage to Israelis. The law requires annual Knesset renewal in maximum 1-year increments. According to one human rights organization, the El-Sana family is representative of the group of newly married couples who would be affected by this new law. In March, Morad El-Sana, an Israeli Arab, married Abeer El-Sana,

a resident of Bethlehem in the West Bank. Pursuant to the new law, the Ministry of Interior denied El-Sana's request for his wife to receive status in Israel. Several advocacy groups have submitted petitions to the Supreme Court to challenge this law. The law would have an adverse impact on the country's Arab citizens, since they are more likely than Jews to have married Palestinians from the occupied territories. Advocacy groups claimed that approximately 16,000 cases—either approved or pending applications—could be adversely affected by this new law. The Government may issue permits to children under the age of 12 to reside in the country to prevent them from being separated from their parents who were lawfully staying in the country. The law provides for the extension of residency and other permits to remain in country that were obtained by the resident prior to the commencement of the law, and allows for the granting of a permit for temporary stay to a resident who submitted an application for citizenship prior to enactment of the law but had not yet received a determination. In November, the Supreme Court ordered the Government to further justify this citizenship law and issued injunctions preventing the deportation of three Palestinian spouses married to Israeli Arabs, until the Court delivered a final judgment on the petitions. At year's end, the Supreme Court had not issued a decision on the legality of this law.

During the year, the Government placed limits on journalists' freedom of movement within the occupied territories, between the West Bank and Gaza, and between Israel and the occupied territories (see Section 2.a.).

Citizens are required to enter and leave the country on their Israeli passports only. In addition, no citizen or passport-holder is permitted to travel to countries officially at war with Israel without special permission from the Government. In 2002, there were credible reports that the Government confiscated both the Israeli and Vatican passports of Archimandrite Theodosios Hanna, an Israeli citizen and official of the Greek Orthodox Church in Jerusalem. Credible reports from the media and an NGO indicated that while in several Gulf countries, Hanna gave clear endorsements of terrorist activities, including suicide bombings. The police held and interrogated Hanna at the Russian Compound on his travel, relations with PA President Yasser Arafat, and his position on the Intifada. When summoned to collect his passports, Hanna was informed that he would have to sign a statement promising not to incite violence against the state, make statements in support of terrorist activity, or to visit states hostile to the country without Ministry of Interior permission. Hanna refused to sign and was denied his passports. The Government continued to deny Hanna his passports at year's end.

The Law of Return provides automatic citizenship and residency rights to Jewish immigrants and their Jewish or non-Jewish family members. Children of female converts to Judaism are eligible to immigrate only if the children were born after the woman's conversion. The Law of Return does not apply to non-Jews or to persons of Jewish descent who have converted to another faith. In 2002, several non-Jewish Israeli citizens from the former Soviet Union told diplomats that the Ministry of Interior was attempting to strip their citizenship and return them to their home countries because they had divorced their Jewish spouses. At least one of those potential deportees had served a full term in the IDF. The Israel Religious Action Center (IRAC) reported that it had successfully petitioned the court to block the removal of several of these individuals and that it did not have information about all the cases. The IRAC reported that it had represented cases during the year of non-Jews or those whose Jewish identity was in question who immigrated to the country with their Jewish spouse but then divorced shortly thereafter. These persons were then threatened by the Ministry of the Interior with having their citizenship revoked. The IRAC reported that it during the year had successfully petitioned the High Court to rescind the Ministry's decisions in some specific cases.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum to Jews. The law does allow non-citizen Jews to live in the country as permanent residents. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting Jewish refugees. The Government does not return refugees against their will to their home countries; solutions are determined on an individual basis in observance of 1951 treaty obligations and in cooperation with the UNHCR. Individuals present in the country on tourist or work visas, or those in the country illegally, sometimes filed petitions with the local UNHCR representative as the first step in seeking refugee status, and there was individual adjudication of those with genuine claims to refugee status. Before 2002, refugee status was adjudicated in Geneva; beginning in 2002, a Government interministerial committee reviewed pending cases to determine if the facts merited designation of refugee sta-



tus. The Minister of the Interior has the final authority to determine status, but within the past year has generally accepted the recommendation of the committee. If a person is granted refugee status, it is government policy to grant renewable temporary visas. However, the Government attempts to find a third country for persons from a state with which the country is at war. In those cases, the Government attempts to find a third country in which the individuals can live. The Government provides refugees all the protections under refugee conventions.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for adult citizens. National elections were held on January 28, when the Likud Party led by Ariel Sharon again won a plurality of Knesset seats, and Sharon was asked to form a government of which he became Prime Minister. The country is a parliamentary democracy with an active multi-party system in which political views were wide-ranging. Relatively small parties, including those whose primary support is among Israeli Arabs, regularly won seats in the Knesset. Elections were by secret ballot.

There were 18 women in the 120-member Knesset, and women chaired 5 of the Knesset's 21 committees (including the Committee on the Status of Women). There were 3 women in the Cabinet and 4 women on the 14-member High Court of Justice. There were 8 Arabs and 2 Druze in the 120-member Knesset; most of these 10 represented parties that derived their support largely or entirely from the Arab community. One Arab Christian served on the 14-member High Court of Justice. No Muslim or Druze citizens served on the court.

In August, the ministerial committee on Arab Affairs, headed by Prime Minister Sharon, approved a plan to appoint "at least one Arab board member to every government company within one year."

The Basic Law prohibits the candidacy of any party or individual who denies the Jewish and democratic existence of the State of Israel, incites racism, or supports (in action or speech) the armed struggle of enemy states or terror organizations. The Central Election Committee decided under provisions of this law to disqualify Dr. Ahmed Tibi, Azmi Bishara, and the Arab Bal'ad Party list from running in the January elections; however, the Supreme Court overturned this decision.

The Knesset Elections Committee for the 16th Knesset denied MK Azmi Bishara's right to run in the January 29 elections for expressions and other statements he made in public appearances and in the newspapers, for his opposition to the status of Israel as a Jewish state, and for supporting armed struggle of an enemy country or terror organization against the State of Israel. The Supreme Court overruled the Committee's decision and allowed him to participate in the election campaign, and he was elected as a member of the Knesset.

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

A wide variety of local and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. In 2002, Human Rights Watch (HRW) reported harassment by IDF soldiers and difficulty in gaining permission for expatriate staff to enter the country.

In March 2002, the Ministry of Interior issued an order to border officials to bar entry to all foreign nationals who were affiliated with some Palestinian human rights NGOs and solidarity organizations. During the year, there have been numerous cases where persons affiliated with Palestinian NGOs and humanitarian organizations providing assistance in the occupied territories were denied entry into Israel and, in some cases, deported. The Government's stated policy is to deny entry to those persons it considers security risks. In May, Israeli border police denied entry at the Allenby Bridge from Jordan to nine European youth who were working on a project associated with the European Union. The group was returning to Israel following the expiration of their initial 3-month visas. After the youth waited for several hours at the border to enter the country, the border police told them that the Ministry of Interior had denied them entry. After being denied on a subsequent request, the group was turned back into Jordan. In May, an advocacy organization filed a petition with a district court challenging the Ministry's decision, and the Minister of Interior rescinded prohibition on their entry.

In May, the Government prohibited entry of foreign nationals and members of international NGOs into the Gaza Strip unless they signed a form accepting limitations on their freedom of movement to certain areas and absolving the IDF of any

responsibility for their safety. Failure to honor the conditions set forth in the form could result in arrest and/or deportation.

In May, Adalah reported that the Government requested information and documents relating to activities Adalah had allegedly taken beyond the scope of its mandate, including association with a political party and financial mismanagement. Adalah challenged this request and charged that many of the questions went beyond the inquiry's scope and outside the Registrar's authority.

NGOs must register with the Government by submitting an application and paying approximately \$20 (85 shekels) to the Office of the Registrar. The office investigates the organization to confirm its stated purpose and ensure conformity with the law. If approved, the organization then receives a license to operate as an NGO. It must subsequently register with the tax office to receive tax-exempt status. Registered Israeli NGOs receive state funding; however, some Israeli-Arab NGOs complained of difficulties in both registering and receiving state funding. In 2002, the Government denied registration to a new Palestinian NGO, Tawasul. The Government said that it merely wanted the organization to change its name, due to its similarity to those of other registered NGOs (see Section 2.b.). In April, however, the Government registered Tawasul as an NGO.

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

The law prohibits discrimination on the basis of sex or marital status. The law also prohibits discrimination by both government and nongovernmental entities on the basis of race, political beliefs, or age. Local human rights groups were concerned that these laws often were not enforced, either as a result of institutionalized discrimination, or because resources for implementing those laws, or mechanisms for their enforcement, were lacking. During the year, NGOs complained of discrimination and police harassment against homosexuals in Tel Aviv. According to a February 200 report submitted to the U.N. by the Government, allocation of resources to different population groups was inconsistent with the law's prohibition on discrimination.

Approximately 93 percent of the country's land area is public domain under the management of the Israel Lands Administration (ILA), which, as a matter of policy, does not sell but only leases land. Of that 93 percent, some 14 percent is owned by the Jewish National Fund (JNF), an organization established in 1897 for the purchase and management of land for the Jewish people. The JNF's statute prohibits the sale or lease of land to non-Jews, although reports indicate it has done so. Foreigners and citizens of all religions were allowed freely to purchase or lease the 7 percent of land not controlled by the Government or the JNF.

At year's end, the Government had still not implemented the 2000 High Court of Justice ruling that the Government cannot discriminate against Israeli Arabs in the distribution of State resources, including land. The Court held that the ILA must provide an Israeli-Arab family, the Ka'adans, with title to a plot of land they wanted to buy in the Jewish community of Katzir. The court ruled specifically that the ILA cannot discriminate on the basis of nationality or religion when dispensing land to its citizens. The High Court determined that its ruling would not affect previous land allocations and that differentiating between Jews and non-Jews in land allocation might be acceptable under unspecified "special circumstances." The community council was instructed to develop and publish criteria for its decisions and a plan for implementation; however, the ILA through the local council did not implement the court's 2000 decision. In October, the Arab family petitioned the court to compel the ILA's allocation of the plot of land in Katzir. To avoid returning to court, the ILA agreed to offer the Arab family a similar plot of land in an adjacent newly constructed community. On December 17, the Supreme Court issued an interim injunction ordering the ILA to set aside a plot of land in Katzir for the Ka'adans; however, at year's end, the ILA still had not done so.

The Association of Gay Men, Lesbians, Bisexuals and Transgender in Israel complained that there had been several incidents where police in Tel Aviv had allegedly engaged in verbal and physical harassment of homosexuals in a Tel Aviv public park. Representatives of that organization subsequently met with representatives of the police to discuss ways to improve relations between the police and the homosexual community. According to reports, the police appointed contact persons in all police districts who would serve as liaisons to the homosexual community.

*Women.*—The Equality of Women Law provides for equal rights for women in the workplace, the military, education, health, housing, and social welfare, and entitles women to protection from violence, sexual harassment, sexual exploitation, and trafficking. The law prohibits domestic violence; however, violence against women was a problem, despite the steps taken by the Government to prosecute these crimes and by other organizations to raise public awareness about this problem.

In 2001, the Government enacted the Prevention of Stalking and amended the Prevention of Family Violence Law to include a duty to inform service requiring a number of public and private sector professional personnel to inform suspected victims of their right to turn to the police, welfare service, or Centers for the Prevention of Domestic Violence for assistance.

According to the Ministry of Public Security, 13 women were killed by their husbands between January and November. Between January and October, according to the Government, women lodged 10,000 complaints of domestic violence. At the end of September, 522 women with 809 children stayed in battered women's shelters. The Government estimated that 5,500 women were treated in centers for prevention and treatment of domestic violence. Annually, approximately 4,000 women and 3,350 girls were victims of violence and were treated by the various social services departments in the local municipalities. Social workers have taken statements from approximately 1,200 girls who were victims of domestic violence. The Government also reported that between January and October, women and girls filed 2,024 complaints of sexual assault with the police. By the end of September, aid centers received 5,063 calls from victims of sexual assault, 852 of whom were victims of incest. During the year, sexual assault victims treatment centers treated approximately 100 women, and the Agency for Women and Girls treated approximately 1,100 women and girls, 480 of whom were victims of incest. Social workers for children who were victims of sexual offenses, took statements during the year from 240 girls who claimed they were victims of sexual assault committed by family members.

Rape is illegal; however, NGOs consider the incidence of rape a matter of concern in the country.

One women's organization claimed that during the year, it had information about three cases of Arab women killed by male relatives in family honor cases. That organization also stated that a Bedouin women's organization suspected 10 cases of honor killings of women in the Negev. Several of the women had reportedly disappeared. There was no accurate estimate of the number of family honor cases as families often attempted to cover up the cause of such deaths.

Prostitution is not illegal; however, the operation of brothels and organized sex enterprises is outlawed. NGOs reported that there may be prostitutes under the age of 18 but there is currently no accurate estimate. NGOs speculate that there are approximately 100–200 prostitutes under 18 years of age.

Trafficking in women remained a significant problem. Criminal networks reportedly trafficked hundreds of women, primarily from the former Soviet Union, into the country by criminal networks to work as prostitutes (see Section 6.f.).

The law prohibits sexual harassment. There were no accurate statistics regarding the extent of sexual harassment in the workplace; however, there was a dramatic increase in the number of complaints of sexual harassment following enactment in 1998 of the law prohibiting sexual harassment. According to the Government, from January to October, victims filed 167 complaints of sexual harassment to the police.

The law provides for class action suits and requires employers to provide equal pay for equal work, including side benefits and allowances; however, women's rights advocates claimed that deep wage gaps remained. Women's advocacy groups reported that women routinely received lower wages for comparable work, were promoted less often, and had fewer career opportunities than their male counterparts. According to the Central Bureau of Statistics, women averaged only 79 percent of men's wages in 2002. According to press reports, women filled only 2 percent of senior management positions in large companies.

Religious courts adjudicate personal status law in the areas of marriage and divorce. Jewish and Muslim women are subject to restrictive interpretations of their rights in both systems. Under personal status law, Jewish women are not allowed to initiate divorce proceedings without their husbands' consent; consequently there were estimated to be thousands of "agunot" who may not remarry or have legitimate children because their husbands either disappeared or refused to grant a divorce.

In accordance with Orthodox Jewish law, the 1995 Rabbinical Courts Law allows rabbinical tribunals to impose sanctions on husbands who refuse to divorce wives who have ample grounds for divorce, such as abuse. One foreign citizen has been in prison since 1999 for refusing to grant his wife a divorce. However, in some cases, rabbinical courts failed to invoke these sanctions. In addition, there were cases in which a wife failed to agree to a divorce, but rabbinical authorities allowed the man to "take a second wife," a remedy not available to wives. Such restrictive practices have been used by husbands to extort concessions from their wives in return for agreeing to a divorce. Rabbinical courts also may exercise jurisdiction over, and issue sanctions against, non-citizen Jews present in the country.

Some Islamic law courts in the country have held that Muslim women may not request a divorce, but that women may be forced to consent if a divorce is granted to a man.

*Children.*—The Government has stated its commitment to the rights and welfare of children; however, in practice, resources at times were insufficient, particularly with respect to low-income families. Government spending was proportionally lower in predominantly Arab areas than in Jewish areas, which adversely affected children in Arab villages and cities. In November, the Central Bureau of Statistics reported that in 2002, 16 percent of children in Israel lived in households with no working parent (13.1 percent of Jewish children and 26 percent of Arab children). In December, the Child Welfare Council of Israel published a report stating that Israeli children were growing poorer and increasingly falling victim to violence, sexual exploitation, and drug and alcohol addiction. The report states that nearly 656,000 children, or one-third of all Israeli children, lived below the poverty line in 2002 and that the situation in the non-Jewish sector was worse, with 54.4 percent of children living in poverty.

Education is compulsory up to the age of 15 or until the child reaches the 10th grade, whichever comes first. Education is free until age 18. Arab children comprised approximately one-quarter of the public school population, but historically, government resources allocated for them were proportionately less than that for Jewish children. Many schools in Arab communities were dilapidated and overcrowded, lacked special education services and counselors, had poor libraries, and had no sports facilities.

During the year, the Mossawa Center reported that only about one third of the 1,500 classrooms that were scheduled to be built in Arab communities had been made available by year's end. According to the Government's February 2002 report to the U.N., government investment per Arab pupil was approximately 60 percent of investment per Jewish pupil.

High school graduation rates for Arabs were significantly lower than for Jews. Preschool attendance for Bedouin children was the lowest in the country, and the dropout rate for Bedouin high school students was the highest. In August, the Supreme Court ordered the Ministry of Education to provide two appropriate classrooms for eight hearing impaired Arab children in response to a petition filed by an advocacy group. According to Adalah, the Government provided classroom space in existing school facilities; however, the condition of the classrooms remained unsuitable.

In 2000, the Commission to Examine the Implementation of the Special Education Law (the Margalit Commission) published its detailed recommendations on how to improve special education in the Arab sector. Over the past 3 years, the Government increased the number of classroom hours for special education in the Arab sector by 12,000 weekly hours.

The Government operated a number of school systems: one for secular Jews, at least two for religious Jews, and one for Israeli Arabs. Most Jewish children attended schools where the language of instruction was Hebrew and the curriculum included Jewish history. Most Israeli-Arab children chose schools where the language of instruction was Arabic and the curriculum had less of a "Jewish" focus. Israeli-Arab children overall received an education inferior to that of Jewish children in the secular system. The Education Ministry allocated money per class, and acknowledged that due to the larger classes of Arab students, it allocated less money per student in the Arab system than in the Jewish system. In addition, Jewish schools received additional state and state-sponsored funding for school construction and special programs through other government agencies.

In 2001, Adalah requested that the Government discontinue ISA monitoring and approval of teachers and administrators in Arab schools and claimed that in its role at the Ministry of Education, the ISA discriminated against persons on the basis of their political affiliation. In August, members of the Knesset also criticized ISA involvement in the appointment of teachers and principals in Arab schools during a Knesset committee's session on the status of Israel's Arab education system. Arab members of the Knesset also criticized the lower academic achievements of Arab students and stated that this was an indication of discrimination in the system.

On a practical level, several factors prevented foreign workers from marrying or maintaining a normal family life while in the country. Work visas apply only to the worker; a family cannot be brought with the worker into Israel. According to NGOs, if two foreign workers marry while in the country, one of their work permits will not be renewed, forcing that spouse to leave the country. These same NGOs stated that if a foreign worker attempted to reunify his or her family by having his or her spouse apply for a separate work permit, and this arrangement became known to authorities, at least one of the spouses would not have their work permits renewed,

and that spouse will either have to leave the country or remain in an illegal status. Foreign workers who wished to marry a citizen must apply for a permit from the Ministry of the Interior to allow them to stay in Israel. NGOs noted that the process was burdensome and that workers encountered serious delays while their status was adjudicated.

If a legal foreign worker becomes pregnant while in the country, the child born to that worker is entitled to remain with their parent as long as the parent maintains a legal work permit and until age 18. The child is entitled to receive limited health and education benefits until the age of 18; however, it is not clear whether children received these benefits as a matter of practice. After the age of 18, these individuals must leave the country and if found in the country, are subject to deportation. Other minor children of foreign workers (who usually enter the country through tourist visas) are subject to deportation as a matter of law; however, at year's end, the Immigration Authority deported these children.

The Government has legislated against sexual, physical, and psychological abuse of children and has mandated comprehensive reporting requirements regarding these problems. Although there was a sharp increase in reported cases of child abuse in recent years, activists believed that this largely was due to increased awareness of the issue rather than a growing pattern of abuse. There were five shelters for children at risk of abuse.

*Persons with Disabilities.*—The Government provided a range of benefits, including income maintenance, housing subsidies, and transportation support for persons with disabilities, who constituted approximately 2.4 percent of the population. Existing anti-discrimination laws do not prohibit discrimination based on disability, and persons with disabilities continued to encounter difficulties in areas such as employment and housing. A law requiring access for persons with disabilities to public buildings was not widely enforced. There was no law providing for access to public transportation for persons with disabilities. At a Knesset meeting in December, the Commissioner for Equality for the Disabled stated that a survey of buildings in 2002 indicated that most contractors have ignored laws calling for access for the disabled. The Commissioner also accused the Government of not doing enough to provide employment for the disabled despite requirements in the law. According to the Commissioner, 595 out of 50,000 public-service workers were disabled. The Attorney General told the Knesset committee that laws protecting and assisting the disabled were not being implemented due mainly to a lack of funding.

*National/Racial/Ethnic Minorities.*—The Government did not allocate sufficient resources or take adequate measures to provide Israeli Arabs, who constitute approximately 20 percent of the population, with the same quality of government services, as well as the same opportunities for government employment, as Jews. In addition, government spending was proportionally far lower in predominantly Arab areas than in Jewish areas; on a per capita basis, the Government spent two-thirds as much for Arabs as for Jews. The Government noted in a 2002 report to the U.N. that “the Arab population is typified by larger families, lower levels of education, and lower income than the total Israeli population.”

The COI report (see Section 1.a.) stated that the “Government handling of the Arab sector has been primarily neglectful and discriminatory,” that the Government “did not show sufficient sensitivity to the needs of the Arab population, and did not take enough action to allocate state resources in an equal manner.” As a result, “serious distress prevailed in the Arab sector in various areas. Evidence of distress included poverty, unemployment, a shortage of land, serious problems in the education system, and substantially defective infrastructure.” On September 14, the Cabinet appointed a special ministerial committee to advise the Government on how to implement those recommendations within 60 days. The committee's tenure was extended at year's end.

Minister of Finance Benjamin Netanyahu's statement in December at a major public policy conference that Israeli Arabs presented a “demographic problem” in the country elicited strong criticism, especially from civil rights groups and Israeli-Arab leaders.

Municipalities, including Arab municipalities, were responsible for issuing building permits within the municipal boundaries. Some Israeli-Arab and civil rights NGOs claimed that outside of Arab-governed municipalities, the Government was more restrictive in issuing building permits to Arabs than to Jews. In addition, Israeli law does not recognize many long-established Israeli-Arab and Bedouin communities. All buildings constructed in these unrecognized villages are considered illegal and it is impossible to obtain building permits for construction to accommodate the natural growth of communities. The COI report stated that the Government “must allocate land to this sector according to the same egalitarian principles it uses

with other sectors.” The COI also found that “suitable planning should be carried out as soon as possible to prevent illegal construction caused by lack of existing town planning that make it difficult to obtain building permits.” Israeli-Arab advocacy organizations have challenged the Government’s plan to demolish more illegal buildings in the Arab sector, calling for the initiation of a comprehensive planning process, with the participation of the affected communities. These groups alleged that state-approved plans for development were lacking in many of the areas of unrecognized villages, such as the Negev. Pursuant to Israeli law, such a plan must exist to obtain building permits. Several ministers were reportedly considering establishing a separate department to expedite demolitions of illegal buildings in Arab areas. The department would reportedly focus on three geographic areas: the Bedouin villages in the Negev, Arab villages in the Galilee, and the Arab village “triangle” in the central area of Israel.

The Bedouin sector was the weakest of all the population groups in the country. Bedouin living in unrecognized villages had no way to obtain building permits. The COI report stated that the living conditions and the hardships of the Bedouin community should be afforded “special attention.” According to a well-known Bedouin advocacy organization, during the year, the Government destroyed over 35 Bedouin houses, a mosque, 13 shops and a water container. For example, in May, security forces demolished two houses in the unrecognized Bedouin villages of Kherbat Al Ras and Al Fara’h in the Negev. According to this same organization, hundreds of security forces and aircraft arrived in Kherbat Al Ras and Al Fara’h, closed all the main entryways and demolished the two houses, leaving the inhabitants homeless. In 2002, the Government destroyed 52 Bedouin homes in the unrecognized village of al-Araqib. The Government continued to prohibit building in that village.

Israeli-Arab organizations have challenged publicly the 1996 “Master Plan for the Northern Areas of Israel,” which listed as priority goals increasing the Galilee’s Jewish population and blocking the territorial contiguity of Arab villages and towns, on the grounds that it discriminated against Arab citizens; the Government continued to use this document for planning in the Galilee. A hearing on objections to this plan was held in March but at year’s end, there had not been a response from the National Council for Building and Planning, and the plan had not been implemented.

Israeli Arabs were underrepresented in the student bodies and faculties of most universities and in higher level professional and business ranks. During the 1999–2000 school year, Arab students comprised 9 percent of all students studying for bachelor’s degrees and 4 percent of all students studying for advanced degrees. The Bureau of Statistics notes that the median number of school years of the Jewish population is 3 years more than that of the Arab population. In the 1999–2000 school year, according to the Bureau, 12 percent of students in the Arab education system and 6 percent in the Hebrew school system dropped out of school in the 9th to 11th grades. Well-educated Arabs often were unable to find jobs commensurate with their level of education. In 2002, Arab citizens held fewer than 60 of the country’s 5,000 university faculty positions. The Government stated that it was committed to granting equal and fair conditions to Israeli Arabs, particularly in the areas of education, housing, and employment. A small number of Israeli Arabs have risen to responsible positions in the civil service, generally in the Arab departments of government ministries. According to the advocacy NGO Sikkuy’s 2002–2003 Report, Israel’s Civil Service Commission provided data showing that Israeli Arabs comprised 6.1 percent of all civil service workers in Israel. In September, the Government approved an affirmative action plan to promote the hiring of Israeli Arabs in the civil service.

In 2000, the Knesset passed a bill requiring that minorities and underrepresented populations be granted “appropriate representation” in the civil service and on the boards of government corporations. The Government took some steps toward implementing the law in 2002, including setting aside civil service positions for Arab candidates and appointing more Israeli Arabs to corporate boards. For example, in 2002, an Arab citizen was appointed to the board of Ben Gurion Airport. But, according to one advocacy organization, as of December 2002, Arab citizens held only 37 out of 671 positions (approximately 5.5 percent) on the boards of directors of governmental companies. The Government’s affirmative action plan for Israeli Arabs would also include the appointment of more Arabs to the boards of government companies; however, there had been no implementation by year’s end.

Israeli Arabs continued to complain of discriminatory treatment at the airport. In September, the Airport Authority hired 12 Arab security officers to serve as airport security personnel following the mistreatment of an Israeli-Arab senior commander in the border police. The senior commander complained of being humiliated at Ben-Gurion Airport by security personnel.

Israeli Arabs were not required to perform mandatory military service and in practice, few Israeli Arabs served in the military or worked in companies with defense contracts or in security-related fields. The Israeli Druze and Circassian communities were subject to the military draft, and the overwhelming majority accepted service willingly. Some Bedouin and other Arab citizens who were not subject to the draft served voluntarily. Those who did not serve in the army had less access than other citizens to those social and economic benefits for which military service was a prerequisite or an advantage, such as housing, new-household subsidies, and government or security-related industrial employment.

In 2002, NGOs challenged in court a government plan to pay less social security child allowance benefits to families in which at least one parent did not serve in the IDF than to families in which at least one parent did. Advocacy and civil rights organizations argued that the law would discriminate against most Israeli Arabs who were exempt from and did not serve in the military. In July, the Supreme Court dismissed the petition as the relevant provision of the law was cancelled by the Knesset's passage of the new economic plan.

Israeli-Arab groups alleged that many employers used the prerequisite of military service to avoid hiring non-Jews. In 2001, the municipality of Tel Aviv advertised for parking lot attendants; "military service" was a prerequisite.

There were approximately 130,000 Bedouin in the Negev; of this number, approximately half lived in 7 state-planned communities and the other half lived in 45 settlements that were not recognized by the Government. The recognized Bedouin villages receive basic services from the Government; however, they remain among the poorest communities in the country. The Government reported that Bedouins who move to these state-planned communities were compensated for abandoned property, provided grants, as well as new land free of charge.

The unrecognized villages were declared illegal by the National Planning and Building Law of 1965, which rezoned the lands on which they sat as nonresidential, and the Government claimed ownership of the land. New building in the unrecognized villages was considered illegal and subject to demolition. According to the Government, recognizing these villages would conflict with its attempts to establish new villages in "an orderly manner and would leave disputes over the land unresolved." Residents of the unrecognized villages paid taxes to the Government; however, their villages were not eligible for government services. Consequently, such villages were denied basic health, education, water, electricity, employment opportunities, and other services. Only 13 of the unrecognized villages had elementary schools. There are no high schools in any of the unrecognized villages. Private efforts have supplied some unrecognized villages with water, and the courts have ordered the provision of limited health and education services.

The Government has yet to fulfill its commitment to resolve the legal status of unrecognized Arab villages. Since 1994, 8 villages have been recognized officially, but nearly 100 more, of varying size and with a total population of nearly 70,000 persons, remained illegal. At year's end, the Government still had not implemented a 1999 High Court decision requiring a study into the infrastructure needed in each village.

In March, without prior warning, two ILA airplanes, accompanied by a large number of police forces and other security forces, sprayed a chemical herbicide on houses and more than 2,000 dunams (500 acres) of crops belonging to residents of Abda, an unrecognized Bedouin village in the Negev. According to a reputable advocacy organization, elderly persons and children were in the fields at the time of the spraying. In addition, in April, the ILA sprayed chemical herbicide on about 2,000 dunams (500 acres) of land belonging to several unrecognized villages to compel the residents to move into one of the seven townships.

In February 2002, the ILA sprayed from the air chemical herbicide over 12,000 dunams (12 sq. km) of Bedouin wheat fields in the Negev that had been planted on unrecognized land. Bedouin communities depend on agriculture for sustenance.

There continued to be claims by Arab groups that land expropriation for public use affected the Arab community disproportionately; that Arabs have been allowed too little input in planning decisions that affect their schools and municipalities; that mosques and cemeteries belonging to the Islamic Waqf (religious endowment) have been neglected or expropriated unjustly for public use; and that successive governments have blocked the return to their homes of citizens displaced in the early years of the country's history. The Government has yet to agree with the pre-1948 residents of the northern villages of Bir Am and Ikrit, and their descendants, regarding their long-term demand to be allowed to rebuild their houses. In 1997, a special interministerial panel recommended that the Government allow the villagers to return to Bir Am and Ikrit. The High Court granted the Government several extensions for implementing the recommendation.

In October 2001, after the expiration of the most recent extension, the State Prosecutor's Office submitted an affidavit to the High Court asking it to reject the villagers' appeal, stating that the Government had legally appropriated the land, and that the precedent of returning displaced persons to their villages would be used for propaganda and political purposes by the Palestinian Authority. In June, the Supreme Court rejected a petition by former residents of Ikrit to return to their homes. The three justices accepted the Government's claim that despite promises given by previous governments to former Ikrit residents that they would be allowed to return, the State's interest justified rejecting the petition. The former residents would have to accept alternatives offered by the State. At year's end, no information was available regarding these alternatives.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Citizen workers may join and establish labor organizations freely. Most unions belong to Histadrut (the General Federation of Labor in Israel) or to a much smaller rival federation, the Histadrut Haovdim Haleumit (National Federation of Labor). These organizations are independent of the Government. Histadrut members elect national and local officers and officials of its affiliated women's organization, Na'amat, from political party lists of those already in the union. Plant or enterprise committee members are elected individually. Approximately 650,000 workers were members of Histadrut during the year, and much of the non-Histadrut work force was covered by Histadrut's collective bargaining agreements.

Palestinians from the West Bank and Gaza Strip who worked in Israel were not able to join Israeli trade unions or organize their own unions in Israel. Palestinian trade unions in the occupied territories were not permitted to conduct activities in Israel (see Section 6.a. of the annex). However, nonresident workers in the organized sector were entitled to the protection of Histadrut work contracts and grievance procedures. They may join, vote for, and be elected to shop-level workers' committees if their numbers in individual establishments exceed a minimum threshold. Palestinian participation in such committees was minimal.

Labor laws apply to Palestinians holding East Jerusalem identity cards and to the Syrian Druze living on the Golan Heights.

Unions were free to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—Citizen workers exercised their legal rights to organize and bargain collectively. The law specifically prohibits anti-union discrimination. No anti-union discrimination was reported.

Nonresident workers could not organize their own unions or engage in collective bargaining, but they were entitled to be represented by the bargaining agent and protected by collective bargaining agreements. The country's immigration officials estimate there are 236,000 foreign workers in the country. They did not pay union dues, but were required to pay an agency fee in lieu of dues, which entitled them to union protection by Histadrut's collective bargaining agreements. The Ministry of Labor could extend collective bargaining agreements to nonunionized workplaces in the same industrial sector. The Ministry of Labor also oversaw personal contracts in the unorganized sectors of the economy.

The right to strike was exercised regularly. Unions must provide 15 days' notice prior to a strike. Strike leaders—even those organizing illegal strikes—were protected by law. If essential public services are affected, the Government may appeal to labor courts for back-to-work orders while the parties continue negotiations. There were a number of strikes in both the public and private sectors during the year by employees protesting the effects of privatization. Worker dismissals and the terms of severance arrangements often were the central issues of dispute. During the year, there were several major strikes of municipal workers. Histadrut called strikes both in the spring and fall of the year protesting wage, pension, and benefit issues. At year's end, port workers were in court-mediated negotiations over privatization issues.

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 for citizens and or nonresident Palestinians working in Israel; however, civil rights groups charged that unscrupulous employers often took advantage of illegal workers' lack of status to hold them in conditions that amount to involuntary servitude (see Section 6.e.). The problem was notable concerning non-Palestinian illegal workers.

Women were trafficked for the purpose of prostitution (see Section 6.f.).



*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children who have attained the age of 15 years, and who fall under the compulsory education law (which applies to all children except those who have completed grade 10), may be employed only as apprentices under the Apprenticeship Law. Children who are 14-years old may be employed during official school holidays in light work that will not harm their health. Working hours of those 16 to 18 years of age are restricted to ensure time for rest and education. The Government enforced all of these restrictions in practice.

There were no reliable data regarding illegal child workers. The estimated small number of child workers reportedly was concentrated among the country's illegal Arab population. Illegal child employment was found primarily in urban, light industry.

*e. Acceptable Conditions of Work.*—The minimum wage is calculated periodically and adjusted for cost of living increases. In 2001, the minimum wage was raised to 47.5 percent of the average wage. At year's end, the minimum wage was less than \$900 (approximately 3,555 NIS) per month. During the year, the minimum wage often was supplemented by special allowances and was considered by the government to be sufficient to provide a worker and family with a decent standard of living. Some union officials and social commentators disputed that the minimum wage was adequate to provide a decent standard of living. Union officials expressed concern over enforcement of minimum wage regulations, particularly with respect to employers of illegal nonresident workers, who were sometimes paid less than the minimum wage.

By law, the maximum hours of work at regular pay are 45 hours a week, 8 hours a day, and 7 hours in night work on the day before the weekly rest. That rest period must be at least 36 consecutive hours and include the Sabbath for Jews and a choice of Friday, Saturday, or Sunday for non-Jews.

Employers must receive a government permit to hire Palestinian workers from the occupied territories, certifying that no citizen is available for the job. All Palestinians from the occupied territories working in Israel were employed on a daily basis and, unless they were employed on shift work, were not authorized to spend the night in Israel. Palestinians without valid work permits were subject to arrest.

The employment service of the Ministry of Labor, which disbursed wages and benefits collected from employers, paid Palestinian nonresident workers. The Ministry deducted a 1 percent union fee and the workers' required contributions to the National Insurance Institute (NII), the agency that administered the Israeli social security system, unemployment benefits, and other benefits. Despite these deductions, Palestinian workers were not eligible for all NII benefits. They continued to be insured for injuries suffered while working in the country, maternity leave, as well as the bankruptcy of a worker's employer. However, they did not have access to unemployment insurance, general disability payments, or low-income supplements.

Since 1993, the Government has agreed to transfer the NII fees collected from Palestinian workers to the Palestinian Authority, which is to assume responsibility for all the pensions and social benefits of Palestinians working in Israel. Mechanisms for transferring the funds and mechanisms for providing these services in the PA controlled territories, have not been established. At year's end, the funds had not been transferred and were held in a trust.

Following the outbreak of violence in 2000, the Government implemented a closure policy, which prevented nearly all Palestinians from getting to their places of employment in Israel (see Section 2.d.).

Along with union representatives, the Labor Inspection Service enforced labor, health, and safety standards in the workplace, although resource constraints, such as adequate staffing, affected overall enforcement. Legislation protects the employment rights of safety delegates elected or appointed by the workers. In cooperation with management, these delegates were responsible for safety and health in the workplace.

Workers did not have the legal right to remove themselves from dangerous work situations without jeopardy to continued employment. However, collective bargaining agreements provided some workers with recourse through the work site labor committee. Any worker may challenge unsafe work practices through government oversight and legal agencies.

Public debate continued regarding the role in the workplace and society of non-Palestinian foreign workers, whom the Government estimated to be 236,000, about half of whose legal status had lapsed and who were thus undocumented and both living and working illegally. The majority of such workers came from Eastern Europe and Southeast Asia, and worked in the construction and agricultural sectors. The law does not allow foreign workers the ability to obtain citizenship or permanent residence status, unless they are Jewish, in which case they would qualify

under the laws that allow for Jewish persons to immigrate. According to NGOs, foreign workers and their families, especially those who entered the country illegally, experienced uncertainty in addressing legal and social problems, including exploitation or abuse in the workplace, because they fear immediate discharge and subsequent deportation if they raise these issues with government ministries.

NGOs alleged that foreign workers were being lured to the country with the promise of jobs that in fact did not exist. Work visas were tied to specific jobs, and quotas to bring in foreign workers were assigned by the Government to employers. Technically, it is illegal for Israeli manpower companies who provide the workers to the employers, to receive payments from the worker, but NGOs and news articles alleged that the companies made thousands of dollars from each worker brought into the country, usually as a payment from the foreign partner. Some foreign workers paid up to \$10,000 (45,000 NIS) to employment agencies to obtain permits to work in the country.

According to NGOs, there were a significant number of cases where workers have been dismissed shortly after arriving in Israel. These NGOs alleged that the manpower companies worked with deportation authorities to deport the newly arrived workers, who were then replaced with newly arriving workers, earning the manpower companies more fees. NGOs argued that most workers expected to work for some time in Israel to recoup their initial payments; those faced with the absence of jobs for which they had made arrangements often sought illegal employment for fear of returning home with large debts. According to NGOs, there have been cases where workers have killed themselves rather than face this prospect.

Illegal foreign workers facing deportation were brought before a special court established to deal with issues related to deportation, and workers may contest the deportations. Many workers lacked fluency in Hebrew, which hindered the process. NGOs exist to aid workers facing deportations, and there have been cases in which the worker's status was reinstated. The court also provided a forum where deportable workers can claim that they were not paid or given benefits according to the law. In some cases, the court delayed deportation until employers paid all claims, including severance. However, some NGOs suggested that illegal workers often lived in situations amounting to involuntary servitude, due primarily to their tenuous legal status and lack of recourse. NGOs noted cases in which the police injured foreign workers during arrest. In some cases, these NGOs claimed, the workers were so seriously injured that they were not ultimately detained, due to the potential cost of care for their injuries and police fears of possible investigation of police misconduct. At least one foreign worker killed himself while in detention.

In 2002, the editor of the foreign worker newspaper *Manila-Tel Aviv Times* was deported shortly after giving interviews to other publications on the subject of foreign worker rights under the law; foreign worker advocates claimed the deportation was politically motivated. During the year, another reporter from the publication was deported after advising foreign workers in an article on strategies for avoiding detention and deportation. Human rights groups claimed that since foreign worker residency permits were tied to specific employment, even legal foreign workers had little leverage to influence their work conditions.

*f. Trafficking in Persons.*—The law prohibits trafficking women for the purpose of prostitution; however, it remained a serious problem. The penal code also stipulates that it is a criminal offense, punishable by between 5 and 7 years imprisonment, to force or coerce a person to engage in prostitution and makes it a criminal offense to induce a woman to leave the country with the intent to “practice prostitution abroad.” The Equality of Women Law (see Section 5) stipulates that every woman is entitled to protection from violence, sexual harassment, sexual exploitation, and trafficking. The operation of brothels and “organized sex enterprises” is outlawed, as are many of the abuses committed by traffickers and pimps, such as assault, rape, abduction, and false imprisonment; however, brothels operated openly in at least several major city.

Women were trafficked primarily from the former Soviet Union, including Moldova, Russia, Uzbekistan, and Ukraine. According to some local NGOs, several hundred women are trafficked into the country annually. NGOs reported that the number of trafficked women entering the country fell from previous years because of increased security at Ben Gurion airport, but women still were being trafficked across the Egyptian border.

NGOS reported that traffickers often lured women into traveling to the country by offering them jobs in the service industry. In many cases, traffickers met women at the border and confiscated all their official documents. Many trafficked women were forced to live and work under extremely harsh conditions and to give most of the money they earned to their traffickers. The women reportedly often were raped and beaten, then auctioned to pimps who repeated the procedure. If the women es-

caped from their traffickers, they were often afraid to report their situations to the police because the traffickers threatened to hunt them down and hurt them. According to press reports, it was common for trafficked women to be told that they must repay the costs of their travel to the country through servicing up to 25 clients a day. They were paid little or no money for this work and once the debt had been repaid, they were auctioned again.

In previous years, some victims accused individual police officers of complicity with brothel owners and traffickers. The Government claimed that it reviewed cases involving allegations of police involvement; however, NGOs reported that the review process was slow and questioned whether all complaints were taken seriously. An NGO reported that sex trafficking victims reported seeing police officers at the brothels; the report was based on interviews with trafficking victims in 2001–2002.

According to the Government, from January to December, police opened 51 trafficking in persons investigations and approximately 400 investigations involving related offenses such as pandering, causing a person to engage in prostitution, soliciting prostitution and kidnapping.

During the year, the police arrested 92 persons for trafficking in persons, with 65 detained until the conclusion of their trials. Another 93 persons were arrested for related offenses. Government sources provided a partial list of judgments rendered during the year. Of the 13 cases presented, 7 were appealed to the Supreme Court. Three cases involved plea bargains, and the range of sentences ran from 16 months to 15 years imprisonment.

Police often detained trafficked women following raids on brothels; the number of such raids increased during the year. The Ministry of Interior has broad powers to deport illegal aliens and to hold them in detention pending deportation. The Government estimated that more than 500 women deported from the country during the year had been trafficking into the country. Trafficked women could not apply for legal status to remain as refugees or protected persons unless they were Jewish and filed under the Law of Return.

Authorities generally placed trafficked women who were arrested in a special detention facility prior to deportation. Trafficked women often did not challenge a deportation order because they did not speak the language or were unaware of the appeals procedure. The Government transferred women willing to testify against their traffickers to a hotel or hostel and provided them funds on which to live. Many women were reluctant or afraid to testify in trials due to threats and intimidation by their traffickers. The country has no witness protection program for non-citizens. NGO reports and witness testimony indicated that only in limited circumstances did the Government attempt to determine whether or not a trafficked woman or girl would be at risk of abuse if she were deported to her country of origin, even in cases in which the woman or girl had testified in criminal proceedings. During the year, the Government did undertake its first repatriation with NGO assistance in an attempt to protect a Moldovan victim at risk after returning to Israel to testify against her trafficker.

The law criminalizes trafficking in persons for the purposes of sex. The maximum penalty for aggravated trafficking of trafficking of minors is 20 years in prison and the penalties proscribed by law are commensurate with those for rape and assault; however, the majority of cases were resolved through plea bargains. According to media reports on specific cases reviewed over the year, it appears that sentences have increased since 2002.

In November, the Government finalized a plan, begun more than a year earlier, to establish a shelter available for trafficked women; however, at year's end, no shelter had been made available. The Government provided funding to an NGO, which has distributed Russian-language leaflets with information to assist trafficking victims.

#### THE OCCUPIED TERRITORIES (INCLUDING AREAS SUBJECT TO THE JURISDICTION OF THE PALESTINIAN AUTHORITY)

Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem during the 1967 War. Pursuant to the May 1994 Gaza-Jericho Agreement and the September 1995 Interim Agreement, Israel transferred most responsibilities for civil government in the Gaza Strip and parts of the West Bank to the newly created Palestinian Authority (PA). The 1995 Interim Agreement divided the territories into Areas A, B, and C, denoting different levels of Palestinian and Israeli control. The PA controls security and civil affairs in Area A, civil affairs and shared responsibilities with Israel in Area B, and Israel controls certain civil functions and all security in Area C. In parts of the West Bank and Gaza, Israel exercised civil authority through the Israeli Ministry of Defense's Office of Coordination and Liaison

(MATAK). The approximately 193,170 Israeli settlers (a decrease of approximately 15,000 since 2002) living in Area C of the West Bank and in the Gaza Strip were subject to Israeli law and, as citizens, received preferential treatment from Israeli authorities compared to Palestinians in the protection of their personal and property rights.

These distinctions were not in force during the year following Israel's reassertion of security control over most PA-controlled areas in 2002, which Israel carried out citing the PA's failure to abide by its security responsibilities. The international community considered Israel's authority in the occupied territories to be subject to the Hague Regulations of 1907 and the 1949 Geneva Convention relating to the Protection of Civilians in Time of War. The Israeli Government considered the Hague Regulations applicable and maintained that it largely observed the Geneva Convention's humanitarian provisions. Palestinians and international human rights groups maintained that Israel consistently violated these provisions. (This annex on the occupied territories should be read in conjunction with the report on Israel).

The "Intifada," or Palestinian uprising, began in September 2000. Since 2000, the security situation has deteriorated both within Israel and within the occupied territories. Israeli and Palestinian violence associated with the Intifada has claimed 2,369 Palestinian lives, 856 Israeli lives, and the lives of 48 foreign nationals, including 41 American citizens. Israeli military operations and armed attacks and terrorism by Palestinians against Israeli targets—including civilians within Israel, settlers, and soldiers in the occupied territories and Israel marked the conflict. On October 15, three American security personnel were killed and one wounded when a bomb detonated under their car as they drove in Gaza as part of a diplomatic motorcade. At year's end, the PA continued to investigate the incident. The attacks by Palestinians also included suicide bombings, roadside bombings, shooting at Israeli vehicles and military installations, firing of antitank missiles and mortars, and use of hand grenades. Israel Defense Forces (IDF) military actions against Palestinians included violence and abuse at checkpoints, incursions into Palestinian-controlled towns and villages, targeted killings, demolitions of homes, property, and public buildings, firing toward civilian areas with tanks and fighter aircraft, and intense gun battles with Palestinian gunmen. By year's end, Israel asserted military control over all major West Bank cities except Jericho and Bethlehem, demolished homes, including those of suicide bombers and wanted men, conducted mass arrests, and forcibly relocated some suspects. In response to the ongoing terrorist threat originating in the West Bank, Israel began construction of a security barrier to be built along parts of the Green Line and in the West Bank.

In 1996, Palestinians chose their first popularly elected government in democratic elections that generally were free and fair; an 88-member Palestinian Legislative Council (PLC) and the Chairman of the Executive Authority were then elected. The PA has a cabinet of 24 ministers serving under Prime Minister Ahmad Quray. President Arafat asserts executive authority over the government and Prime Minister. Most senior government positions in the PA are held by individuals who are members of, or loyal to, President Yasir Arafat's Fatah faction of the Palestinian Liberation Organization (PLO).

The Independence of the Judiciary Law and the PA Basic Law define the authorities of the three governmental branches and prescribed direct election of a president accountable to a cabinet and the elected PLC. At year's end, neither law was implemented fully and the respective roles of the Ministry of Justice and the High Judicial Council remained unclear. The PA courts were perceived as inefficient, and the PA executive and security services frequently ignored or failed to carry out court decisions.

Israeli security forces in the West Bank and Gaza Strip consisted of the IDF, the Israel Security Agency (the ISA—formerly the General Security Service, or GSS), the Israeli National Police (INP), and the paramilitary border police. Israeli military courts tried Palestinians accused of committing acts of violence and terror in Israeli-controlled areas. Members of the Israeli security forces committed numerous, serious human rights abuses.

The Palestinian Police Force (PPF) included the Palestinian Public Security Force, the Palestinian Civil Police, the Preventive Security Force (PSF), the General Intelligence Service, or Mukhabarat, the Palestinian Presidential Security Force, and the Palestinian Coastal Police. Other quasi-military security organizations, such as the Military Intelligence organization, also exercised de facto law enforcement powers. Palestinian police were responsible for security and law enforcement for Palestinians and other non-Israelis in PA-controlled areas of the West Bank and Gaza Strip. Israeli settlers in the occupied territories were not subject to PA security force jurisdiction. Members of the PA security forces committed numerous, serious human rights abuses.

The occupied territories comprise the Gaza Strip, the West Bank, and East Jerusalem. The population of the Gaza Strip was approximately 1,397,011, not including some 7,781 Israeli settlers. In the Gaza Strip, 62 percent of the land consists of Area A; 6 percent of Area B; and 32 percent of Area C. In the West Bank, 18.1 percent of the land consists of Area A; 21.6 of Area B; and 60.3 percent of Area C. The population of the West Bank (excluding East Jerusalem) was approximately 2,237,194 not including some 187,854 Israeli settlers. In the West Bank, Area A includes 55 percent of the Palestinian population; 41 percent of the Palestinian population is in Area B; and 4 percent is in Area C (which also contains Israeli settlements). The population of East Jerusalem, within the municipal boundaries established by Israel in 1967 was approximately 385,600, including 177,333 Israeli settlers.

The economy of the West Bank and Gaza Strip is small, underdeveloped, and highly dependent on Israel and international assistance. Israeli curfews and closures, as well as the continuing conflict, severely impacted the economy. The economy relied primarily on agriculture, services, and small manufacturing. Before the beginning of the Intifada, up to 146,000 workers from the West Bank and Gaza (approximately 25 percent of the Palestinian work force) were employed in Israel. During heightened terrorist activity in Israel or periods of unrest in the West Bank or Gaza, Israeli-imposed closures on Palestinian cities, curfews, and strict limitations on movement within the West Bank and Gaza impeded Palestinians from reaching jobs or markets and disrupted internal and external trade. In addition, the IDF and settlers destroyed sections of Palestinian-owned agricultural land and economic infrastructure. The Government of Israel stated that some of these actions, such as the destruction of groves alongside roadways and security fences by the IDF, were necessary for security reasons. Unemployment in the West Bank and Gaza was estimated at 30 percent, and approximately 63 percent of Palestinian households were living below the poverty line (54 percent of families in the West Bank and 84 percent of families in Gaza). These circumstances effectively prevented any amelioration of worker rights in the occupied territories. During the year, the US Agency for International Development (USAID) and Johns Hopkins University reported that 7.8 percent of Palestinian children under 5 suffered from acute malnutrition, 11.7 percent suffered chronic malnutrition, and 44 percent were anemic.

Israel required Palestinians to obtain Israeli permits for themselves and their vehicles to cross from the West Bank or Gaza into Israel and Jerusalem. Citing security concerns, Israel applied partial "external closure," or enhanced restrictions, on the movement of persons and products, often for lengthy periods. During times of violent protest in the West Bank or Gaza, or when it believed that there was an increased likelihood of such unrest or of terrorist attacks in Israel, Israel imposed a tightened, comprehensive version of external closure, generally referred to as "total external closure." Total external closures also were instituted regularly during all major Israeli holidays and during some Muslim holidays. During such closures, Israel prevented Palestinians from leaving the occupied territories.

Israel also placed Palestinians in the West Bank under strict "internal closure" for the entire year, allowing only Palestinians with special permits for work or health services to leave cities and pass through checkpoints on main roads. Most Palestinians were unable to leave their towns or were forced to travel without authorization on secondary roads. Israeli forces further restricted freedom of movement of Palestinians by imposing extended curfews on Palestinian towns or neighborhoods. These curfews did not apply to Israeli settlers in the same areas.

Israel's overall human rights record in the occupied territories remained poor and worsened in the treatment of foreign human rights activists as it continued to commit numerous, serious human rights abuses. Security forces killed at least 573 Palestinians and 1 foreign national and injured 2,992 Palestinians and other persons during the year, some of whom were innocent bystanders. Israeli security forces targeted and killed at least 44 Palestinians, many of whom were terrorists or suspected terrorists. Israeli forces undertook many of these targeted killings in areas where civilian casualties were likely, killing 47 bystanders in the process, including children. The Israeli Government said that it made every effort to reduce civilian casualties during these operations.

Israeli security units often used excessive force when confronting Palestinian demonstrations, while on patrol, pursuing suspects, and enforcing checkpoints and curfews, which resulted in numerous deaths. In response to Palestinian attacks on Israeli targets, Palestinian civilian areas suffered extensive damage as a result of IDF retaliation, which included shelling, bombing, and raiding. Israeli soldiers placed Palestinian civilians in danger by ordering them to facilitate military operations, which exposed them to live fire between armed Palestinians and Israeli soldiers. The Government of Israel said that it has reiterated to its forces that this practice is prohibited unless the civilian gives his voluntary consent; however, in

practice, most Palestinians who agreed to assist such operations often did so out of fear of the soldiers even if they were not directly coerced. Palestinians who took part in such operations without being harmed still faced the risk of being branded as collaborators and risked being attacked by other Palestinians.

Israeli forces sometimes arbitrarily destroyed, damaged, or looted Palestinian property during these operations. Israeli security forces often impeded the provision of medical assistance to Palestinian civilians by strict enforcement of internal closures that prevented passage of ambulances, asserting in some cases that emergency vehicles have been used to facilitate terrorist transit and operations. Israeli security forces harassed and abused Palestinian pedestrians and drivers who attempted to pass through the approximately 430 Israeli-controlled checkpoints in the occupied territories. Israel conducted mass, arbitrary arrests in the West Bank during military operations, summoning and detaining males between the ages of 15 and 45. Israel provided poor conditions for Palestinians in its prisons. Facilities were overcrowded, sanitation was poor, and food and clothing at times were insufficient. Israeli security forces and police officers beat and tortured detainees. Prolonged detention, limits on due process, and infringements on privacy rights remained problems.

Israel carried out policies of demolitions, strict curfews, and closures that directly punished innocent civilians. Israel demolished the homes of families and relatives of suspected terrorists as well as buildings suspected terrorists used as hideouts. Israel's demolitions left hundreds of Palestinians not involved in terror attacks homeless. Israel often demolished homes after suspects had already been killed or arrested. Israel maintained that such punishment of innocents would serve as a deterrent against future terrorist attacks.

The IDF destroyed numerous orchards, olive and date groves, and irrigation systems on Palestinian-controlled agricultural land. Israel constructed parts of a large security barrier on land inside the West Bank isolating residents and limiting access to hospitals, schools, social services, and agricultural property. At year's end, Israel was engaged in a process of reconsideration and reassessment of the routing and operation of the security barrier. A number of petitions in connection with the routing and operation of the barrier were pending before Israel's Supreme Court. In several instances, Israel killed, injured, and obstructed human rights monitors and NGO workers through the use of excessive deadly force and the imposition of strict closures. Israel censored Palestinian publications in East Jerusalem, raided and closed media outlets in the territories, blocked publications and broadcasts, and periodically detained or harassed members of the media and clergy. IDF fire allegedly killed two journalists covering clashes between Palestinians and Israeli security forces, both of whom had clearly identified themselves as noncombatants, and injured at least three others. The Israeli authorities placed strict limits on freedom of assembly and severely restricted freedom of movement for Palestinians. Israeli security forces failed to prevent Israelis from entering Palestinian-controlled areas in the West Bank who injured or killed several Palestinians. In some cases, Israeli soldiers escorted Israeli civilians who beat Palestinians and damaged Palestinian property.

The PA's overall human rights record remained poor, and it continued to commit numerous, serious abuses. Many members of Palestinian security services and the Fatah faction of the PLO participated with civilians and terrorist groups in violent attacks against Israeli civilians inside Israel, Israeli settlers, foreign nationals, and soldiers.

Palestinian security forces used excessive force against Palestinians during demonstrations. PA security officials abused prisoners and arbitrarily arrested and detained persons. Prolonged detention without respect for due process remained a problem. The PA provided poor conditions for prisoners. PA courts were inefficient and failed to ensure fair and expeditious trials. Internal closure in the occupied territories obstructed courts from holding sessions or issuing rulings during most of the year. The PA executive and security services frequently ignored or failed to enforce court decisions. PA security forces infringed on the right to privacy and restricted the freedom of speech and press. Palestinian groups harassed and abused journalists. Such restrictions and harassment contributed to the practice of self-censorship by many Palestinian commentators, reporters, and critics. During the year, informal reports of domestic abuse of women and "honor crimes" persisted. Societal discrimination against women and persons with disabilities and child labor remained problems.

Israeli civilians, most often settlers, harassed, attacked, and occasionally killed Palestinians in the occupied territories. During the year, settlers attacked and killed at least one Palestinian. Settlers also caused significant economic damage to Palestinians by attacking and damaging greenhouses and agricultural equipment, up-

rooting olive trees, and damaging other valuable crops. The settlers did not act under government directive in the attacks, and Israeli soldiers sometimes restrained them, but in several cases Israeli soldiers accompanied them or stood by without acting.

Palestinian terrorists and gunmen were responsible for the deaths of 376 Israelis killed in the occupied territories. Palestinian extremists targeted Israelis in drive-by shootings and ambushes, suicide and other bombings, mortar attacks, and armed attacks on settlements and military bases. Palestinian terrorist and militant groups used minors to prepare attacks or carry them out, exploitation that amounted to forced conscription. During the year, Palestinians acting individually or in groups, including off-duty members of the PA security services, killed 25 Israeli civilians and 39 Israeli security personnel. Most of the attacks were organized by a number of Palestinian terrorist groups, including the militant Islamic Resistance Movement (HAMAS), the Palestine Islamic Jihad (PIJ), the Popular Front for the Liberation of Palestine (PFLP), and the Fatah-affiliated al-Aqsa Martyrs Brigades. The Democratic Front for the Liberation of Palestine (DFLP) and Fatah-affiliated groups also participated in the attacks. Palestinian civilians also killed at least five Palestinians in the occupied territories who allegedly had collaborated with Israel. Most of the deaths were shootings perpetrated by small groups of unidentified Palestinian gunmen. The PA conducted no investigations and made no arrests in any of these killings.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Israeli security forces killed at least 573 Palestinians in the West Bank and Gaza. Israeli civilians, mostly settlers, as well as extremist groups believed to be associated with settlers, killed at least one Palestinian. Palestinian militants and civilians killed an estimated 64 Israeli civilians and security personnel in the occupied territories. Palestinian civilians killed at least five Palestinians suspected of spying for the Israeli Government (see Sections 1.c. and 1.g.).

Israeli security forces killed most Palestinians during armed clashes, targeted killings, incursions into Palestinian-controlled areas, at checkpoints, or as a result of sometimes excessive or indiscriminate fire toward Palestinian civilian areas. During these incidents, Palestinian protesters frequently threw stones and Molotov cocktails, and in some cases, also fired weapons at IDF soldiers (see Sections 1.c. and 1.d.). Israeli security forces used a variety of means to disperse protesters, including tear gas, rubber-coated metal bullets, and live ammunition. The IDF did not regularly investigate the actions of security force members who killed and injured Palestinians under suspicious circumstances. Since the start of the Intifada, the IDF has opened only 11 investigations into the improper use of deadly force despite the fact that human rights organizations have raised numerous allegations.

Israeli security forces used excessive force against protesters, in response to threats while on patrols, in pursuing fleeing suspects, and in responding to trespassers in restricted areas, at times resulting in death. Israel also used excessive lethal force against rock-throwers in some instances. For example, on September 15, IDF soldiers shot and killed 10-year-old Ahmad Abu Latifa near the Qalandia checkpoint north of Jerusalem. The boy was among a group of youths who were throwing rocks at Israeli soldiers.

IDF soldiers shot and killed suspects who were avoiding arrest, but in a number of cases who posed no apparent mortal threat to the soldiers at the time of the incidents. For example, on February 10, IDF soldiers in Nablus shot and killed PFLP member Imad Mabrouk when he attempted to escape arrest. On July 3, IDF soldiers in Qalqilya shot and killed al-Aqsa Martyrs Brigades militant Ahmad Shawar when he attempted to run away after being ordered to halt.

IDF soldiers fired without warning on unarmed Palestinian trespassers in or near restricted areas, on several occasions killing Palestinians. For example, on March 5, an IDF soldier shot and killed 75-year-old Abdallah Shehadeh al-Ash'hab as he rode a donkey collecting firewood on his property, which was located near the Netzarim settlement in the Gaza Strip.

On November 29, IDF soldiers in Gaza shot and killed Palestinian police officer Sayed Abu Safra when he attempted to prevent a mentally disabled Palestinian from nearing the perimeter fence surrounding the Israeli settlement of Nissanit. The IDF expressed "sorrow and regret" over the incident.

During the year, the IDF targeted for killing at least 44 Palestinians suspected of involvement in terrorism. In the process, IDF forces killed more bystanders than targeted individuals, including children. IDF forces killed at least 47 bystanders of

those targeted and injured a number of others, including bystanders, relatives, or associates. Israel stated that it only targeted individuals believed to be “ticking bombs” on the verge of carrying out terrorist attacks. In practice, however, the IDF targeted some leaders of terrorist organizations generally considered not to be directly engaged in carrying out attacks.

Israeli security forces put large numbers of Palestinian civilian lives in jeopardy by undertaking targeted killings in crowded areas where civilian casualties were likely. For example, on April 9, Israeli forces fired four missiles at a car in a densely populated area of Gaza city in order to kill two suspected terrorists, Sa’ad ad-Din al-Arabeit, 35, and Ashraf al-Halabi, 25. Israeli forces killed five other Palestinians in the effort, including two children, 13-year-old Ahmad Hamsa al-Ashraf, and 16-year-old Samid Hasan Qasem.

Beginning on June 11, Israeli forces conducted 5 targeted killings in Gaza City within 48 hours, killing 23 Palestinians, including 18 bystanders. Israel conducted the fifth such attack on June 12, firing five rockets at a car traveling in central Gaza City. The rockets killed wanted Hamas terrorist Yasser Muhammad Ali Taha, 31, and six bystanders, including an 18-month-old child and a pregnant woman.

Israeli security personnel used excessive force while operating checkpoints, killing a number of Palestinians (see Section 1.g.). On July 25, an IDF soldier at a checkpoint outside Bartaqa ash-Sharqiya near Jenin fired on a car waiting for permission to pass. The shots killed 3-year-old Palestinian Mahmoud Jawadat Sharif Kabaha, who was sitting in the car. An investigation into the incident was ongoing at year’s end.

Israeli forces put civilian lives in jeopardy by using imprecise, heavy weaponry in operations against terrorist infrastructure conducted in civilian areas. Frequently, and often following Palestinian shooting attacks, IDF retaliation excessively damaged Palestinian towns and cities in the West Bank and Gaza. Israeli forces fired tank shells, heavy machine-gun rounds, and rockets from aircraft at targets in residential and business neighborhoods where Palestinian gunfire was believed by the IDF to have originated.

On April 27, the Israeli Supreme Court of Justice ruled in an October 2002 case brought by the Palestinian Center for Human Rights (PHCR) and Physicians for Human Rights-Israel against the IDF’s use of flechette tank shells in Gaza. The imprecise anti-personnel munitions launch thousands of small metal darts over an area of several thousand square feet; use of such munitions in densely populated civilian areas makes the likelihood of civilian casualties very high. The Gaza Strip has a population density of approximately 3,300 persons per square kilometer and is one of the most densely populated areas in the world. The High Court of Justice denied the petition and stated that it would not intervene in the IDF’s choice of weapons. Unlike in previous years, there were no reports that the IDF used flechette shells during the year.

On September 9, Israeli soldiers targeting gunmen hiding in a building in a residential area of Hebron opened fire on the building with tank shells. The shelling continued for more than 4 hours, and shrapnel killed 11-year-old Palestinian Muhammad Mansour Sayouri, who was hit in the head while standing in the kitchen of another residential building approximately 150 feet south of the structure being targeted.

Israeli security forces killed numerous civilians during military incursions into Palestinian-controlled cities and towns. Such incursions usually were conducted in response to Palestinian suicide bombings, shooting attacks that had killed Israeli civilians, settlers, or soldiers, or to make arrests. Israeli security forces also conducted military incursions on the basis of intelligence information about possible future attacks. Palestinians often responded with gunfire and by booby-trapping civilian homes and apartment buildings with deadly, indiscriminate devices. As part of such actions, the IDF usually raided and often leveled buildings, including homes.

On May 1, the IDF launched an incursion into Gaza City, home to approximately 365,000 Palestinians. The raid in a densely populated neighborhood led to a shoot-out with Palestinian militants. During the fighting, the IDF killed five innocent Palestinian bystanders, including a 1-year-old boy, a 13-year-old boy, a 14-year-old boy, a 57-year-old man, and a 38-year-old man who attempted to treat the wounded. IDF fire killed Amir Ahmad Muhammad ‘Ayad, the 1-year-old baby boy who was inside his home during the incursion. The IDF also killed seven Palestinian gunmen during the clash. The IDF demolished two homes before withdrawing from the city.

Israeli forces used excessive force to enforce curfews in reoccupied Palestinian areas, resulting in deaths. For example, on April 17, IDF soldiers enforcing a curfew in Tulkarm opened fire on and killed a Palestinian civilian found out of his home.

Israeli security forces at checkpoints often impeded the provision of medical assistance to sick and injured Palestinians. The Government’s implementation of con-



trol measures resulted in delayed access to medical treatment for at least one Palestinian who subsequently died (see Section 1.g.).

Israel forces allegedly beat and killed a Palestinian prisoner in December 2002. On December 30, 2002, Israeli Border Police in Hebron arrested 'Imran Abu Hamdiyeh, a 17-year-old Palestinian. Palestinians found Hamdiyeh dead in Hebron's industrial area later that day. An autopsy sponsored by Palestinian and Israeli human rights groups concluded that Hamdiyeh died due to "blunt force injury." On April 18, Israel arrested four Israeli Border Police officers on charges that they had beaten Hamdiyeh to death. The trial was ongoing at year's end.

Palestinian security officers and members of Arafat's Fatah faction attacked and killed Israeli citizens, Israeli settlers, foreign nationals, and soldiers. They often fired at Israelis from within or close to the homes of Palestinian civilians or in other locations with knowledge that civilians were present, drawing Israeli return fire and increasing the potential for the noncombatants to be injured. Arafat issued several "ceasefire" orders and publicly denounced attacks on civilians without lasting effect, but took no action to arrest or try violators or against terrorist groups including those affiliated with the PLO. The PA did not prevent terrorist attacks, enforce a ban on militant groups, or prevent such groups from seeking shelter in civilian areas. Some PA officials made public statements justifying Palestinian attacks on Israelis. Additionally, some Fatah leaders made public statements urging Palestinians to continue all aspects of the Intifada, including violent attacks on Israelis.

Palestinian civilians harassed, attacked, and killed Israelis, especially settlers and soldiers. During the year, Palestinians, acting as individuals or in unorganized or small groups, including some members of PA security services, killed 25 Israeli civilians, 39 Israeli soldiers, and injured hundreds of others in acts of violence and terrorism in the occupied territories (see Section 1.c.). The Palestinian attacks consisted of suicide bombings, shootings, bombings involving improvised, indiscriminate explosive devices, and stone-throwing at Israeli drivers.

On May 17, a Hamas-affiliated suicide bomber strapped with explosives blew himself up outside the Cave of Machpela/Ibrahimi Mosque in Hebron, killing himself and two Israeli settlers.

On January 23, Hamas-affiliated Palestinian gunmen fired on an IDF jeep driving in southern Hebron and killed three IDF soldiers.

Israeli settlers, acting individually, or in small groups, harassed, attacked, and occasionally killed Palestinians in the West Bank and Gaza Strip (see Section 1.c.). During the year, settlers killed at least one Palestinian. On April 30, a settler security guard at the Moshav Petza'el settlement in the Jordan Valley shot and killed Palestinian laborer Ra'ik Mas'id Daraghme, 35, who had stopped to relieve himself in a field near the settlement.

On January 25, a settler near the West Bank village of Budrus allegedly shot and killed Palestinian shepherd Ahmad Subuh, 24. A companion of Subuh's claims to have seen a settler drive away from the scene, but no suspect had been arrested by year's end.

Palestinian civilians also killed at least eight Palestinians in the occupied territories who allegedly collaborated with Israel. Most of the deaths were shootings perpetrated by small groups of unidentified Palestinian gunmen, sometimes affiliated with terrorist groups. The PA made no arrests in any of these killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Israel employs physical pressure and degrading treatment as interrogation methods against arrested Palestinians in the occupied territories. The law, based on a 1999 High Court decision, prohibits the use of a variety of abusive practices, including violent shaking, painful shackling in contorted positions, sleep deprivation for extended periods of time, and prolonged exposure to extreme temperatures. However, the High Court decision allowed for the security forces to request "special permission" to use "moderate physical pressure" against detainees considered to possess information about an imminent attack. In 2002, the Israeli GSS acknowledged use of physical pressure against 90 Palestinians who had been defined as "ticking bombs."

Interviews and studies by human rights groups during the year claim that torture is employed. The Public Committee Against Torture in Israel assessed that in the beginning of this year hundreds of Palestinians were subjected to torture or other cruel, inhuman, or degrading treatment by Israel security agencies, an increase from the dozens reported in 2002.

Israeli and Palestinian human rights groups noted that jailers made it difficult to visit prisoners during the interrogation period and that some detainees were reluctant to report abuse out of fear of retribution.

The case of Daoud Dirawi was representative of numerous allegations of physical abuse which human rights groups received. For example, on February 21, Israeli authorities arrested Dirawi, a Palestinian lawyer, for being in Jerusalem without proper identification. Police initially detained Dirawi at the al-Qeshle police station in Jerusalem before transferring him to the Asyun military prison in the Negev. Dirawi told his attorney that soldiers beat him severely en route to the Asyun prison. Dirawi sustained serious bruises and a broken lower jaw. Dirawi states that he was tied up upon arrival with his hands locked above him and that he was kept in this position outdoors in the rain through the night. On March 4, Israel sentenced Dirawi to 6 months of administrative detention without pressing formal charges against him and rejected his appeal. Israel renewed his administrative detention for another 6 months. At year's end, Dirawi remained under administrative detention.

The law prohibits the admission of forced confessions as evidence. However, most convictions in security cases before Israeli courts were based on confessions made well before legal representation was made available to defendants. A detainee may not have contact with a lawyer until after interrogation, a process that may last days or weeks. The Israeli Government did not allow representatives of the International Committee of the Red Cross (ICRC) access to detainees until the end of their legal period of isolated detention. Detainees sometimes stated in court that their confessions were coerced, but judges rarely excluded such confessions.

The IDF injured approximately 2,992 Palestinians, including innocent bystanders and journalists, during armed clashes, retaliatory strikes, targeted killings, and other military actions. During the year, Israeli gunfire allegedly killed two journalists and injured at least three others during Israeli military actions (see Sections 1.a., 1.g., and 2.a.).

Israeli authorities abused Palestinians at checkpoints, subjecting them to verbal and physical harassment. Each day, tens of thousands of Palestinians traveling between Palestinian towns and villages faced as many as 730 different barriers to movement. At year's end, Israel had established 60 checkpoints, 9 occasionally manned checkpoints, 479 earthen mounds blocking roads, 102 cement roadblocks, 39 road gates, and 41 gates in a separation barrier. As many as several thousand Palestinians encountered some form of abuse from soldiers at checkpoints. Palestinians were subjected to excessive delays in passing through checkpoints. For example, on May 12, an IDF soldier at the Hawarah checkpoint outside Nablus decided to only let Palestinians pass through who were able to identify the Israeli political figure on the 100 Shekel note. On April 30, an IDF soldier abused Qassem Awisat, 19, a resident of Qalqilya, when he attempted to pass through the Seida checkpoint in the Tulkarm district. The soldier pulled Awisat aside and etched a Star of David on his arm using shards of broken glass. The Israeli human rights organization B'tselem documented Awisat's testimony of the incident and photographed the injury to his arm. Israeli soldiers forced Palestinian civilians to wait in the rain or inclement weather for excessive periods of time.

The IDF subjected Palestinians in the West Bank and Gaza to beatings, tire slashings, and gunfire directed against them or their vehicles because they were traveling on, or trying to circumvent, roads on which the IDF blocked passage to Palestinians as it attempted to enforce internal closures between Palestinian cities and towns in the West Bank and Gaza (see Section 2.d.).

Israeli security personnel on patrol abused and in some cases tortured Palestinian civilians. For example, Israeli soldiers on patrol in June attacked 20 Palestinian youths who were trying to cross a dirt road near a military checkpoint north of Jerusalem. The soldiers beat the youths with their rifles and threw several of them in a sewage ditch before leaving the scene. In June, Israeli Border Police in Tulkarm took the identity card of shepherd Nazih Salah 'Awad Damiri, 24, and forced him to mime sexual intercourse with his donkey.

Israeli fire injured seven Palestinian medical personnel. Israeli fire also damaged 12 Palestinian Red Crescent Society (PRCS) ambulances (see Sections 1.a and 1.g.).

Article 13 of the PA Basic Law prohibits the use of torture or force against detainees; however, PA security forces tortured and abused Palestinian detainees. The abuse generally took place after arrest and during interrogation, and reportedly was widespread. Palestinian security officers were not issued formal guidelines regarding the proper conduct of interrogations; most convictions were based largely on confessions.

PA security officials tortured and abused prisoners by threatening, hooding, beating, and tying detainees in painful positions, forcing them to stand for long periods

of time, depriving them of sleep and food, and burning detainees with cigarettes and hot instruments. Palestinians also alleged that PA authorities have shaken them violently while in PA custody. International human rights groups have documented widespread arbitrary and abusive conduct by the PA. The organizations stated that the use of torture was widespread and not restricted to those persons detained on security charges. Human rights groups stated that Palestinians who were suspected of belonging to radical Islamic groups were more likely to be treated poorly, as were alleged collaborators with Israel. Observers noted that documentation of abuses was very limited, due partly to the hesitancy of alleged victims to file or make public claims of torture and abuse against the PA authorities.

Palestinian security officers and Fatah Tanzim members with firearms attacked and injured Israelis. In some cases, they fired at Israeli civilians or soldiers from within or close to the homes of Palestinian civilians, drawing Israeli return fire (see Section 1.a.). Palestinian security forces consistently failed to prevent armed Palestinians in areas under PA control from opening fire on Israeli settlers or other civilians, soldiers, or military targets.

Israeli settlers harassed, attacked, and occasionally killed Palestinians in the West Bank and Gaza Strip (see Section 1.a.).

Some settlers attacked Palestinian homes and damaged crops, olive trees, greenhouses, and agricultural equipment, usually in areas located near settlements, causing extensive economic damage to Palestinian-owned agricultural land and depriving innocent farmers of their livelihood. In October, settlers disrupted the Palestinian olive harvest by firing on Palestinians picking olives, beating harvesters returning home and stealing the harvest, and invading Palestinian property and picking the olives themselves. For example, October 23, settlers from the Yitzhar settlement near Nablus threw stones and fired warning shots at Palestinian farmers harvesting olives in the village of Burin. The harvesters were forced to disperse. On October 22, Yitzhar settlers also stole 6 120-pound bags of olives from a farmer in Burin.

Although human rights monitors reported that the IDF provided greater protection to Palestinian farmers than they did in the past, settlers carried out such actions in areas in which the IDF was responsible for security. Israel often enforced security by applying curfews and closures only to Palestinians, which on occasion prevented Palestinians from defending themselves and their property from attacks by settlers. Palestinians also complained that when the IDF provided protection it gave insufficient time for Palestinians to complete the harvest. Burin farmers, for example, complained that they only received 2 days of IDF protection to complete a harvest of some 1,000 olive trees.

The Government of Israel generally did not prosecute settlers for their acts of violence against Palestinians, and settlers rarely served prison sentences if convicted of a crime against a Palestinian. However, in August Israel arrested nine settlers for plotting and carrying out attacks on Palestinian civilians. On August 8, two of those settlers were charged with possessing army explosives and preparing for a terrorist attack on Palestinian civilians. Those two were released after a plea bargain. Three other settlers were convicted during the year. In September, two were sentenced to 15 year terms and one was sentenced to 12 years. The remaining detained settlers were still under trial at year's end.

On January 19, a group of settlers in Hebron stabbed Iyad Salhab, 25, three times in the waist, thigh, and face. IDF soldiers stood by while the stabbing attack took place, but intervened when a larger group of twenty or more settlers ran toward the scene. Salhab was treated with stitches and was briefly hospitalized.

Palestinians harassed, attacked, and occasionally killed Israelis, especially settlers (see Section 1.a.).

Israel provided poor conditions for Palestinians in Israeli prisons. Facilities were overcrowded, sanitation was poor, and at times food and clothing were insufficient. Israel crowded Palestinian prisoners, exceeding capacity of the facilities. Israel was unprepared to accommodate properly the hundreds of Palestinians that were arrested in sweeps that accompanied Israeli operations during the year. In January, Palestinian prisoners in the Ofer prison camp near Ramallah, which held close to 1,000 Palestinian detainees, conducted a protest against poor treatment.

Israel significantly expanded its use of solitary confinement, holding increasing numbers of prisoners in isolation. At year's end, Israel held 120 Palestinian prisoners in some form of solitary confinement compared to 15 at the end of 2002.

Israel neglected the medical needs of some Palestinian prisoners. The Mandela Institute, a Palestinian prisoners advocacy group, alleged that such neglect contributed to at least one death in custody. Bashir Oweiss, a Palestinian from Nablus, died of a stroke on December 8 after allegedly receiving negligent medical care as his condition deteriorated. Oweiss was arrested on November 1 and sentenced on

November 27 to 6-months of administrative detention. Oweiss suffered a stroke on December 4. According to the Mandela Institute, poor treatment at the Megiddo hospital caused Oweiss' condition to deteriorate that night. The hospital then transferred him to Afula hospital where he died 3 days later.

Israel permitted independent monitoring of prison conditions by the ICRC and other groups, although human rights groups reported they sometimes encountered difficulties gaining access to specific detainees.

The PA provided poor conditions for its prisoners. In many cases, facilities were old, dilapidated, and neglected. There were separate facilities to hold juvenile prisoners. Most Palestinian prison facilities and detention centers were destroyed during the current conflict, and prisoners were kept informally in houses or other buildings.

The PA permitted independent monitoring of its prisons, although human rights groups, humanitarian organizations, and lawyers reported difficulties arranging visits or gaining access to specific detainees. Human rights organizations stated that their ability to visit PA prisons and detention centers varied depending on which security organization controlled the facility. Human rights organizations stated that the police, the Preventive Security Force, and Mukhabarat generally allowed them to inspect facilities and visit prisoners and detainees. However, they stated that the Military Intelligence Organization usually did not grant them access to facilities that they controlled. Human rights monitors stated that prison authorities did not consistently permit them to have access to PA detention facilities, and that they rarely were permitted to see inmates while they were under interrogation.

The PA generally permitted the ICRC access to all detainees held by the PA, and allowed regular inspections of prison conditions; however, the PA denied access to some detainees for 14 days immediately following his or her arrest. When abuses occurred, they frequently happened during that 2-week period.

*d. Arbitrary Arrest, Detention, or Exile.*—Israeli security personnel may arrest without warrant or hold for questioning a person suspected of having committed a criminal or security offense. During the year, Israel conducted mass, arbitrary detentions in the West Bank. Most of those detained were released several days or weeks thereafter. Israeli Military Order 1507 permits the Israeli army to detain people for 10 days during which detainees were barred from seeing a lawyer or appearing before court. Israel conducted mass detentions under this order's authority. On May 12 and 13, Israeli forces arrested 83 Palestinians in Hebron.

Israel used administrative detention to hold hundreds of Palestinians without trial or charge. At year's end, Israel held 649 Palestinians in administrative detention.

Individual administrative detention orders could be issued for up to 6-month periods and could be renewed indefinitely. A number of Palestinians under administrative detention during the previous several years have had their detention orders renewed repeatedly.

Israel conducted de facto detentions at checkpoints by confiscating Palestinian identification cards and car keys. Palestinians were unable to leave the scene until IDF soldiers returned the items. For example, on the morning of June 3, IDF soldiers confiscated the car keys and identification cards of three Palestinian residents of East Jerusalem driving to Hebron. The soldiers did not return the keys until the afternoon and never returned the identification cards at all.

On November 23, IDF soldiers at the Hawwara checkpoint outside Nablus demanded that two Palestinians stop and clean the checkpoint. When the men refused, the soldiers handcuffed, blindfolded and detained them for several hours. When B'tselem investigated the incident the soldiers admitted to the action and claimed their superiors had ordered them to do it.

Israeli authorities intermittently issued special summonses for those suspected of involvement in or knowledge of security offenses. Israeli military order 1369 provides for a 7-year prison term for anyone who does not respond to a special summons delivered to a family member or posted in the MATAK office nearest the suspect's home address. Bail rarely was available to those arrested for security offenses.

Israel's age standard in prosecuting youth as adults differs based on national origin. Israeli youth under the age of 18 cannot be tried as adults; however, Palestinian youth who are 16 years of age can be tried as adults.

Israeli authorities must inform detainees of their right to an attorney and whether there are any orders prohibiting such contact. Higher-ranking officials or judges may extend the period during which a detainee is denied access to counsel. For example, access to counsel was denied routinely while a suspect was being interrogated, which may last up to several weeks.

Israel hampered or prevented contacts between Palestinians, their lawyers, families, and human rights organizations in Israeli prisons and detention facilities. The law provides that in the occupied territories, Israeli authorities must inform the family of a person's arrest and place of detention "without delay." Such notification rarely was given, and Palestinian suspects often were kept incommunicado for much longer than 48 hours. Israeli authorities stated that they attempted to post notification of arrests within 48 hours, but that senior officers may delay notification for up to 12 days. Additionally, a military commander may appeal to a judge to extend this period in security cases for an unlimited period of time. Even if family members or others became aware of a person's arrest, it often was difficult for them to obtain information regarding where a detainee was being held or whether the detainee had access to an attorney. Palestinians often located detained family members through alternative means. Palestinians may check with a local ICRC office or the Israeli human rights organization HaMoked to determine whether it has information regarding the whereabouts of a family member.

The Israeli Government routinely transferred Palestinians arrested in the occupied territories to facilities in Israel, especially the prison in Ashkelon and the military detention centers in Megiddo and the Negev Desert. Israeli authorities in some instances scheduled appointments between attorneys and their detained clients, but subsequently moved the clients to another prison without notice prior to the meetings. Authorities reportedly used such tactics to delay lawyer-client meetings for as long as 90 days. Palestinian prisoners had difficulty obtaining legal representation because of restrictions in place on Palestinian lawyers. Since the Intifada began, only Israeli citizens or Palestinian lawyers with Jerusalem identification cards were permitted to visit Palestinian prisoners in Israeli prisons as advocates or monitors. This significantly reduced the availability and timeliness of legal aid for such prisoners due to a reduction from 1,300 to approximately 100 lawyers available to handle such cases. Lawyers with Jerusalem identification cards reported frequent, repeated, and lengthy delays in meeting with prisoners.

Human rights groups stated that Palestinian lawyers from the Gaza Strip had a more difficult time obtaining permission to meet their clients than their West Bank counterparts, and that they were denied entry into Israel more frequently than West Bank lawyers.

Male family members between 16 and 40 years of age, and any family members with security records, usually were barred from visiting relatives in Israeli facilities. Relatives of Palestinian prisoners also stated that in some instances they learned that visitation rights were canceled only when they arrived at the prison after having traveled for many hours from the occupied territories. Following the outbreak of violence in 2000, the Israeli Government banned all family visits for Palestinian prisoners in Israeli prisons, although some visitation rights were restored intermittently after ICRC intervention (see Section 1.c.).

Evidence used at hearings for administrative detentions in security cases was secret and unavailable to the detainee or his attorney during the hearings; the detainee and defense lawyer were required to leave the courtroom when secret evidence was presented. Israeli authorities maintained that they were unable to present evidence in open court because doing so would compromise the method of acquiring the evidence. Judges, not military officials, may renew administrative detention orders beyond a 6-month period. Detainees may appeal detention orders, or the renewal of a detention order, before a military judge, but their chances for success were very limited. No information was available regarding whether any detainees were successful in such appeals.

During the year, the total number of Palestinian prisoners and administrative detainees in Israeli prisons rose. According to the IDF, there were 5,944 Palestinian security prisoners held in IDF and Israeli Prisons Service jails, compared to 4,511 at the end of 2002. The IDF also held an unspecified number of Palestinian detainees in waiting facilities in the occupied territories.

Israel forcibly transferred 20 Palestinians suspected of terror activity but not convicted in court from the West Bank to Gaza. Israel forcibly transferred three Palestinians in 2002 and none in 2001.

On May 18, Israel transferred Mahmoud Suleiman Sa'id as-Sa'di as-Saffouri, 31, from his home in Jenin in the West Bank to the Gaza Strip. Israel conducted the transfer on the basis of a military order issued on April 10. Israel first detained as-Saffouri on June 19 and held him without charge in the West Bank before expelling him to Gaza for 2 years. From November to December, Israel relocated 18 Palestinians from the West Bank to Gaza. Israel in mid-October issued military orders calling for the transfers. All of the appeals to the Israeli High Court by the detainees were struck down.

The 2001 PA Criminal Procedures Law allows police to hold detainees without charges for 24 hours. Judges can authorize detention for another 15 days. Court approval is necessary for detention without charges for a maximum total of 45 days. A trial must start within 6 months of arrest, or the detainee must be released. In practice, however, many Palestinians were held in detention without charge for months.

The Independence of the Judiciary Law and the PA Basic Law define the authorities of the three governmental branches and prescribes direct election of a president accountable to his cabinet and to the elected PLC; however, neither law has yet been fully implemented. Without such laws to constrain them, PA security officers refuse to carry out some High Court of Justice orders to release detainees.

PA security forces arbitrarily arrested and detained persons, and security officials often ignored laws that protect the rights of detainees. The PA ignored court decisions calling for the release of alleged security criminals. Lawyers and PA judicial officials acknowledged that, in contravention of the law, PA security services sometimes arrested and detained persons without informing judicial officials. On May 17, the PA High Court of Justice ordered Taysir Abu Meghasib and Mehdi Abu Seif released from detention for lack of evidence. The PA Military Intelligence Service in Gaza had arrested both men in 2001 and 2002 respectively on charges of collaborating with Israel. Despite this ruling, Meghasib and Seif remained imprisoned at year's end.

At year's end, an unknown number of suspected collaborators and at least 20 political prisoners were in custody in PA prisons. Alleged collaborators often were held without sufficient evidence, and denied access to lawyers, their families, or doctors. On May 1, the PA Military Intelligence Service released political prisoner Farouk Abu Hassan after 9½ years of illegal detention.

PA authorities generally permitted prisoners—except those held for security offenses—to receive visits from family members and human rights monitors. PA security officials did not always permit lawyers to see their clients. In principle detainees may notify their families of their arrest, but this was not always permitted.

PA security services had overlapping or unclear mandates that often hampered the protection of human rights. Under existing law in the West Bank, only the PA's civil police force is authorized to make arrests. In practice all security forces detained persons at various times. The operating procedures and regulations for the conduct of PA security personnel in the various services still were not well developed and have not been made fully available to the public.

Families, lawyers, and even the Ministry of Justice were often unable to track detainees' whereabouts and to determine their numbers. In general the PA did not inform families of a relative's arrest, or did so only sporadically. Most PA security officers remained unaware of proper arrest, detention, and interrogation procedures, as well as basic human rights standards. Israeli operations during the Intifada destroyed most PA prisons, and the use of informal detention centers in homes and apartment buildings spread.

PA security forces continued to harass journalists, political activists, and human rights advocates who criticized the PA and its policies (see Section 2.a.).

Neither the Israeli Government nor the PA used forced exile, or forcibly deported anyone from the occupied territories, during the year.

*e. Denial of Fair Public Trial.*—Israeli law provides for an independent judiciary, and the Government generally respected this in practice. Palestinians accused by Israel of security offenses in the occupied territories usually were tried in Israeli military courts. Security offenses are defined broadly and may include charges as varied as rock throwing or membership in outlawed terrorist organizations, such as HAMAS or the PFLP. Military prosecutors brought charges. Serious charges were tried before three-judge panels; lesser offenses were tried before one judge. The Israeli military courts rarely acquitted Palestinians of security offenses, but sentences in some cases were reduced on appeal.

Israeli military trials followed evidentiary rules that were the same as those in regular criminal cases. Convictions may not be based solely on confessions, although in practice some security prisoners were convicted on the basis of alleged coerced confessions of both themselves and others. The prosecution must justify closing the proceedings to the public in security cases, and the Attorney General determines the venue. Counsel may assist the accused during trial, and a judge may assign counsel to those defendants when it is deemed necessary. Charges are made available to the defendant and the public in Hebrew, and the court may order that the charges be translated into Arabic if necessary. Sentencing in military courts was consistent with that in civilian criminal courts. Defendants in military trials had the right to appeal through the Military High Court. Defendants in military trials also may petition to the civilian High Court of Justice (as a court of first instance) in cases in

which they believe there are procedural or evidentiary irregularities. The court may hear secret evidence in security cases that is not available to the defendant or his attorney. While a conviction may not be based solely on such evidence, it reportedly may influence the judge's decision.

Trials sometimes were delayed, sometimes excessively, because witnesses, including Israeli military or police officers, did not appear, the defendant was not brought to court, files were lost, or attorneys failed to appear, sometimes because they were not informed of the trial date or travel restrictions prevented Palestinian lawyers from reaching the court (see Section 2.d.). Palestinian legal advocates argued that these delays were designed to pressure defendants to settle their cases without trial or to pressure some defendants to plead guilty to minor offenses so that an expedited trial could be held.

In expedited trials a charge sheet was drawn up within 48 hours and a court hearing was scheduled within days. There frequently was no testimony provided by Palestinian witnesses either for or against Palestinians on trial. Israeli authorities stated that this was due to the refusal of Palestinians to cooperate with the authorities. Palestinian authorities stated that the absence of Palestinian witnesses was due to strict travel restrictions. Tension resulting from the security situation, and the closures imposed on the West Bank and Gaza, posed additional barriers to cooperation. Confessions usually were given in Arabic but translated into Hebrew for the record because, authorities maintained, many Israeli court personnel could speak Arabic but few could read it. As a result, many Palestinian prisoners signed confessions written in Hebrew, which many could not read or understand.

Crowded facilities and poor arrangements for attorney-client consultations in prisons hindered legal defense efforts. Appointments to see clients were difficult to arrange, and prison authorities often failed to produce clients for scheduled appointments with their attorneys.

Israeli settlers in the West Bank and Gaza Strip accused of security and ordinary criminal offenses were tried under Israeli law in the nearest Israeli district court. Civilian judges presided, and the standards of due process and admissibility of evidence were governed by the laws of Israel, not military orders. Settlers rarely were prosecuted in Israeli courts of crimes against Palestinians, and, in the rare instances in which they were convicted, regularly received lighter punishment than Palestinians convicted in Israeli courts (see Section 1.a.). The Government of Israel maintains a special department within the police force to investigate violence by settlers; however, the establishment of such a unit has not noticeably diminished settler violence. During the year, 9 settlers were indicted for violence in the occupied territories and three were convicted for related crimes.

The Israeli Government maintained that it held no political prisoners, but Palestinians claimed that many of the 553 Palestinian administrative detainees being held without charge were political prisoners.

The Government of Israel held thousands of persons for security related offenses (see Section 1.d.).

The PA courts were inefficient, lacked staff and resources, and often did not ensure fair and expeditious trials. The PA executive and security services frequently failed to carry out court decisions and otherwise inhibited judicial independence. There has been significant reduction in major previous problems including torture, extrajudicial killings, and arbitrary detention (see Sections 1.a., 1.c., and 1.d.).

The PA court system is based on legal codes that predate the 1967 Israeli occupation and Israeli military orders. The Gaza legal code is based on Ottoman, Egyptian, British Mandate, and PA directives and laws. The West Bank legal code is derived from pre-1967 Jordanian law (informed substantially by Ottoman and British Mandate law), and PA directives and laws. Israeli military decrees issued during the occupation remained valid in both the West Bank and Gaza.

A High Judicial Council (HJC) maintained authority over most court operations. In each governorate there must be at least one conciliation court and a court of first instance that hears appeals from the conciliation court, and which has original jurisdiction for more serious cases. Legislation dictates that three courts of appeals sit in Gaza, Ramallah, and Jerusalem to review decisions of the first instance courts. In practice, there was no Jerusalem appeals court, and the Ramallah court handled its responsibilities. A High Court does exist, officially designated as sitting in Jerusalem, but it meets in Ramallah and Gaza City. The High Court also serves as the Constitutional Court until additional legislation establishes a separate one. The High Court also serves as the Court of Cassation and as an administrative court until administrative courts are established by legislation. Most of the changes required by the legislation started to take effect during the year, and very limited resources and restriction of movement have hampered the transition.

The delivery of justice often was slow and uneven. The ability of the courts to obtain enforcement of their decisions was extremely weak. In addition, closures, curfews, and the inability of lawyers, members of the judiciary, and public to travel seriously impeded administrative functions and implementation of reform. The court system in general was struggling to recover from years of neglect and conflict; most of the problems predated PA jurisdiction and were aggravated by lack of resources and attention since the PA assumed control of the courts. Judges and staff lacked sufficient resources and suffered from a lack of skills and training. Court procedures and record keeping were in some instances obsolete, although donor-funded activities started to improve some of the systems. A heavy caseload even before the Intifada exacerbated these systemic problems. During the past 3 years, the revolving court caseload reportedly increased by over 50 percent (see Section 2.d.).

The Intifada and related Israeli military actions have adversely affected the administration of justice in the West Bank and Gaza. For example, fighting and aerial attacks in Operation Defensive Shield in 2002 caused damage to the Court of First Instance and Conciliation in Ramallah and the PA's main forensic lab. Many, if not most, of the PA's police stations in West Bank and Gaza were similarly damaged or destroyed.

Apart from damage to the physical infrastructure of the legal system, travel restrictions, curfews, and closures significantly impeded the administration of justice. For example, judges and prosecutors were frequently unable to reach their courthouses and offices during periods of closure. If allowed access, they often had to travel for long periods of time to reach their workplaces, substantially reducing the amount of time devoted to their legal duties. Citizens who attempted to use the courts to address complaints were at times denied physical access to the courts due to closures, or were affected by communications problems that resulted from the curtailment of travel and passage from community to community. Notices of trial schedules, court dates, etc., reached intended recipients late, if at all.

The High Judicial Council slowly gained authority over judicial matters that formerly were administered by the Ministry of Justice. Institutional and interpersonal tension continued to exist between the two bodies. Both the Ministry of Justice and High Judicial Council claimed to be working towards the same aim: the independence of the judiciary. During the year, both institutions opted for a pragmatic approach to that goal. For example, the Deputy Minister of Justice and the Attorney General worked together as members of the HJC. Ministry of Justice and HJC officials jointly undertook the development of by-laws for the establishment of the Judicial Training Institute.

During the year, the PA abolished State Security Courts, which were responsible for numerous human rights abuses over the past several years. Cases previously assigned to the courts before their abolition were still adjudicated, however, and it remained unclear at year's end whether the institution would continue to exist in some form. On July 27, PA Minister of Justice Abdel-Karim abu Salah issued a ministerial decree that put an end to the powers and the jurisdiction of the State Security Courts and the State Security prosecution. Two sessions of a State Security Court regarding commercial fraud subsequently took place in Gaza in September. The PA Attorney General claimed that these sessions were conducted in error and assured that measures have been taken to prevent future mistakes. He said that the PA prosecutor trying the cases had misinterpreted the governing statute. The PA High Judicial Council during the year cast further doubt on the depth of this reform measure by raising the possibility of "special courts" that could be established to handle State Security cases. In July, the PA began formal work to establish a Court Police Unit.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—Israeli military authorities on many occasions entered private Palestinian homes and institutions without a warrant, citing security concerns. An officer of the rank of lieutenant colonel or above could authorize such action. In conducting searches, both in areas under Israeli control and during incursions into areas ostensibly under PA control, IDF personnel forcibly entered and in some cases, beat occupants and destroyed property.

Israeli forces arbitrarily destroyed or looted Palestinian property and solicited bribes during military operations. A B'tselem investigation revealed that IDF soldiers stationed at the Qalandiya checkpoint outside Jerusalem in October and November solicited bribes from Palestinian truck drivers to facilitate the passage of their vehicles. Authorities stated that beatings and arbitrary destruction of property during searches were punishable violations of military regulations and that compensation was due to victims in such cases. However, the Israeli Government stated that it did not keep consolidated information regarding the claims against the Ministry of Defense for damages resulting from IDF actions.



Israeli security forces demolished and sealed the homes (owned or rented) of Palestinians suspected of terrorism or the relatives of such suspects, without any judicial review (see Section 1.g.). During the year, according to Israeli human rights organization B'tselem, Israeli forces demolished 219 homes (compared to 250 in 2002) and sealed three others as punishment for terror activity and deterrence against future attacks. Israel also demolished many homes in the Gaza Strip between the Rafah refugee camp and the border with Egypt claiming that the houses concealed tunnels used for weapons and other smuggling from Egypt or provided cover for attacks against Israeli soldiers.

The IDF destroyed numerous citrus orchards, olive and date groves, and irrigation systems on Palestinian-owned agricultural land in both the West Bank and Gaza. The IDF destroyed these groves or orchards for security reasons, stating that Palestinians had been shooting from those areas. The IDF also cleared and took control of West Bank land, including land held by private Palestinians, in order to facilitate construction of the separation barrier. B'tselem estimated that at least 10,000 dunams of land has been taken over for construction of the separation barrier. Israel asserts that it has sought to build the barrier on public lands where possible, and where private land was used, provided opportunities for compensation to the owners.

The PA required the Attorney General to issue warrants for entry and searches of private property; however, Palestinian security services frequently ignored these requirements. Police searched homes without the consent of their owners. In some cases, police forcibly entered premises.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Israeli security forces often used excessive force against Palestinians and others. The IDF killed or injured Palestinians or others in non life-threatening situations. IDF fire killed or injured innocent bystanders, including journalists and Palestinian civilians, when they fired into crowds at demonstrations (see Sections 1.a. and 2.a.). Palestinian medical groups have estimated that approximately 10 percent of the injuries will result in permanent disabilities, and another 10 percent will require medical rehabilitation (see Section 5).

Israel obstructed the movement of and occasionally fired upon and assaulted medical personnel and ambulances. In the past, Israel alleged that terrorists have used ambulances to transport weapons or to commit terrorist acts. During the year, the PRCS reported that ambulances came under fire 57 times and emergency teams came under fire 79 times. The PRCS also reported that IDF soldiers and Israeli settlers injured 7 PRCS medical staff members and damaged 12 ambulances in these incidents. PRCS reported that its ambulances were delayed or denied access to areas on 584 separate occasions.

On March 11, a PRCS ambulance entered an ongoing firefight in Tel al-Sultan in Gaza to retrieve a Palestinian injured in tank shelling and gunfire. When the crew located an injured Palestinian and moved to take him into the ambulance an IDF tank opened fire in the ambulance's direction. The ambulance driver was hit in the left hand by shrapnel from a tank shell before managing to flee the scene.

On February 2, Israeli soldiers raided the medical center of the Union of Palestinian Medical Relief Committees (UPMRC) in the Old City of Nablus. The soldiers destroyed three hospital beds, furniture, a defibrillator, and various containers of medicine.

On May 20, an IDF soldier at the Surda checkpoint in Ramallah assaulted ambulance driver Talal 'abd al-Malek Muhammad 'Ida, 45. A soldier in a jeep summoned 'Ida as he attempted to coordinate his passage through the checkpoint and punched him in the face. 'Ida was treated with stitches at a Ramallah hospital.

On June 14, the UPMRC reported that IDF soldiers outside the village of Deir Ghassaneh halted an ambulance at gunpoint and then boarded it. The ambulance was driving to the town to pick up injured Palestinians. The soldiers hid in the rear of the ambulance and told the ambulance team to drive to the town with them inside. The soldiers told the UPMRC staff not to reveal the soldiers' presence in the ambulance. The soldiers used the cover of the ambulance to arrest people seized the identification cards of the ambulance crew members when they refused to continue driving and did not return until 3 days later.

During the Intifada, the IDF also used excessive force in responding to a number of incidents at checkpoints (see Section 1.a.).

Israeli soldiers placed Palestinian civilians in danger by ordering them to facilitate military operations, which exposed them to live fire between armed Palestinians and Israeli soldiers. Since the beginning of the Intifada, IDF soldiers have ordered Palestinian civilians to enter buildings to check whether they were booby-trapped; to expel their occupants; to remove suspicious objects from the road; and to walk in front of soldiers to protect them from gunfire. For example, on May 14

Israeli Border Police officers forced a Palestinian driving a car in Jenin to park the vehicle in front of a private home and then proceeded to use the car, which held three passengers, as a shield during a gun battle with armed Palestinians. One Border Police officer forced Muhammad Aradeh, 19, out of the car and made him to kneel while firing over his head. On March 6, IDF soldiers conducting an incursion into Awarta village near Nablus ordered 'Ula 'Awad to lead them through an apartment building and a neighboring house and knock on doors as they conducted searches. The officers threatened to shoot 'Awad as he conducted the search.

In 2002, the Israeli High Court of Justice granted an injunction against the use of Palestinians as "shields" for Israeli forces. Israel admitted the use of such practices, in violation of existing procedures, and reiterated that IDF forces "are absolutely forbidden to use civilians of any kind as a means of 'living shield' against gunfire or attack by the Palestinian side, or as 'hostages.'" However, this ruling did not prevent IDF soldiers from carrying out the same practices under another name. IDF soldiers are openly permitted to employ the "neighbor procedure," which allows them to seek the assistance of Palestinian civilians in operations so long as that assistance is consensual. Human rights groups asserted that Palestinians who agreed to assist such operations often did so out of fear of the soldiers even if they were not directly coerced. Palestinians who took part in such operations without being harmed still faced the risk of being branded as collaborators and risked being attacked by other Palestinians.

Israel also placed civilians in danger by occupying Palestinian homes, quartering soldiers there, and conducting military operations from them. For example, in December, IDF soldiers conducted raids in the Old City of Nablus and detained residents of buildings in a single apartment while using the upper floors for military activities.

The IDF fired tank rounds, as well as rockets from helicopters and military aircraft, on targets in cities and towns in the West Bank and Gaza during operations undertaken in response to attacks on Israeli soldiers, settlers, and other civilians (see Section 1.a.).

Israeli forces demolished the homes of the families and relatives of those convicted of or suspected of committing terror attacks, effectively punishing innocent Palestinians not implicated in the attacks. Israel's demolitions left hundreds of Palestinians not directly implicated in the attacks homeless. During the year, Israeli forces demolished 219 homes and sealed three others for punitive reasons, compared to 250 in 2002, and 10 in 2001. The numbers of such demolitions increased as Israel re-occupied areas previously under exclusive PA control and gained access to such homes. For example, on March 3, Israeli forces in the Bureij refugee camp in the Gaza Strip carried out the punitive destruction of the home of arrested Hamas leader Muhammad Saleh Hassan Abu Taha. The destruction of the home left seven residents of the building homeless and severely damaged an adjacent home, causing a wall to collapse that killed a 40-year-old pregnant woman next door.

Israel demolished entire apartment buildings that had been used as past shooting points by Palestinian gunmen, effectively punishing innocent civilians unconnected with the attacks. For example, on September 5, Israel demolished a seven-story residential building in Nablus after exchanging fire with and killing Muhammad al-Hanbali, 26, a Hamas militant who was hiding inside the building. IDF soldiers removed Hanbali's body from the building and then planted explosives on the first floor of the building and leveled the structure. The demolition left 15 Palestinian families homeless with all of their belongings destroyed.

Israel's extensive curfews on Palestinian towns punished entire innocent populations. The curfews affected every aspect of life for Palestinians, damaging livelihood and causing food shortages. The Israeli Government's sustained imposition of internal and external closures and curfews in the West Bank and Gaza during the year severely impacted Palestinian society and economy, contributing to shortages of basic food, water, and the provision of medical care and supplies.

The external and internal closures contributed to increased unemployment and poverty in the occupied territories. Approximately 146,000 West Bank and Gaza workers, representing roughly 25 percent of the Palestinian work force, depended on day jobs in Israel, Israeli settlements, and Jerusalem and were prevented from leaving the occupied territories. The closures on Palestinian cities and towns also impeded Palestinians from reaching jobs or markets in the occupied territories and disrupted internal and external trade. Closures, and the destruction of large swathes of Palestinian-owned agricultural land and economic infrastructure by the IDF and settlers, contributed to an unemployment rate that was estimated at 30 percent at the end of the year. Closures particularly isolated and hurt the roughly 200,000 Palestinians who lived in rural villages. Rural villages rarely were self-sustaining communities and did not have the full range of services—such as medical

care, education, or municipal provision of water—that larger urban areas had, increasing their isolation when community members were not able to travel outside the area to obtain access to services and provisions. Other rural villages under full Israeli control were further isolated from major Palestinian population centers.

Israeli security forces' implementation of control measures at checkpoints often impeded the provision of medical assistance to sick and injured Palestinians. Since the beginning of Intifada, The Government's implementation of control measures resulted in delayed access to medical treatment for at least 39 Palestinian who subsequently died (see Section 1.g.).

The ICRC stated that the prolonged closure of Palestinian cities significantly obstructed the delivery of medical care. The closures made it extremely difficult for patients living outside large cities who need repeated medical treatment, such as dialysis or physical therapy, to reach medical centers on a regular basis. The PCRS has estimated that more than one-third of Palestinians who have been injured in the Intifada required some type of physical rehabilitation and at least 10 percent have permanent disabilities. Medical professionals reported that many Palestinians delayed all but emergency medical care because of the restrictions and economic conditions. Preventive treatment, such as vaccinations, antenatal and postnatal care, and family planning often was postponed; and the number of births at home, in ambulances, and at checkpoints remained high. Medical observers reported that as the Intifada continued, the impact on public health would be negative.

On June 14, Israeli soldiers detained for 1 hour the ambulance of Muhammad Hassan Abu Qibeta, a 65-year-old diabetic Palestinian from Yattaon his way to a hospital in Hebron. Qibeta had reportedly suffered a heart attack before reaching the checkpoint, and died there after waiting at the checkpoint for an hour.

Closures and curfews also have affected the provision of emergency medical care, including by impeding the ability of medical staff to reach work. Israeli security services stopped and searched all ambulances at each checkpoint, which frequently added life-threatening delays in reaching hospitals, due to the fact that some had to use substandard local roads when denied access through any of the checkpoints. Israeli security forces often impeded the provision of medical assistance to Palestinian civilians by strict enforcement of internal closures. The PCRS reported that its average response time to emergency calls in "outer city" areas was 40 to 50 minutes, compared to a past average of 10–15 minutes.

Israeli soldiers frequently harassed and abused Palestinian emergency services staff at the checkpoints (see Section 1.c.).

Palestinian militants placed Palestinian civilians in danger by firing on Israeli forces from civilian areas.

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

*a. Freedom of Speech and Press.*—The Israeli Government generally respected freedom of speech in the occupied territories; however, IDF soldiers routinely harassed and occasionally detained Palestinian and other journalists covering stories in the West Bank and Gaza. Israel frequently denied journalists travel permits and revoked or delayed issuing press credentials, all of which amounted to de facto censorship. Israel censored and prohibited public expressions of anti-Israeli sentiment and of support for Islamic extremist groups. The IDF allegedly killed two journalists covering clashes between Palestinians and Israeli security forces, both of whom were identified as noncombatants, and injured at least four others. During the year, Israel raided the premises of several television and radio stations.

During the year, the Israeli Government continued to enforce selectively its standing prohibition on the display in East Jerusalem of Palestinian political symbols, such as flags, national colors, and graffiti. Such displays were punishable by fines or imprisonment. Israeli enforcement of existing censorship regulations remained stringent regarding press coverage of the Intifada. Israeli authorities monitored Arabic newspapers based in East Jerusalem for security-related issues, and newspapers sometimes were ordered to halt publication of stories about the security situation until the information first appeared in the Israeli media. Military censors reviewed Arabic publications for material related to the public order and security of Israel. Reports by foreign journalists were subject to review by Israeli military censors for security issues, and the satellite feed used by many foreign journalists was monitored. In periods of heightened security, the Israeli Government often closed areas to journalists when it imposed a curfew or closure. Israeli authorities denied entry permits to West Bank Palestinian journalists traveling to their place of employment in Jerusalem during closures of the territories, and the journalists had difficulty renewing their Israeli issued press credentials (see Section 2.d.).

The IDF required a permit for Palestinian publications sold in areas of the occupied territories under its control. Publications may be censored or banned for con-

tent considered anti-Semitic or anti-Israeli. Possession of banned materials was punishable by a fine and imprisonment. The Israeli Government prohibited the delivery and distribution of publications, including newspapers, in the Gaza Strip on the Jewish holiday of Yom Kippur (when import of any item is prohibited) and on numerous other occasions when the closure of the Gaza Strip was particularly tight. On several occasions during the year, usually following terrorist incidents, the Israelis banned Palestinian daily newspapers from entering Gaza. However, during such periods, Israeli newspapers were allowed into Gaza. During internal closures, the Israeli Government also occasionally blocked the delivery of Palestinian daily newspapers to Palestinian cities in the West Bank.

Israel also harassed Palestinian media organizations. On January 31, Israeli forces conducted an incursion on the city of Hebron and shut down all local radio and television stations in the course of imposing curfew. During the incursion, IDF soldiers raided the offices of the al-Nawras and al-Majd television stations and the Marah radio station.

During the year, Israeli soldiers killed two journalists. On May 3, the IDF killed James Miller, 34, a cameraman for a British television network. Miller was filming a documentary in the Shaja'iya neighborhood of Gaza City and was wearing a vest marking him as a journalist. IDF sources claimed that they were returning Palestinian fire; however, Palestinians at the scene claimed that there was no such fire. Human rights groups rejected Israel's account of the incident after independent investigations of the circumstances of the shooting.

On April 19, an IDF soldier shot and killed Nazeeh Darwaza, 45, a cameraman for the Associated Press Television Network and Palestinian Television. Dawazah was filming a wounded child during an IDF incursion in Nablus and was wearing a jacket labeling him as press. On July 30, Reporters Sans Frontieres released a statement criticizing Israel for an incomplete and botched investigation into Darwaza's death. The IDF did not charge any soldiers in this case.

On March 6, Israeli tank fire in the Jabalya refugee camp in the Gaza Strip injured two Reuters journalists, Ahmad Jadallah and Shams Odeh. Jadallah suffered severe shrapnel injuries and Odeh suffered a fractured foot. On January 28, Israeli gunfire during an incursion into Jenin injured Reuters reporter Seif ad-Din Ad-Daheleh, 20.

Israeli soldiers confiscated journalists' press cards, detained, and beat them on several occasions. For example, on May 19, IDF soldiers in Beit Sahour detained licensed photographers Sha'aban Qandil and Joseph Hadal and beat them. Qandil and Hadal were driving in a car marked "press" and labeled with "TV" stickers. Both men suffered broken bones from the beating.

The PA restricted freedom of speech and freedom of the press. During the year, the PA limited free expression, particularly regarding human rights and alleged security issues. Press freedom is subject to a 1995 press law that does not protect the press adequately. PA security services closed media outlets, banned publications or broadcasts, and periodically harassed or detained members of the media (see Section 1.d.). Palestinian commentators and human rights groups stated that, as a result, journalists practiced self-censorship.

On January 6, PA General Intelligence Organization (Mukhabarat) officers arrested the Gaza-based correspondent for al-Jazeera Seif ad-Din Shahin, 34. The arrest came after Shahin conducted an interview with an anonymous alleged member of the Fatah-affiliated al-Aqsa Martyrs Brigades who criticized the Fatah movement. The PA detained him for 18 hours in an effort to make him reveal his source and reconsider broadcasting critical commentary.

On March 17, PA police in Gaza City shut down the Palestinian weekly newspaper ar-Risalah, a weekly publication affiliated with the Islamic National Salvation Party (Khalas). The PA first shut down the paper in March 2001. The PA Supreme Court ordered it reopened in April 2002, but PA police did not comply with the court order. The staff of the paper began issuing it again in October 2002 and continued until the closure in March.

On September 13, masked, armed Palestinians broke into the offices of the al-Arabiya satellite channel in Ramallah. They destroyed equipment and briefly detained three staff members. The PA created a board of inquiry to investigate the attack and later arrested and charged a PA security officer with leading the effort and relieved him of duty.

On September 14, armed Palestinians in Gaza City identifying themselves as members of the PA customs service intercepted a vehicle distributing copies of the Palestinian daily newspaper al-Ayyam. The attackers confiscated approximately 1,400 copies of the newspaper. The PA customs department later denied any connection to the incident, and the attackers have not been identified.

There were three Palestinian dailies and several Palestinian weekly newspapers. There also were several monthly magazines and three tabloids.

The Israeli Government required one Palestinian-owned newspaper, Al-Quds, to submit its entire contents, including advertising, to the military censor by 4 p.m. each day. The editor claimed that this process caused his journalists to practice self-censorship.

In addition to the official Palestinian Broadcast Corporation television and radio, also known as Voice of Palestine, there were approximately 20 independently owned television stations and 9 radio stations in the West Bank.

The Internet was available widely.

Israeli severely restricted academic freedom by disrupting the operations of West Bank and Gaza schools, colleges, and universities during the year. Israel disrupted Palestinian education through closures, curfews, and military actions that shut universities down entirely. Students and staff at all educational levels had difficulty traveling to and from educational facilities because most areas were under some form of internal closure for the entire year. In addition, Israeli forces imposed curfews on many Palestinian areas, some for 24 hours a day, for extended periods (see Sections 2.d. and 5). Students from Gaza were unable to reach West Bank universities since early October 2000, when Israel closed the safe passage route between Gaza and the West Bank. Israeli shelling and gunfire during military operations damaged a number of schools in the West Bank and Gaza.

In January, Israel shut down the two principal higher education facilities in Hebron by military order. The military order, which was valid for 6 months and was extended in June, closed down Hebron University and the Hebron Polytechnic School. The closure blocked the education of over 5,000 Palestinian students.

The PA Ministry of Education reported that since 2001 the IDF had confiscated 3 schools in Hebron and subsequently quartered soldiers there after converting them to military barracks. Those three schools were the Jawhar Girls Elementary School, the Osama Girls Elementary School, and the Ma'arif Boys Elementary School. The Ministry of Education also reported that IDF forces raided schools 26 times during the year. Since the start of the Intifada, the IDF reportedly raided or fired on schools 295 times, shut down 9 schools completely, and forced the suspension of classes at 1,125 schools and nearly all higher education institutions.

The PA generally had authority over all levels of education in the West Bank and Gaza Strip, and it controlled the budgets of all public colleges. During the year, the PA did not interfere with education in the West Bank and Gaza Strip.

*b. Freedom of Peaceful Assembly and Association.*—The Israeli Government placed severe limits on freedom of assembly for Palestinians in the occupied territories, largely through the imposition of internal closures and curfews (see Section 2.d.). Israeli military orders banned public gatherings of 10 or more persons without a permit. Extensive curfews during the year made assembly of any kind impossible in most major Palestinian cities. Those Palestinians who chose to take part in even peaceful demonstrations often did so only by breaking curfew restrictions and IDF prohibitions against demonstrations.

Israeli security forces killed many Palestinians and injured several thousand during demonstrations and other often violent clashes (see Sections 1.a. and 1.c.). The Israeli and Palestinian authorities regularly disputed whether Palestinians fired at security forces during such demonstrations. Israeli security forces resorted to live fire, even in instances when Palestinians did not direct gunfire at them at them first. In 2001, the IDF changed its definition of “life-threatening” situations to include rock-throwing in some cases.

The PA imposed some formal limits on freedom of assembly; however, while it required permits for rallies, demonstrations, and large cultural events, these permits rarely were denied. In Gaza police approval was required for political meetings at several specific large meeting halls. Written permission also was required for buses to transport passengers to attend political meetings. In West Bank cities, the PA required permits for outdoor rallies and demonstrations and prohibited calls for violence, displays of arms, and racist slogans, although this rarely was enforced.

The Israeli Government continued to place severe restrictions on freedom of association in East Jerusalem. In 2001, Israeli forces closed Orient House, the pre-eminent Palestinian political institution in Jerusalem, and other East Jerusalem institutions located in Orient House, including: The Chamber of Commerce, the Land Research Center, the Higher Council for Tourism, a women's center, a prisoner's rights society, and a historical preservation group. Orient House remained closed at year's end; however, during the year, several institutions opened up alternative offices outside Jerusalem in the neighborhoods of al-Ram and Dahiat al-Barid.

During the year, Israeli police closed the Arab Graduates Club, a social club frequented by Fatah activists and run by PA Deputy Waqf Minister and Jerusalem

Fatah Secretary General Salah Zuheikeh. In 2002, the Israeli police closed the Multi-Sectoral Review Project, the Land Research Center, the East Jerusalem offices of the Federation of Palestinian Chambers of Commerce, and the Jerusalem Cultural Association and the Union of Sports Clubs. At year's end, all of these organizations remained closed.

The PA placed some limits on freedom of association; however, the PA permitted Palestinian charitable, community, professional, and self-help organizations to operate.

*c. Freedom of Religion.*—Israeli law provides for freedom of worship, and the Government generally respected this right in practice in the occupied territories. Israel did not ban any group on religious grounds, and permitted all faiths to operate schools and institutions.

Israel's imposed internal and external closure of the West Bank and Gaza, significantly impeded freedom of worship for Muslims and Christians. Israeli closure policies prevented tens of thousands of Palestinians from reaching their places of worship in Jerusalem and the West Bank, including during religious holidays such as Ramadan, Christmas, and Easter. On numerous occasions, the Israeli Government prevented worshippers under the age of 45 from attending Friday prayers inside the Haram al-Sharif/Temple Mount, the third holiest site in Islam and the holiest site in Judaism. The Israeli Government stated that such actions were necessary for security reasons. However, in June, armed Israeli police officers began escorting groups of Christian and Jewish tourists into the Haram al-Sharif/Temple Mount against the wishes of the Waqf authorities. Israeli police spokesmen indicated that the visits were an effort by the Government of Israel to re-assert the right of non-Muslims to visit the shrine.

During the year, the Government of Israel's continued closure policy prevented a number of Palestinian religious leaders (both Muslim and Christian) from reaching their congregations.

The PA has no law that specifically protects religious freedom; however, the PA generally respected religious freedom in practice.

Islam is the official religion of the PA, and its Islamic institutions and places of worship received preferential treatment. The PA required individuals to be at least nominally affiliated with some religion. Religion must be declared on identification papers, and all personal status legal matters must be handled in either Shari'a or Christian ecclesiastical courts. The PA had a Ministry of Waqf and Religious Affairs that paid for the construction and maintenance of mosques and the salaries of many Palestinian imams. The Ministry also provided some Christian clergymen and Christian charitable organizations with limited financial support. The PA did not provide financial support to any Jewish institutions or holy sites in the occupied territories.

The PA required that religion be taught in PA schools. The PA ran separate religious instruction classes for Muslim and Christian students.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Occupied Territories, Foreign Travel, Emigration, and Repatriation.*—The Israeli Government severely restricted freedom of movement for Palestinians. During the year, Israel prohibited most Palestinians from the West Bank and Gaza from entering Israel, and the IDF continued to enforce a massive network of checkpoints and roadblocks across the occupied territories, which impeded the movement of people and goods between Palestinian cities, villages, and towns. Numerous cities were placed under strict curfews that ran for weeks and even months. Israel lifted some checkpoints and eased some movement following the release of the roadmap in May, but in most cases the restrictions were later reinstated. During the year, the restrictions on movement were the most severe that Israel had imposed since it occupied East Jerusalem, the West Bank, and Gaza in 1967.

Israel constructed parts of a large security barrier in the West Bank. The result was division of approximately 5,000 Palestinian residents from the rest of the West Bank and severe disruption of their access to hospitals, schools, social services, and agricultural property. At the end of the year, the total land area secluded by the separation barrier from the remainder of the West Bank was approximately 96,000 dunams.

Since 1993, Israel has required that all West Bank and Gaza residents obtain permits to enter Israel and Jerusalem. However, Israel often denied applicants permits with no explanation and did not allow effective means of appeal. Palestinian officials and members of the clergy with VIP passes, including PA cabinet officials, members of the Palestinian Council were regularly subjected to long delays and searches at

Israeli checkpoints in the West Bank, despite the fact that they were traveling on special passes issued by the Israeli Government. These practices continued at an increased level from previous years, severely restricting PA officials from conducting administrative functions and implementing reform.

On October 2, Israel issued military orders that required Palestinians residing between the separation barrier and the Green Line to obtain residency permits in order to remain in these areas. At year's end, the permit requirement applied to approximately 5,000 Palestinians who were located in such areas, dubbed "seam zones."

Even in periods before the Intifada, Palestinians in the West Bank and Gaza Strip found it difficult to obtain permits to work, visit, study, or obtain medical care in Israel. Israeli authorities permitted only a small number of Gazans to bring vehicles into Israel and sometimes did not permit West Bank vehicles to enter Jerusalem or Israel. Except for senior PA officials, Palestinians of all ages crossing between the Gaza Strip and Israel were not permitted to travel by automobile across the main checkpoint. Instead they were forced to travel along a narrow walkway almost a mile long. Israelis moving into and out of the Gaza Strip were permitted to use their automobiles. Israeli regulations prohibited Palestinian residents of Jerusalem from entering the West Bank, although this ban only intermittently was enforced. Israeli authorities also required that these Palestinian residents provide written notice to the Israeli Government if they intended to travel to the Gaza Strip; however, provision of such notice did not ensure that the Government would permit the travel.

Since 1993 Israel applied varying levels of "closure," or enhanced restrictions, on the movement of Palestinians and their goods, often for lengthy periods, in response to Palestinian terrorist attacks and other changing security conditions. The Government of Israel imposed a tightened version of closure, called "comprehensive, external closure" during periods of violent protest in the West Bank or Gaza, or when it believed that there was an increased likelihood of such unrest. Comprehensive closures also were instituted regularly during major Israeli holidays and during some Muslim holidays. During such closures, the Israel Government cancelled travel permits and prevented Palestinians—even those with valid work permits—from leaving the occupied territories. During comprehensive closures, the authorities severely restricted the movement of goods between Israel and the occupied territories and between the West Bank and Gaza. Due to the ongoing unrest, Israel imposed strict and consistent external closure throughout the year for the second straight year, compared with 210 days in 2001 and 88 days in 2000.

During periods of unrest in the West Bank and Gaza, in the aftermath of terrorist attacks, or during military exercises, the Israeli Government prohibited travel between towns and villages within the West Bank. These "internal" closures resulted in the cutoff of goods, including food and fuel, and restricted the movement of persons. During the year, Israel expanded internal closures further, sometimes in response to specific acts of violence and sometimes as a preventive measure imposed on entire cities and towns. The internal closures were even more severe when Palestinians were prohibited from using primary roads and physical barricades close off many secondary roads.

The Israeli Government further constrained the movement of Palestinians and goods in the West Bank and Gaza by imposing total closures on specific areas or villages, sometimes for weeks at a time, and by intermittently closing the Allenby and Rafah crossing points to Jordan and Egypt. Israel also consistently imposed curfews in some areas, often for extended periods. During the curfews, Palestinians generally were confined to their homes for all but a few hours per week during which they were allowed to buy food and other provisions.

The prolonged closures and curfews imposed by the Government of Israel on Palestinian cities and towns during the year had a severely negative impact on every sector of the Palestinian economy. They impeded Palestinians from reaching jobs or markets and disrupted internal and external trade (see Section 1.g.).

The prolonged closure also seriously impacted students' ability to attend school and university (see Sections 2.a. and 5.). The Government of Israel stated that they were necessary security measures (see Section 1.g.).

The Israeli Government required all Palestinian residents to obtain permits for foreign travel and restricted the travel of some political activists. Bridge-crossing permits to Jordan may be obtained at post offices without a screening process.

Israel offered East Jerusalem residents Israeli citizenship following Israel's occupation of Jerusalem in 1967. Most have chosen not to accept Israeli citizenship, choosing instead to seek a residence permit or Jerusalem identification card, which Israel occupied during the 1967 War, Israel applied the 1952 Law of Permanent Residency and its 1974 amendments to Jerusalem identification card holders. The

law states that a Jerusalem resident loses the right of residence if he or she leaves Israeli territory for more than 7 years, acquires the nationality of another country, or acquires permanent residence in another country. Such persons are permitted to return only as tourists and sometimes are denied entry. The Government of Israel does not apply these same restrictions to Israeli citizens.

In 2000, the Israeli Ministry of Interior published new instructions regarding residency rights in Jerusalem. According to these instructions, permanent residents whose identity cards had been revoked after 1995 but who returned to live in Jerusalem from 1998 on were entitled to restoration of their identity cards, provided that they could demonstrate that Jerusalem was the "center of their lives." In addition to the provision on restoration of identity cards, the new guidelines allowed for the revocation of residency in cases in which East Jerusalem Palestinians obtained new citizenship or residency rights while living abroad. Human rights groups reported that such revocations have taken place infrequently.

In December, three Palestinians deported from abroad to the West Bank and Gaza were denied entry at Allenby border crossing. The three were returned to the deporting country, where they currently reside as stateless persons.

Israeli restrictions also affected family reunification. Most Palestinians who were abroad before or during the 1967 War, or who lost their residence permits for other reasons since then, were not permitted to reside permanently with their families in Jerusalem or the occupied territories. Foreign-born spouses and children of Palestinian residents also experienced difficulty in obtaining permission to reside with their family members; children of Israeli residents did not suffer such hardships. For example, a Palestinian with a West Bank identification card must apply to the Government of Israel for permission to live with his or her Jerusalem-resident spouse in Jerusalem. In May 2000, the Israeli Knesset declared a freeze on providing residency permits. At year's end, the freeze remained in effect. Palestinians reported delays of several years or more before spouses were granted residency permits. The Government of Israel occasionally issued limited-duration permits, which must be renewed. Renewing the permits may take up to 8 months, a common delay that resulted in many Palestinians falling out of status. Palestinians also reported extensive delays in registering newborn children with Israeli authorities.

The PA issued passports and identification cards for Palestinians who resided in the West Bank and Gaza, and the Israeli Government required residents of the West Bank and Gaza to use their Palestinian passports to exit and enter Israel. Bearers of Palestinian passports did not need special exit permits from the PA; however, when leaving the area via Ben Gurion Airport, the Israeli Government required Palestinians to obtain permits to transit Israel to reach the airport and the Government of Israel rarely granted such permits. Since 2001, Israeli authorities rarely granted these requests except in humanitarian or special interest cases. Without this permit, travelers must depart via land crossings and may experience delays lasting days or weeks. Palestinian residents of the West Bank and Gaza were prohibited from using the Sheikh Hussein or Arava crossings. As a result, most Palestinians could exit and enter the West Bank and Gaza only via the Allenby Bridge or Rafah crossing points, respectively, which were closed completely several times during the year. Internal closures made it difficult for Palestinians to reach even these crossing points and begin the wait at the border.

Palestinians who held Jerusalem identification cards, issued by the Israeli Government, must obtain special travel documents from the Israeli Government to travel abroad. Upon request the Jordanian Government also issued travel documents to Palestinians in the West Bank and East Jerusalem. Palestinians who wish to travel to Jordan must leave their Israeli identification documents with Israeli authorities at the Allenby Bridge. The Israeli authorities also required that Palestinians from East Jerusalem obtain a special permit to cross the Allenby Bridge, which they must purchase from the Ministry of Interior. Restrictions on residency, reentry, and family reunification only applied to Palestinian residents of the occupied territories.

The PA generally did not restrict freedom of movement.

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

In 1996, Palestinian residents of the West Bank, Gaza Strip, and East Jerusalem chose their first popularly elected government in elections that generally were free and fair; the 88-member Palestinian Legislative Council and Chairman of the Executive Authority were elected. PLO Chairman Yasir Arafat won almost 89 percent of the vote in a two-person race for Chairman. Approximately 700 candidates competed for Council seats. Voters elected Council members to multimember electoral districts. As many as 35 of the elected members were independent candidates. International observers concluded that the election could reasonably be regarded as gen-



erally free and fair, despite some irregularities. During the year, the Council debated numerous draft laws and resolutions. Some members of the Council stated that it lacked power in relation to the executive branch.

The last municipal elections in the West Bank and Gaza took place in 1996. PA officials announced plans to hold new elections in June 2004. Incumbent municipal officials serve until the following elections. In the case of the death or resignation of an incumbent, the Ministry of Local Government appoints a replacement, with the approval of the PA Chairman.

Most Palestinians in East Jerusalem do not recognize the jurisdiction of the Israeli municipality of Jerusalem. While all Palestinians with residency permits are eligible to vote in municipal elections, only a very small percentage of Jerusalem's Palestinian population actually voted. There were no Palestinian residents of Jerusalem on the city council. There were 5 women on the 88-member Council, and 1 woman served in a ministerial-level position.

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

During the year, Israel obstructed human rights monitors and NGO workers through the excessive use of deadly force and the imposition of strict closures, at times resulting in death and serious injuries. Beginning on May 9, Israel required foreigners entering the Gaza Strip to sign a waiver that purports to absolve Israel of responsibility for death or injuries caused by Israeli soldiers. The waiver stated that those entering the Gaza Strip "accept that the Government of the State of Israel and its organs cannot be held responsible for death, injury and/or damage/loss of property which may be incurred as a result of military activity."

Israel demonstrated disregard for the work of human rights monitors in official statements, and soldiers attempted to disrupt their work. On May 21, Israeli Minister of Foreign Affairs Silvan Shalom said, "Most human rights offices in the West Bank and Gaza Strip provide shelter for Palestinian terrorists."

On March 16, an Israeli bulldozer clearing land in Rafah in the Gaza Strip crushed and killed Rachel Corrie, 23, a US Citizen peace activist. Corrie was standing in front of the bulldozer, was wearing a reflective vest. Eyewitness demonstrators stated that they believe the driver knew Rachel was in front of the bulldozer as he proceeded forward. The IDF conducted two investigations into the case, including a polygraph of the operator, and found that no negligence on the part of the operator. The operator knew that there were demonstrators in the area, but claimed he did not see Corrie at the time she was struck. However, the report of the IDF Judge Advocate General recommended several remedial measures including remedying blindspots from the cabs of armored bulldozers, for improved safety during future operations.

On March 20, Israeli soldiers in Nablus shot US citizen Eric Hawanith during a demonstration, wounding him in the chest and leg with three rubber-coated steel bullets.

On April 7, Israeli gunfire very likely appears to have struck 24-year-old peace activist and US citizen Brian Avery in Jenin, although the IDF denied responsibility for the incident. Avery and another activist, both with the International Solidarity Movement, were walking outside during curfew in the city when an IDF armored personnel carrier approached them. Avery was shot in the face and remained hospitalized in stable condition at year's end.

On April 12, IDF soldiers shot Thomas Hundall, 22, a British activist with the International Solidarity Movement. Hundall was attempting to move Palestinian children to safety during a clash. Hundall was declared brain dead on arrival at a hospital in Rafah.

On July 28, Israeli soldiers fired tear gas and rubber coated bullets on a non-violent demonstration conducted at a section of the security barrier in 'Anin village, near Jenin. The rubber bullets wounded six demonstrators. The demonstrators were from the International Solidarity Movement, the Popular Committees Against the Wall, Ta'ayush, and the Palestinian National Initiative.

On May 31, IDF soldiers harassed residents of at-Tuwani village south of Hebron and threatened them with abuse if they accepted further solidarity visits from the Israeli peace group Ta'ayush. One soldier tore down a tent that Ta'ayush activists had set up in the town for meetings with local residents.

On December 26, Israeli soldiers aimed live fire at demonstrators attempting to penetrate the separation barrier built near the town of Qalqilya. The gunfire wounded a 25-year-old US citizen and seriously wounded Israeli citizen Gil Na'amati, 21. Na'amati was shot in both legs. The IDF launched an internal inquiry into the incident, but no soldiers were charged with wrongdoing at year's end.

In many cases, such groups refused to apply for special travel permits in order to protest Israel's regulation of their activities. Israeli, Palestinian, and international humanitarian and human rights NGOs monitored the Israeli Government's human rights practices in the occupied territories. Some of these organizations were critical of the Israeli Government's practices and cooperation. The Israeli Government permitted human rights groups to publish and hold press conferences.

The U.N. Relief and Works Agency (UNRWA) reported continued delays but some overall improvement in treatment of its personnel and vehicles at checkpoints. Other humanitarian groups, such as PRCS, continued to complain of unacceptable delays.

During the year, Israeli settlers in Hebron continued their longstanding harassment of members of the Temporary International Presence in Hebron (TIPH), an NGO comprised of civilians, which monitored relations between Israeli and Palestinian security forces, Palestinian civilians, and settlers in the city. The settlers damaged a number of TIPH vehicles.

At year's end, the Government of Israel continued to withhold information regarding the documents and property taken during the 2001 seizure of Orient House (see Section 2.b.).

Local human rights groups, most of which were Palestinian, and several international organizations monitored the PA's human rights practices. PA officials usually met with their representatives. Public criticism from these groups has been somewhat less forthcoming since the outbreak of the Intifada, with several NGOs voluntarily deciding to focus their efforts on the Palestinian struggle for basic rights and defer comprehensive critiques of the PA's human rights performance. During the year, human rights organizations reported that they sometimes were denied access to detainees in Palestinian prisons (see Section 1.c.). Observers noted that documentation of abuses was very limited because victims were hesitant to file or make public claims of abuse against PA authorities.

Some PA security organizations, including the General Intelligence Organization in the West Bank and the police, appointed officials to act as liaisons with human rights groups. These officers met with human rights organizations and members of the diplomatic community to discuss human rights cases.

The ICRC and other human rights groups, including the Palestinian Independent Commission for Citizens' Rights and the Mandela Institute, regularly visited PA prisons and detention centers. During the year, some human rights and international humanitarian organizations reported that they occasionally encountered delays in obtaining access to detainees in Palestinian prisons. PA officials reportedly were less responsive to queries regarding the PA's policies toward and treatment of collaborators and members of Islamist opposition groups than to queries on other detainees (see Sections 1.c. and 1.d.).

The PA issued registration certificates for 150 of the approximately 350 new and existing NGOs that submitted applications under the 2000 NGO law. The remaining applications still were under review at year's end (see Section 2.d.).

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

Palestinians were disadvantaged under Israeli law and practices compared with the treatment received by Israeli settlers. This included discrimination in residency and land use.

In the Palestinian territories several Palestinians alleged that PA security officers tortured them because of their sexual orientation. Homosexuals were persecuted by both the public and by PA security officers. Homosexuals were subject to harassment and physical abuse, and some were arrested.

*Women.*—The law does not explicitly prohibit domestic violence, but assault and battery are crimes. There were reports indicating that domestic violence increased during the Intifada.

In the occupied territories, so-called honor crimes resulted infrequently when family members beat or killed women in response to such alleged violations of their family's honor. The PA kept no statistics on the frequency of such crimes, but human rights groups reported that they occurred infrequently. Victims of violence often were encouraged by relatives to remain quiet and were punished themselves or blamed for the "shame" that had been brought upon them and their families. Public discussion of the problems of rape, domestic violence, and violence related to "family honor" generally remained muted, but gained greater attention in the Palestinian community as a result of a significant effort by Palestinian women's groups. The crimes almost exclusively were tied to alleged sexual interactions of female family members with men who were not their husbands. This could include rape, a sexual encounter with any man except a woman's husband, or merely being seen alone with a male who was not her family member. Women's groups sought to educate

women on these problems, but women's rights advocates stated that few resources were available to shelter the victims of violence because women's shelters are not accepted culturally in Palestinian society. Activists also maintained that society was not receptive to providing counseling or outreach services to victims of violence, which these advocates saw as more widespread than was acknowledged. According to women's groups, there was no reliable data on the incidence of violence against women.

There were increasing anecdotal reports from women's and humanitarian groups that the incidence of domestic abuse rose significantly during the year. Spousal abuse, sexual abuse, and "honor killings" occurred, but societal pressures prevented most incidents from being reported.

Rape is illegal but spousal rape is not. During the year, there were no figures available regarding the extent of the problem.

Palestinian women endured various forms of social prejudice and repression within their own society. Some girls, especially in rural areas, did not finish the mandatory level of schooling because husbands did not approve of their intentions to continue their education. Cultural restrictions occasionally prevented women from attending colleges and universities. Muslim women who married outside of their faith were considered apostates by Shari'a law, an offense that could result in death. Christian women who married Muslim men often were disowned by their families and sometimes were harassed and threatened with death by members of their community. Local officials sometimes attempted to convince such women to leave their communities in order to protect themselves.

Before the Intifada began in 2000, a growing number of Palestinian women worked outside the home, where they often encountered discrimination and occasionally experienced sexual harassment. There were no special laws that provide for women's rights in the workplace. Women were underrepresented in most aspects of professional life. Despite the fact that there is a small group of women who were prominent in politics, medicine, law, teaching, and NGOs, women for the most part were seriously underrepresented in the decision-making positions in these fields.

Personal status law for Palestinians is based on religious law. For Muslim Palestinians, personal status law is derived from Shari'a (Islamic law). The varied ecclesiastical courts ruled on personal status issues for Christians. In the West Bank and Gaza, Shari'a pertaining to women is part of the Jordanian Status Law of 1976, which includes inheritance and marriage laws. Under the law, women in most cases are not entitled to inheritance, while their male siblings are. The marriage law allows men to take more than one wife, although few did so. Women were permitted to make "stipulations" in the marriage contract to protect them in the event of divorce and questions of child custody; however, only an estimated 1 percent of women took advantage of this provision, leaving most women at a disadvantage in the areas of divorce or child custody. Ecclesiastical courts also often favored men over women in divorce and child custody cases.

*Children.*—The PA provided substantial but incomplete protection for children's rights and welfare in areas under its control. The PA provided compulsory education to children and banned child labor, but did not legislate against child abuse or contain the practice of early marriage. Palestinian militants manipulated children to assist in violent attacks.

The PA provides for compulsory education through the ninth grade, when children usually reach 15 years of age. However, women who chose to marry were prevented by their families in certain sectors of society at times from completing the mandatory level of schooling. Especially in rural areas and refugee camps, boys often left school before they reached the mandatory age in order to help support their families.

The internal closure across the occupied territories and extended periods of curfew in most major cities significantly impeded the ability of both students and teachers to reach educational facilities (see Sections 2.a. and 2.d.). In areas under curfew, all classes were cancelled.

The separation barrier's construction has resulted in missed days of schooling and hardships for Palestinian children. The separation barrier, located east of the village of Khirbat Jabara, separates the village from rest of the West Bank. The village has no primary school and 183 children from the town have had their schooling disrupted by being forced to pass through a gate in the separation barrier in order to reach the nearest primary school in the village of ar-Ras.

Numerous education and health care professionals acknowledged that students were badly affected by the violent security situation, which interfered with learning and manifested itself in lack of focus, nightmares, daytime and nighttime incontinence, and other behavioral problems. Closures and curfews impeded school attendance, and UNRWA reported that more than 35,000 teacher workdays were lost in

the 2002–03 academic year. UNWRA reported that test scores in its West Bank and Gaza schools dropped dramatically.

The PA Ministry of Health provided for children's immunizations. The PA insurance program provided basic medical care for children, for a small monthly fee. Economic problems and checkpoint obstacles affected the availability of food to Palestinian children. During the year, USAID and Johns Hopkins University reported that 7.8 percent of Palestinian children under 5 suffered from acute malnutrition, 11.7 percent suffered chronic malnutrition, and 44 percent were anemic.

The law does not explicitly prohibit child abuse. Abuse existed but was not a widespread problem. The law penalizes parents or families that failed to protect children from abuse. PA courts may provide protection for children in "difficult situations," including cases of neglect or abuse. The Ministry of Social Affairs may intervene by bringing a case before a court, which would decide how to best protect the child. The judge may decide to place a child in an official protective institution, or with an alternate family. There was one protective institution for children in Gaza and one in the West Bank.

The law provides that no children 14 or under can work, and children aged 15–18 can be employed only for certain types of work and under certain conditions (see Section 6.d.). While there was no juvenile court system, judges specializing in children's cases generally adjudicated on juvenile cases. In cases in which the child was the victim, judges had the discretion to remove the child from a situation considered harmful. However, the system was not sophisticated in the protection it afforded children.

Palestinians living in East Jerusalem continued to be discriminated against in terms of their access to municipal services, compared to other residents of Jerusalem. According to the Association for Civil Rights in Israel, the Government of Israel and the municipality have not kept their pledge to the High Court to build three new infant-care clinics in East Jerusalem. In addition, East Jerusalem schools remained underfunded and overcrowded, and many students were denied education in public schools due to lack of space. In 2001, the Israeli Government agreed to build 245 new classrooms within the next 4 years to alleviate this problem. However, by year's end, only 30 classrooms had been built and only 36 were under construction.

International and domestic NGOs, including UNICEF, Save the Children, and Defense for Children International, promoted the rights and welfare of children in the occupied territories. There also were numerous Palestinian social welfare organizations that focused on developing and providing educational, medical, and cultural services to children. A number of other groups specialized in addressing the needs of children with disabilities.

Palestinian terrorist groups used minors to prepare attacks or carry them out and as human shields. These youths were recruited to throw pipe bombs and plant explosives. On January 11, two Palestinian youth attempted to infiltrate the Israeli Netzarim settlement in Gaza. The IDF captured both youths after shooting and wounding one of them. Neither was armed. The IDF released a video in November showing Palestinian gunmen firing on IDF forces while taking cover around a donkey-drawn cart with children near them.

*Persons with Disabilities.*—There was no mandated accessibility to public facilities in the occupied territories under either Israeli law or Palestinian authority. Many Palestinians with disabilities were segregated and isolated from Palestinian society; they were discriminated against in most spheres, including education, employment, transportation, and access to public buildings and facilities. There were approximately 130,000 Palestinians with disabilities in the West Bank and Gaza prior to the outbreak of the current Intifada. The Health, Development, Information, and Policy Institute estimated that one-tenth of the approximately 23,000 Palestinians injured in the Intifada will have permanent disabilities.

Some Palestinian institutions cared for and trained persons with disabilities; however, their efforts consistently were under-funded.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Labor affairs in the West Bank were governed by Jordanian Law 21 of 1965, as amended by Israeli military orders, and in Gaza by PA decisions. The law permits workers to establish and join unions without government authorization. Following a process to consolidate trade unions in the West Bank, there were 12 trade unions. Four trade unions were in Gaza.

Israeli labor law governs Palestinian workers in Jerusalem, and they were free to establish their own unions. The Israeli Government restricted unions in Jerusalem from joining West Bank trade union federations; however, this restriction was not enforced. Individual Palestinian workers in Jerusalem may belong simulta-

neously to unions affiliated with West Bank federations and the Israeli Histadrut Labor Federation.

West Bank unions were not affiliated with the Israeli Histadrut Federation. Palestinians from the West Bank and Gaza who worked in Israel or Jerusalem were not full members of Histadrut, but they were required to contribute 1 percent of their wages to Histadrut. Their partial membership entitled them to limited benefits, including compensation in the case of on-the-job injuries, maternity leave, and compensation in the case the employer declares bankruptcy. (Full members of Histadrut also received health insurance, social security benefits, pensions, and unemployment benefits.) Negotiations between Histadrut and West Bank union officials to return half of this fee to the Palestinian Union Federation were completed in 1996, but funds have yet to be transferred. Palestinian labor officials claim that they are owed \$6.5 million (NIS 30 million). Palestinians from the occupied territories who worked in Israel were not permitted to join Israeli trade unions or to organize their own in Israel.

The majority of West Bank and Gaza unions belonged to the Palestinian General Federation of Trade Unions (PGFTU). The union estimated that it had 290,000 members in the West Bank and Gaza Strip, drawing from 12 trade syndicates in the West Bank and 8 in Gaza. The PGFTU estimated that actual organized membership of dues-paying members, included approximately 75 percent of all Palestinian workers. The PGFTU was involved in the completion of the negotiations with Histadrut regarding workers' fees. The reorganization of unions under the PGFTU was intended to enable the West Bank and Gaza unions to better represent the union members' interests.

There are no laws in the occupied territories that specifically protect the rights of striking workers. In practice, such workers had little or no protection from an employer's retribution. Palestinian unions that seek to strike must submit to arbitration by the PA Ministry of Labor. If the union disagrees with the final arbitration and strikes, a tribunal of senior judges appointed by the PA decides what, if any, disciplinary action is to be taken, such as a fine. During the year, there were several local labor strikes in West Bank cities.

The PGFTU participated in some programs of the International Confederation of Free Trade Unions, but was not a member. The PGFTU became an ICFTU affiliate in November 2002.

*b. The Right to Organize and Bargain Collectively.*—A majority of workers in the occupied territories were self-employed or unpaid family helpers in agriculture or commerce. Only 35 percent of employment in the occupied territories historically has consisted of wage jobs. Most of this employment has been through UNRWA, the PA, or municipalities. Collective bargaining was protected. Committees of 3 to 5 members adjudicated labor disputes in businesses employing more than 20 workers. The PGFTU reported several local labor strikes in West Bank cities during the year. Existing laws and regulations do not offer real protection against antiunion discrimination.

There are no export processing zones (EPZs) in the occupied territories, although the Gaza Industrial Estate did enjoy free trade access to foreign markets. Israeli closures and curfews impeded the right to organize and bargain collectively.

*c. Prohibition of Forced or Bonded Labor.*—PA law does not prohibit specifically forced or bonded labor, including forced and bonded labor by children, and during the year there were no reports of such practices.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal working age in the West Bank and Gaza is 15 years, and there are special limits governing the conditions of employment for juveniles between 15 and 18 years, including prohibitions against working at night, under conditions of hard labor, or in jobs that require them to travel outside their area of domicile. However, in practice many Palestinian children under the age of 15 were engaged in some form of work. Most such employment was believed to involve work on family farms and in family shops, or as urban street vendors. Some employment of children also reportedly occurred in small manufacturing enterprises, such as shoe and textile factories. The PA's capacity to enforce existing labor laws was limited. It had only 40 labor inspectors to inspect an estimated 65,000 enterprises. The ILO and UNICEF were working with the PA to study the nature and extent of the problem and to develop the capacity to enforce and update child labor laws. During the year, the ILO began work in the occupied territories to implement its International Program for the Elimination of Child Labor.

*e. Acceptable Conditions of Work.*—There was no minimum wage in the West Bank or Gaza Strip. Prior to the outbreak of the Intifada in 2000, which severely disrupted employment patterns for the majority of working Palestinians, the average

wage for full-time workers appeared to provide a worker and family with a decent standard of living. The majority of Palestinians currently were unemployed or underemployed and the standard of living has dropped dramatically over the last 2 years. The dependency ratio increased more than 50 percent since the start of the Intifada. In 2000 one Palestinian supported 4.3 persons in the West Bank and 5.9 persons in Gaza. During the year, those figures reached 6.9 persons and 9.4 persons, respectively. As wage earners were forced to support 50 percent more persons, the standard of living seriously deteriorated.

In the West Bank, the normal workweek was 48 hours in most areas; in Gaza, the workweek was 45 hours for day laborers and 40 hours for salaried employees. There was no effective enforcement of maximum workweek laws.

The PA Ministry of Labor was responsible for inspecting workplaces and enforcing safety standards in the West Bank and Gaza. The Ministry's ability to enforce the standard was limited due to lack of resources for inspections and other constraints; however, it carried out inspections. The Ministry reported that closures, curfews, and ongoing Israeli military operations further limited its ability to carry out inspections. The Ministry of Labor stated that new factories and workplaces met international health and safety standards, but that older ones failed to meet such standards. There was no specific legal protection afforded workers that allows them to remove themselves from an unhealthy or unsafe work setting without risking loss of employment.

Like all Israeli workers, Palestinians who worked in Israel were required to contribute to the National Insurance Institute (NII), which provided unemployment insurance and other benefits. Palestinians from the West Bank and Gaza were eligible for some, but not all, NII benefits. According to the Interim Agreement, Palestinians who worked in Israel and Jerusalem benefit from NII in cases of injuries that occurred in Israel, the bankruptcy of a worker's employer, and allowances for maternity leave.

There were outstanding cases of Palestinian workers who attempted to sue their Israeli employers for nonpayment of wages but were unable to travel to the relevant courts because they were unable to receive the proper permits.

*f. Trafficking in Persons.*—Palestinian law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the occupied territories.

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## JORDAN

The Hashemite Kingdom of Jordan is a constitutional monarchy ruled by King Abdullah II bin Hussein. The Constitution concentrates executive and legislative authority in the King. A regent, whose authority is outlined in the Constitution, assumes many responsibilities in the King's absence. The King appoints the Prime Minister and other members of the Cabinet who manage the daily affairs of the Government. The Parliament consists of the 55-member Senate, appointed by the King, and a 110-member elected lower house, the Chamber of Deputies. In 2001 the King dissolved Parliament and elections were not held until June. In February, an amendment to the election law increased the size of the lower house from 80 seats to 110. The June parliamentary and July municipal elections were generally free and fair; however, the election law significantly under-represented urban areas. In October, the King accepted the resignation of the Prime Minister, appointed a new Prime Minister, swore in a new 21-member Cabinet and, in November, appointed a new 55-member Senate. The Constitution provides for an independent judiciary; however, in practice, it remained susceptible to political pressure and interference by the executive.

The Public Security Directorate (PSD) controlled general police functions. The PSD, the General Intelligence Directorate (GID), and the military shared responsibility for maintaining internal security, and had authority to monitor security threats. The PSD reports to the Interior Minister and the independent GID reports directly to the King. The civilian authorities generally maintain effective control of the security forces. Members of the security forces committed human rights abuses.

Foreign assistance, remittances, exports of minerals and manufactured goods, and tourism were the mainstays of the country's economy. The Government has made substantial progress in implementing market-based reforms, such as deregulation, privatization of state owned companies, trade liberalization, and opening up to foreign investment. During the year, the economy grew by 3.1 percent in real terms, with a 2.3 percent increase in the cost of living index. However, high unemployment and persistent poverty, especially in rural areas, coupled with political uncertainty

in the region and limited water and energy resources, negatively affected the economy.

Although many problems remained, the Government's respect for human rights improved in some areas during the year. Citizens did not have the right to change their government. Citizens may participate in the political system through their elected representatives to Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister, Cabinet, and upper house of Parliament, to dissolve Parliament, and to establish public policy. Reported continuing abuses included police abuse and mistreatment of detainees, allegations of torture, arbitrary arrest and detention, lack of transparent investigations and of accountability within the security services, denial of due process of law stemming from the expanded authority of the State Security Court and interference in the judicial process, infringements on citizens' privacy rights, harassment of members of opposition political parties, and significant restrictions on freedom of speech, press, assembly, and association. The Government imposes some limits on freedom of religion, and there was official and societal discrimination against adherents of unrecognized religions. There were some restrictions on freedom of movement. Violence against women, restrictions on women's rights, and societal discrimination against women persisted. "Honor" crimes continued. Child abuse remained a problem, and discrimination against Palestinians persisted. Abuse of foreign domestics was a problem that began to be addressed this year, and child labor occurred.

#### 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 by the Government or its agents. On January 12 police shot and killed a man in Ruseifa whom the Government claimed had clashed with the police; his family asserted the killing was intentional. The Government formed an investigative committee after the family sought traditional reconciliation; however, at the end of the year, the incident had not been resolved.

The security services promoted a climate of impunity by their continued reluctance to conduct transparent investigations into allegations of wrongful deaths that occurred during police detention in previous years. In recent years, authorities have been more willing to conduct transparent investigations and have, from time to time, disclosed results.

In January 2002, a youth from Ma'an sustained fatal injuries and died while in police custody. The Government reported that he was injured in a fall while attempting to flee. At year's end, the case remained under investigation.

In February 2002, two bystanders were killed in an unsuccessful attempt to assassinate a senior government official and his family with a car bomb. On April 29, the State Security Court gave seven citizens sentences ranging from death to 1-year imprisonment for their involvement.

In October 2002, USAID official Lawrence Foley was shot and killed in front of his home. In December 2002, the Government arrested some suspects who confessed to the act. On October 15, five men accused in the assassination of Foley proclaimed their innocence, and claimed that security officials had tortured them to elicit their confessions (see Section 1.c.). At year's end, the court case was ongoing.

In November 2002, a challenge to government authority by an armed group in Ma'an led to the deaths of five persons, including two police officers and three militants. On September 27, the man accused of fomenting riots in Maan, Mohammed Shalabi, was arrested and put on trial by the State Security Court. Shalabi (known as Abu Sayyaf) claimed he had been tortured and initially denied a lawyer during his investigation (see Section 1.c.). Shalabi and 12 other defendants were charged with conspiracy to carry out terrorist acts and possession of explosives.

By year's end, the Government had made no arrests in the 2001 case in which assailants shot and killed an Israeli businessman in Amman.

Women continued to be victims of honor killings (see Section 5).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, the police and security forces sometimes abused detainees during detention and interrogation, and allegedly also used torture. Allegations of torture were difficult to verify because the police and security officials frequently denied detainees timely access to lawyers. The most frequently reported methods of torture included beatings; sleep deprivation, extended solitary confinement, and physical suspension. Defendants in high-profile cases before the State Security Court claimed to have been subjected to physical and psychological

abuse while in detention. Government officials denied allegations of torture and abuse. The Government does not interpret Shari'a as providing for exceptionally harsh punishment such as mutilation.

In June, the Court of Cassation overturned the death sentence of convicted terrorist Raed Hijazi. On December 8, the State Security Court convicted Hijazi and sentenced him to death for the third time. At year's end, he continued to proclaim his innocence and vowed to appeal the verdict again.

On October 14, Mohammad al-Shalabi (see Section 1.a.) claimed during his first court appearance that his interrogators tortured him and denied him access to an attorney. The court adjourned the session until October 19 to appoint a lawyer for Shalabi. In a December court appearance, he repeated his claim and proclaimed his innocence. Several other co-defendants retracted their previous confessions, stating that they were extracted under duress. On December 24, Shalabi's lawyers brought four prison inmates to testify before the court that they noticed marks on Shalabi's legs suggesting he had been tortured. Based on his attorneys' request, the court referred Abu Sayyaf to the National Institute of Forensic Medicine (NIFM) for medical evaluation. The NIFM physicians' report indicated that Abu Sayyaf had not been tortured and noted no torture marks on his body.

On October 15, five men accused in the assassination of USAID official Lawrence Foley claimed innocence in court and asserted that security forces had tortured them to elicit their confessions (see Section 1.a.). Bin Suwayyid, one of the defendants, told reporters that interrogators made him sign a confession that he was not allowed "to read or check". Another defendant, Yasser Freihart, reported that interrogators told him that if he did not sign the confession, he "would go back to the cell for more torture and beating." The trial was ongoing at year's end.

In April 2002, a local newspaper reporter covering anti-Israeli demonstrations in Sweileh claimed that he was detained, threatened and "manhandled" by government security forces (see Section 2.c.). Human rights activists believed that there were many incidents that were not documented.

Police on several occasions used force to disperse demonstrations during the year (see Section 2.b.).

Human rights activists reported a number of cases of beatings and other abuses of individuals in police custody during the year. Human rights activists also claim that detainees are often held incommunicado for up to 2 months after arrest.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Prisons and local police detention facilities were spartan, and on the whole were severely overcrowded and understaffed. Human rights groups and prisoners complained of poor food and water quality, inadequate medical facilities, and poor sanitation in certain facilities.

The Government held men, women, and juveniles in separate prison facilities. The GID held some persons detained on national security grounds in separate detention facilities. The Government held other security detainees and prisoners in regular prisons. Conditions in GID detention facilities were significantly better than general police detention facilities. While security prisoners often were separated from common criminals, conditions for such prisoners did not differ significantly.

Local human rights monitors were allowed to visit prisons, but complained that the authorities required them to undertake a lengthy and difficult procedure to obtain permission for such visits. The International Committee of the Red Cross (ICRC) was permitted access to prisoners and prison facilities. The ICRC's access to GID facilities was limited to 1 day a week and it visited these facilities every 2 weeks.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions. The Constitution provides that citizens are subject to arrest, trial, and punishment for the defamation of heads of state or public officials and dissemination of "false or exaggerated information outside the country that attacks state dignity". Criminal laws generally required warrants; however, in most cases suspects may be detained for up to 48 hours in the absence of a warrant. Police obtained many warrants after making arrests.

The Criminal Code requires that police notify legal authorities within 48 hours of an arrest and that legal authorities file formal charges within 10 days of an arrest; however, the courts routinely granted requests from prosecutors for 15-day extensions as provided by law. This practice generally extended pretrial detention for protracted periods of time.

In cases involving state security, the security forces arbitrarily arrested and detained citizens. The authorities frequently held defendants in lengthy pretrial detention, did not provide defendants with the written charges against them, and did not allow defendants to meet with their lawyers until shortly before trial. Defendants



before the State Security Court usually met with their attorneys only 1 or 2 days before their trial. The Criminal Code prohibits pretrial detentions for certain categories of misdemeanors.

Human rights activists reported that the Government detained hundreds of persons, including journalists (see Section 2.a.) and Islamists, for varying amounts of time for what appeared to be political reasons. Human rights sources also reported that at least several hundred persons were detained for security reasons and subsequently released within a short period of time throughout the year. In the past, human rights groups reported that there were a smaller number of long-term political detainees.

The local press reported that the King ordered the release of 245 detainees in November, including those held on administrative charges and security detainees not considered a threat to public security. No criminals were included in the release. These releases are an annual Eid (end of Ramadan) tradition.

Local governors had the authority to invoke the Preventing Crimes Law, which allowed them to place citizens under house arrest for up to 1 year without formally charging them (see Section 2.d.). House arrest may involve requiring persons to report daily to a local police station and the imposition of a curfew. Persons who violate the terms of their house arrest may be imprisoned for up to 14 days.

The Government used the threat of detention to intimidate journalists into practicing self-censorship. In 2001, the Government adopted a series of amendments to Penal Code provisions dealing with the press (see Section 2.a.).

The Constitution prohibits forced exile and the Government did not use forced exile. In 2001 the Government permitted the return of Ibrahim Ghosheh, one of four leaders of the terrorist organization HAMAS allegedly expelled in 1999. The three other allegedly expelled HAMAS leaders remained outside the country at year's end (see Sections 1.e. and 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was not independent in practice and remained subject to pressure and outside interference. The King appoints the Higher Judiciary Council, a committee that determines judicial appointments, advancement, and dismissal. In 2001, Parliament passed a law giving the Council increased independent jurisdiction over the judicial branch and limiting the Ministry of Justice's administrative control over judges. There were numerous allegations in previous years, and some this year, that judges were "reassigned" temporarily to another court or judicial district to remove them from a particular proceeding. The Government claimed that the Higher Judiciary Council's new independence made such tampering much more difficult. Despite constitutional prohibitions against such actions, judges complained of government monitoring of their telephones (see Section 1.f.).

The judicial system consists of civil, criminal, commercial, security, and religious courts. Most criminal cases are tried in civilian courts, which include the appeals courts, the Court of Cassation, and the Supreme Court. Cases involving sedition, armed insurrection, financial crimes, drug trafficking, and offenses against the royal family are tried in the State Security Court.

Shari'a (Islamic law) courts have jurisdiction over marriage and divorce among Muslims. Christian courts have jurisdiction over marriage and divorce cases among Christians, but apply Shari'a law in inheritance cases (see Section 5).

The law provides that all civilian court trials are open to the public unless the court determines otherwise. Defendants are entitled to legal counsel, may challenge witnesses, and have the right to appeal. Defendants facing the death penalty or life imprisonment must be represented by legal counsel. Public defenders are provided if the defendant is unable to hire legal counsel. Civil, criminal, and commercial courts accord equal weight to the testimony of men and women; however, in Shari'a court, the testimony of two women is equal to that of a man's in most circumstances (see Section 5).

The State Security Court consists of a panel of three judges, two military officers and one civilian. Most sessions are open to the public, though some are limited to the press only. Defendants tried in the State Security Court often were held in pre-trial detention without access to lawyers, although they were permitted visits by representatives of the ICRC. State Security Court judges have inquired into allegations that defendants were tortured and have allowed the testimony of physicians regarding such allegations (see Section 1.c.). The Court of Cassation ruled that the State Security Court may not issue a death sentence on the basis of a confession obtained as a result of torture. Defendants in the State Security Court have the right to appeal their sentences to the Court of Cassation, which is authorized to review issues of both fact and law. Appeals are automatic for cases involving the death penalty.

The Press and Publications Law permits journalists to cover State Security Court proceedings unless the court rules otherwise. The press routinely reports on cases before the Court, including all cases heard during the year. Such reporting routinely covers defense arguments and any allegations of torture.

In 2001, the Government passed a provisional law that removed the right of appeal for defendants convicted of misdemeanors in the State Security Court. In 2002, several defendants were convicted in the State Security Court without the right to appeal, the most notable being Toujan Faisal (see Section 2.a.).

In 2002, former parliamentarian Faisal was arrested and charged with acts of sedition via libel and incitement of violence against the Government. The State Security Court sentenced Faisal to 18 months in prison. Since Faisal was convicted of misdemeanors, she had no right to appeal. Many contended that Faisal's arrest and sentence were the result of a political vendetta. In May 2002, the King pardoned Faisal and she was released in late June 2002 (see Section 3).

In the past, defense attorneys have challenged the appointment of military judges to the State Security Court to try civilian cases as contrary to the concept of an independent judiciary. According to human rights activists, military judges appeared to have received adequate training in civil law and procedure.

There were no reports of political prisoners; however, the Government detained persons for varying periods of time for political reasons (see Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires that security forces obtain a warrant from the Prosecutor General or a judge before conducting searches or otherwise interfering with these rights; however, in security cases, at times in violation of the law, the authorities obtained warrants retroactively or obtained pre-approved warrants. Security officers officially monitored telephone conversations and Internet communication, read private correspondence, and engaged in surveillance of persons considered to pose a threat to the Government or national security. The law permits these practices if the Government obtains a court order. In the past, judges complained of unlawful telephone surveillance (see Section 1.e.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government imposed some restrictions on these rights in practice. The Government detained and restricted journalists based on the provisions of a 2001 law broadening its authority; however, in April the Government repealed some of these amendments.

The Press and Publications Law and the Press Association Law imposed stringent restrictions on the operation of newspapers. The Government also intimidated journalists to encourage self-censorship. Citizens may be prosecuted for slandering the royal family, the Government, or foreign leaders, and for "sowing sedition." Citizens generally did not hesitate to criticize the Government openly, but exercised caution with regard to the King, the royal family, and the GID. The Press and Publications Law and the law governing the Jordan Press Association (JPA) require membership in the JPA for persons to be considered "legal" journalists or editors, thus potentially excluding dozens of practicing journalists from the profession. During the year, the Government selectively enforced this provision, allowing several journalists and editors who are not members to work in their respective fields.

In November, the Government allegedly censored a political cartoon in the weekly newspaper Al-Wahda. The Government denied the charge, and some commentators accused Al-Wahda's editor, Mowaffaq Mahadeen, of trying to get the Government to shut down his publication to suit his own needs. In September, the general prosecutor of the State Security Court reportedly banned the September 23 issue of Al-Wahda.

The Press and Publications Law granted the Government wide discretionary powers to issue fines, withdraw licenses, order shutdowns, and control the editorial content of newspapers. However, the 1999 amendments to the Press and Publications Law limited to some extent the Government's discretion to issue fines, transferred the power to withdraw licenses to the judiciary, limited significantly the Government's power to order shutdowns, allowed journalists to cover court proceedings unless the court ruled otherwise, and required publications to be licensed. The Law imposed strict limits on publications, which gave the Government broad leeway to impose sanctions. The law also requires that the editor in chief of a newspaper be a citizen who permanently resides in the country and a member of the JPA for at least 4 years. Journalists allege that the Government uses informants and censors at printing presses to inform the Government if particularly objectionable material is slated for print in the news media.

The 2001 amendments to the Penal Code reinforced existing restrictions on free speech and allowed for the prosecution of any person found to have written, published, or aired any statements that could be construed to harm or incite to harm or insult individuals or "the state's reputation and dignity." Imprisonment of 3 years is punishment for defamation of the King or Royal Family. In April, the Government repealed the amendments giving the State Security Court the authority to temporarily or permanently close any media outlet that published or aired any such statements, and providing for the automatic subjection of the laws' violators to trial before the Court.

Journalists also may be prosecuted before the State Security Court for criminal and security violations. Although a substantial number of cases were dismissed before trial, some cases lingered in the courts for years. The Government routinely used detention and prosecution or the threat of prosecution to intimidate journalists into self-censorship (see Section 1.d.).

On February 17, three journalists were sentenced for "blaspheming the Prophet Mohammad" in an article that insulted the Prophet Mohammad and contained "false rumors," "insulted the dignity of the state," and caused instability—all of which are crimes under the penal code. The article drew strong criticism from Islamist politicians. The court closed the publication for 2 months and the three were sentenced to prison terms ranging from 2 to 6 months. The journalists had been detained since January 16. On February 18, two of the journalists, Nasser Qamash and Roman Haddad, were released. After serving his sentence, the article's author, Mohannad Mubaidin, was released and continued to practice journalism.

In 2002, the editor and publisher of the weekly Al-Bilad were detained for publishing "false news" and later released.

In April 2002, Al-Jazeera correspondent Mahmoud Al Housa was detained for 3 days, apparently under the provisions of the Press law. In the same month a local newspaper reporter covering demonstrations in Sweileh claimed that he was detained, threatened, and "manhandled" by government security forces (see Section 1.c.). In August 2002, he claimed that government authorities seized his passport and threatened him with prosecution.

In August 2002, the Government closed the local office of Al Jazeera network and suspended the media credentials of local correspondents. The office reopened in March.

Also in August 2002, journalist Mamoun Al Roussan, editor-in-chief of the weekly Al Jazeera, was arrested and detained. Both Al Roussan and his publisher, Sakher Abu Anzeh, were held for 1 week.

In 2001, the Government arrested seven members of the Anti-Normalization Committee, a group that opposes the country's relations with Israel, on charges of belonging to an illegal group (see Section 2.b.). The State Security Court also charged two of the seven with possession of explosives and with terrorist activities. All seven detainees were released on bail while awaiting trial. The trials had not yet begun by year's end. The related trial of journalists Ma'moun Al Roussan and Abdel Naser Hourani was still ongoing.

The Press and Publications Department continued to enforce bans on the publication of a number of books within the country. Books were banned based on religious, moral and political objections.

High taxes on media and tariffs on paper caused journalists to reduce the size of their publications. Journalists also criticized the Government for advertising predominantly in newspapers in which the Government owned shares.

The law provides foreign media operations freedom of expression and the Government did not block the entry of foreign publications during the year.

Radio and television news broadcasts were more restricted than the print media. The Government was the sole broadcaster of radio and television programs. Under commercial agreements with each entity, the Government broadcasts the regional programs of the British Broadcasting Corporation, the London-based Middle East Broadcasting Center, Radio Monte Carlo, and Radio Sawa. Jordan Television (JTV) reported only the Government's position on controversial matters. International satellite television and Israeli and Syrian television broadcasts were available and unrestricted.

The GID actively investigated Internet reports of "crimes against the King." In 2002, the Government restored access to two overseas websites that it had blocked within the country. There were additional reports of government interference with Internet access this year, including several websites that appear to have been blocked.

The Government limited academic freedom. Some academics claimed that they received frequent threats of dismissal. During the year, sources in the academic community claimed that there was an ongoing intelligence presence in academic institu-

tions. In June 2002, three universities dismissed eight professors without explanation, although most suspected that the Saudi-educated professors were dismissed because of their political views or background. During the same year, four of the professors were reinstated.

During the year, Jordan University continued its policy of granting the president of the University the authority to appoint half of its 80-member student council, including the chair. The amendment was viewed widely as an effort to curb the influence of campus Islamists. Many students, including non-Islamists, continued to object to the University's decision.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricts this right. Citizens must obtain permits for public gatherings. The Government generally grants permits for protests it finds objectionable only after extensive negotiations with the organizers. The law requires the organizers of rallies and demonstrations request permission from provincial governors at least 3 days prior to any event. Under the law, no protest may be held without the governor's consent and violators face imprisonment from 1 to 6 months and a fine not to exceed \$4,230 (3,000 dinars).

In some cases, the Government granted approval at the last moment, making it difficult for organizers to plan effective demonstrations. In addition, sources reported this year that the Government denied permission for several protests in the months preceding the war in Iraq. In 2002, media reports indicated that security forces used tear gas in peaceful protests at refugee camps and detained some protestors.

In March 2002, there were media reports that the Government used tear gas to disperse approximately 1,500 protestors in Irbid when they attempted to march from a local university to the city's center. The demonstrators had been denied a permit to demonstrate by the Government. Unconfirmed press reports indicated that some of the demonstrators were beaten.

There were numerous anti-Israeli protests and demonstrations in 2002. On some occasions, police used tear gas, water cannons, and dogs to disperse protestors.

Also in 2002, four members of the outlawed Liberation Party were sentenced to 1 year in prison. Reportedly, the four were arrested while obtaining signatures on a memorandum to the Prime Minister that demanded, among other things, military aid to the Palestinians.

In 2001, riot police protecting the Prime Ministry used physical force to disperse a sit-in by 25 academics protesting the absence of employment opportunities at local universities. No one was seriously injured; however, press reports claimed that at least 10 demonstrators briefly were detained. The Government denied that it detained any of the demonstrators.

The Constitution provides for the right of association. The Government limited freedom of association by law. Several university students, mostly Islamists, were taken before academic disciplinary councils during the year for political activities unrelated to their studies and punished with dismissal or the inability to sit for exams. The Government required and routinely granted approval for conferences, workshops, and seminars.

The Government prohibits membership in an unlicensed political party and routinely licensed political parties and other associations. There are 30 licensed political parties. The Government may deny licenses to parties that it decides do not meet a list of political and other criteria contained in the Political Parties Law. The High Court of Justice may dissolve a party if it violates the Constitution or the Political Parties Law.

In 2001, security officials arrested seven members of the Anti-Normalization Committee, on charges of belonging to an illegal group. The State Security Court also charged two of the seven persons with possession of explosives and with terrorist activities. All seven detainees were released on bail while awaiting trial. By year's end, the trials had not yet begun.

*c. Freedom of Religion.*—The Constitution provides for the freedom of religion, provided that religious practices are consistent with "public order and morality"; however, the Government continued to impose some restrictions on freedom of religion during the period covered by this report. According to the Constitution, Islam is the state religion.

There was no change in the status of respect for religious freedom during the period covered by this report. Members of unrecognized religious groups and converts from Islam face legal discrimination and bureaucratic difficulties in personal status cases. The Government prohibits non-Muslims from proselytizing Muslims.

The Ministry of Religious Affairs and Trusts manages Islamic institutions and the construction of mosques. It also appoints imams, provides mosque staff salaries,

manages Islamic clergy training centers, and subsidizes certain activities sponsored by mosques. The Government loosely monitors sermons at mosques and requires that speakers refrain from criticizing the Royal Family or instigating social or political unrest.

Religious institutions that wish to receive official government recognition must apply to the Prime Ministry for registration. Recognized non-Muslim religious institutions did not receive subsidies; however, they were financially and administratively independent from the Government and were tax-exempt. Some churches were registered with the Ministry of Justice as "societies," rather than churches.

Persons enjoy freedom of belief, and there were no reports that the practice of any faith was prohibited. The Government does not officially recognize all religious groups. Some religious groups, while allowed to meet and practice their faith, complained of societal and/or official discrimination. In addition, not all Christian denominations have been accorded legal recognition as religions. The Prime Minister unofficially conferred with an interfaith council of bishops representing local churches on all matters relating to the Christian community, including the registration of new churches in the country. The Government used the following criteria when considering recognition of Christian churches as separate official religions: the faith does not contradict the nature of the Constitution, public ethics, customs, or traditions; the faith is recognized by the Middle East Council of Churches; the faith does not oppose the national religion; and the group includes some citizen followers.

The Government states that its role in religious affairs is limited to supervision and prohibits groups whose practices violate the law; however, there were no cases of religious groups being banned in practice.

The Government did not recognize the Druze or Baha'i faiths as religions but did not prohibit the practice of the faiths. Druze faced official discrimination but did not complain of social discrimination. Baha'is faced both official and social discrimination. The Government did not record the bearer's religion on national identity cards issued to Druze or Baha'is. The small Druze and Baha'i communities did not have their own courts to adjudicate personal status and family matters; such matters are heard in Shari'a courts. The Government did not officially recognize the Druze temple in Azraq, and four social halls belonging to the Druze were registered as "societies." The Government did not permit Baha'is to register schools or places of worship.

The Government did not recognize Jehovah's Witnesses, the Church of Christ, or the Church of Jesus Christ of Latter-day Saints, but each of these denominations was allowed to conduct religious services and activities without interference.

The Government did not interfere with public worship by the country's Christian minority, and the majority of Christians were allowed to practice freely.

The Jordan Evangelical Theological Seminary (JETS), a Christian training school for pastors and missionaries, had not been accredited by year's end. As a result, students and faculty from the U.S. and elsewhere wishing to attend JETS were still unable to obtain student visas. JETS continued its operations with students studying on tourist visas and broke ground for a new building in August.

Shari'a prohibits non-Muslims from proselytizing Muslims. Conversion to the Muslim faith by Christians was allowed; however, a Muslim may not convert to another religion. Muslims who convert to other faiths complained of social and government discrimination. Under Shari'a, converts are regarded as apostates and legally may be denied their property and other rights. However, in practice, this principle was not applied. According to the Government, it neither encourages nor prohibits apostasy. Converts from and to Islam are considered Muslims under Shari'a law on matters of personal status. Shari'a prescribes the death penalty for Muslims who convert to another religion; however, there is no corresponding statute under national law, and such punishment has never been applied.

Government policy requires that foreign missionary groups refrain from public proselytizing "for the sake of their own personal safety from members of society that oppose such practices." The Government has taken action against some Christian proselytizers in response to the complaints of recognized Christian groups who charge that the activities of these missionaries "disrupt the cohesiveness and peace between religious groups in society". In March, two members of the evangelical community complained that lower-level government officials investigating a criminal issue threatened to cancel their residency permits for inappropriate activities. When the Government became aware of this at higher levels, it dropped the matter. The two evangelicals remained in the country and have reported no subsequent problems.

The Constitution provides that religious community trusts and matters of personal status fall within the exclusive jurisdiction of the Shari'a courts for Muslims, and separate non-Muslim tribunals for each religious community recognized by the

Government. There is no civil marriage. The head of the department that manages Shari'a court affairs (a cabinet-level position) appoints Shari'a judges, while each recognized non-Muslim religious community selects the structure and members of its own tribunal. All judicial nominations are approved by the Prime Minister and commissioned officially by royal decree. The Protestant denominations registered as "societies" come under the jurisdiction of one of the recognized Protestant church tribunals. There are no tribunals assigned for atheists or adherents of unrecognized religions. These persons must request one of the recognized courts to hear their personal status cases.

In 2002, the Shari'a and civil court systems adjudicated a child custody case and transferred legal custody of two minors who were raised as Christian from their Christian mother to her Muslim brother. At year's end, the children remained in her physical custody, but the case had not been resolved.

Shari'a is applied in all matters relating to family law involving Muslims or the children of a Muslim father. All citizens, including non-Muslims, are subject to Islamic legal provisions regarding inheritance. Men may divorce their spouses more easily than women; however, a 2001 provisional law allows women to divorce their husbands in Shari'a Court. Since 2001, Shari'a courts have granted over 500 divorces brought by women (see Section 5). The new lower house of parliament rejected the law in August, but the upper house approved it. The law remains in effect until parliament takes final action.

All minor children of a male Muslim who converts to another religion are automatically considered to be Muslim. Adult children of a male Christian who has converted to Islam become ineligible to inherit from their father if they do not themselves convert to Islam. Muslim converts, and minor children of male converts to Christianity are not recognized legally as Christians and continue to be treated as Muslim in matters of family and property law.

Some Christians are unable to divorce legally because they are subject to their faith's religious court system, which does not allow divorce. Many of these individuals convert to another Christian denomination or the Muslim faith to divorce legally.

The Government notes individuals' religions (except for Druze and Baha'is, and other unrecognized religions) on the national identity card and "family book" (a national registration record that is issued to the head of every family and that serves as proof of citizenship) of all citizens. Atheists must associate themselves with a recognized religion for official identification purposes.

Despite efforts by religious extremists, in 2001 the criminal and Shari'a courts acquitted poet Musa Hawamdeh of charges that he had "insulted religious values and defamed prophets" in his poetry. After his acquittal, the Shari'a court subpoenaed Hawamdeh again because of technicalities in his previous case and sentenced him to 3 months in prison for apostasy. The Court of First Instance found that Hawamdeh had denied "undeniable facts from the Holy Koran." Hawamdeh remains free pending the result of his appeal.

In June 2000, the Government closed an Arab Orthodox church that was aligned with the Antioch Patriarch in Damascus. The church remained closed at year's end.

Non-Jordanian Christian missionaries operated in the country but were subject to restrictions. During the year, Christian mission groups in the country continued to complain of bureaucratic difficulties, including refusal by the Government to renew residence permits.

For a more detailed discussion, see the 2003 International Religious Freedom Report

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, there are some restrictions. The law requires that all women obtain written permission from a male guardian to apply for a passport; however, women do not need a male relative's permission to renew their passports. In the past, there were several cases in which mothers reportedly were prevented from departing with their children because authorities enforced requests from fathers to prevent their children from leaving the country (see Section 5). The GID sometimes withheld passports from citizens on security grounds.

Local governors may use the Preventing Crimes Law to place citizens under house arrest for up to 1 year without formally charging them (see Section 1.d.). House arrest may involve requiring persons to report daily to a local police station while under curfew. Persons who violate the terms of their house arrest may be imprisoned for up to 14 days.

Persons with full citizenship receive passports that are valid for 5 years. Most Palestinians living in the country were citizens and received passports; however, the Government estimated that there are 150,000 Palestinian refugees who do not qual-

ify for citizenship. They receive 3-year passports valid for travel but which do not connote citizenship. Following the country's administrative and legal disengagement from the West Bank in 1988, Palestinians residing in the West Bank received 2-year passports valid for travel only. In 1995, King Hussein announced that West Bank residents without other travel documentation again would be eligible to receive 5-year passports; however, the Government emphasized that these passports are for travel only and do not connote citizenship, citizenship may be proven only by presenting one's "national number," a civil registration number accorded at birth or upon naturalization to persons holding citizenship. The national number is recorded on national identity cards and in family registration books, which are issued only to citizens.

Human rights activists report that the Government did not consistently apply citizenship laws. Since 2001, they have reported 109 cases in which passports were taken in efforts to implement the Government's disengagement from its former claims to the West Bank; however, human rights activists estimate there are many more such cases, which go unreported. Persons or families disputed the Government's claim that they were ineligible for citizenship under the regulations. Many have filed appeals with the Ministry of Interior, which have not been resolved to their satisfaction. The Government asserted that the cases it has closed have all involved persons without valid claims to citizenship or travel documents.

In 2001, there were reports that immigration officials confiscated Jordanian passports of some citizens who carried both Jordanian and Palestinian Authority travel documents. The Government stated that this was consistent with laws forbidding dual citizenship in Arab League states. Observers claimed that there are only informal agreements on this subject, not laws.

Human rights activists reported that approximately 1,200 citizens of Palestinian origin remained outside the country at year's end, due to the Government's refusal to renew their passports at embassies overseas. The majority of such persons now live in Syria, Lebanon, and Libya as stateless persons. The Government asserts that no Jordanian citizens are refused passports, only non-resident Palestinians who seek to renew travel documents, which require proof of residence in Jordan, have been refused.

The Constitution specifically prohibits the deportation of citizens. In 2001, the Government permitted the return of Ibrahim Ghosheh, who had allegedly been expelled in 1999. Three other expelled HAMAS leaders remained outside the country at the year's end (see Sections 1.d. and 1.e.).

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government generally cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR), although the UNHCR must resettle refugees in other countries. In 1998, the Ministry of Interior signed a memorandum of understanding with the UNHCR concerning the status and treatment of refugees. Under the agreement, the Government respects the UNHCR's eligibility determinations regarding asylum seekers, including those who have entered the country clandestinely. The agreement provides protection against the forcible return of refugees from the country, and recognizes the legal definition of a refugee as set forth in the U.N. Convention. The UNHCR regularly trains law enforcement officials in international refugee law, including specialized courses for policewomen.

In April, the Government agreed to admit persons displaced by the hostilities in Iraq. Between March 1 and December 31, the Government granted protection to 2,773 third country nationals en route to their countries of origin, while approximately 1,200 Palestinian refugees were granted protection at the UNHCR camp at Ruweished. An additional 1,200 refugees, mostly Iranian Kurds, were granted temporary protection in the no-man's-land at the Jordanian and Iraqi borders. However, the UNHCR reports that a significant number of Iraqis were refused entry into the country during this period.

The UNHCR also received reports that some asylum-seekers were required to sign documents pledging that they would return to Iraq upon the cessation of hostilities but has not been able to verify these claims.

According to human rights groups, the International Organization of Migration (IOM), and the UNHCR, some non-citizens fled Iraq through the country and returned to their countries of origin. In March, Government officials allowed Sudanese Government representatives access to a group of Sudanese who had been reluctant to return to Sudan. The IOM verified that all third-country national repatriations were voluntary.

Prior to the war, the Government estimated that over 300,000 Iraqis resided in the country. Since 1991, thousands of Iraqis have applied for refugee status and received legal and material assistance from the UNHCR. In addition to applications from Iraqis during the year, the UNHCR also received applications for refugee status from Sudanese, Russians from Chechnya, Somalis, and Eritreans. According to UNHCR figures, at the end of the year 4,420 persons previously admitted to the country were seeking asylum, another 961 persons recognized as refugees were awaiting resettlement, and 76 Chechnyans were allowed to remain indefinitely pending repatriation.

For the 2002–2003 school year, the Government continued its policy of denying Iraqi children admittance to school unless they are legal residents of the country or recognized as refugees by the UNHCR.

Almost 1.7 million Palestinian refugees were registered in the country with the U.N. Relief and Works Agency for Palestine Refugees (UNRWA). The UNRWA counts another 800,000 Palestinians as either displaced persons from the 1967 war, arrivals following the 1967 war, or returnees from the Gulf between 1990 and 1991.

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

Citizens do not have the right to change their government. Citizens may participate in the political system through their elected representatives in Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister, Cabinet, and upper house of Parliament, to dissolve Parliament, and to establish public policy.

After being appointed by the King, a prime minister is required to submit his cabinet to a parliamentary vote of confidence, if there is a seated parliament. In practice, Parliament routinely grants its confidence. Executive power is vested in the King (or, in his absence, in the Regent), who exercises his power through his ministers in accordance with the provisions of the Constitution. In October, the King accepted the prime minister's resignation and named a new 21-member cabinet, including 9 first-time ministers, 3 of whom were women.

June 17 parliamentary elections were generally regarded as free and fair. Diplomatic observers saw no evidence of irregularities, though citizens registered 54 complaints with the Parliament for its review. The complaints included vote buying, persons voting more than once, and voting by improperly registered voters. Post-election unrest in Naur, the only major public protest related to the outcome, was tied to conflicts between supporters of the winning and losing candidates.

The Parliament is composed of a 55-member Senate appointed by the King, and a popularly elected 110-member Chamber of Deputies. The Constitution provides authority to the Parliament to initiate legislation, and to approve, reject, or amend legislation proposed by the Cabinet. A group of 10 senators or deputies may submit draft bills for consideration; however, in practice legislation is initiated and drafted by the Cabinet of Ministers and submitted by the Government to Parliament for consideration.

On November 17, the King appointed a new Senate, and reappointed Zeid Rifai as President. Fourteen senators were carried over from the previous 40-member Senate. In line with tradition, the Senate contains a large number of former government officials, including 24 former ministers and 4 former prime ministers. The number of women members increased from three to seven, while the number of senators of Palestinian origin decreased from nine to seven (see Section 5).

The law allows voters to choose only one candidate in multiple-seat districts. In the largely tribal society, citizens tend to cast their first vote for family members, and any additional votes in accordance with their political leanings. Observers believed that the law continues to give greater proportional representation to electorates in the rural and southern part of the country as well as in regions with populations known for their traditional, pro-Hashemite views, and to result in significant under-representation of urban areas. In practice, the chances of non-tribal candidates, including women, Islamists, and other opposition candidates, to be elected were limited.

The 2001 election law increased the number of electoral districts by redrawing district boundaries and redistributing seats among districts, required verification of polling results by members of the Judiciary, and lowered the voting age to 18 years. A February amendment included a six-seat quota for women in the House of Deputies. Citizens may freely nominate themselves and register as candidates as long as they do not have a criminal history.

The King proposes and dismisses extraordinary sessions of Parliament, and may postpone regular sessions for up to 60 days. If the Government amends or enacts a law when Parliament is not in session, it must submit the law to Parliament for



consideration during the next session; however, such "provisional" laws do not expire and, while technically subject to action by Parliament when it returns to session, may in practice remain in force without legislative approval.

In 2001, the Government initiated a series of consolidations to merge the country's 328 municipalities into 99. The Ministry of Municipal Affairs stated that these mergers were taken to reduce municipal operating costs and to improve local services. A 2002 provisional law gives the King the power to appoint up to half of the mayors and municipal councils. Opponents of these measures claimed that the consolidations were an attempt to undermine the strength of Islamist parties in local Government, and that they will weaken the democratic process at the municipal level by reducing the number of locally elected officials. The IAF sought to enjoin the Government from making the consolidations, but the courts held that the IAF had no standing to initiate action against the consolidation.

The June 26 municipal elections were regarded as generally free and fair, although some losing candidates claimed that voter fraud was a problem. The IAF boycotted the elections in all districts outside of greater Amman to protest the provisional law on appointing municipal officials.

Women have the right to vote, and women's groups encouraged women to vote and to be active in the political process. There are three female ministers. In the current Parliament there are seven female senators, up from three in the previous Senate, and six female members of the Chamber of Deputies, up from one in the previous Chamber.

In May, the Government rejected former parliamentarian Toujan Faisal's application to run as a candidate in June because she had previously been convicted of a non-political offense (see Section 1.e.).

Of the 110 seats in the lower house, 9 are reserved for Christians, 9 for Bedouins, and 3 for either the Circassian or Chechen ethnic minorities.

The Palestinian community, estimated at more than half of the total citizen population, contributed 7 of 21 ministers. In the Parliament, 7 of 55 senators and 16 of 110 lower house deputies were of Palestinian origin. There were no Palestinians in any of the 12 governorships throughout the country. The electoral system gives greater representation to areas that have a majority of inhabitants of non-Palestinian origin.

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

Domestic and international human rights groups investigated allegations of human rights abuses and published and disseminated findings critical of government policy. The Press and Publications Law removed restrictions on the publication of information about the military and security services, which had prevented the publication by domestic groups of reports alleging torture and other abuses committed by the security services; however, similar restrictions still exist in the Penal Code and other laws (see Section 2.a.).

The local chapter of the Arab Organization for Human Rights (AOHR) and the Jordanian Human Rights Organization (JHRO) continued to operate with the permission of the Government. In October 2002, the Ministry of Interior dissolved the Jordanian Society for Citizens' Rights (JSCR), one of the few human rights groups not affiliated with any political movements or the Government. The Government reported that it closed the JSCR because of legal infractions and internal disputes related to finances. However, the JCSR claimed the closure was for political reasons, including the JCSR's reporting of Palestinian citizens losing their passports as a result of the 1988 disengagement laws. At year's end, the Society remained closed.

The National Center for Human Rights, a quasi-governmental body with educational, protective, and reporting responsibilities, began operations in June. Its activities included training Government and international organization personnel on human rights standards and conditions in the country, and collection and analysis of citizens' complaints. The Government cooperated with the center; some human rights activists complained that it was too closely affiliated with the Government.

In March, the Ministry of Foreign Affairs created a Human Rights Directorate, focused on ensuring government compliance with international agreements and cooperation with international organizations.

In May, the Public Security Department (PSD) opened human rights complaints offices at each of its regional directorates. Persons charging police misconduct may submit complaints to the relevant office, and the Government reports that cases backed by sufficient evidence can result in police officers being tried under the Public Security Law. Plaintiffs may file compensation claims for damages, and convicted officers are reportedly also subject to disciplinary action.

The Government controlled the Parliamentary Public Freedoms Committee and the Human Rights Office at the Prime Ministry.

The Government generally cooperated with international nongovernmental organizations (NGOs). The ICRC usually was permitted full access to detainees and prisoners, including those held by the GID and the military intelligence directorate (see Section 1.c.).

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

The law does not distinguish between citizens on the basis of race; however, women and some minorities were treated differently under the law and faced discrimination in employment, housing, and other areas. Some private political groups such as the Anti-Normalization Committee, which is opposed to ties with Israel, acted through various professional organizations to restrict the freedoms of individuals who have had dealings with Israel. The Government opposed the activities of the Committee.

*Women.*—Violence against women was common; however, reported incidents of violence against women did not reflect the full extent of the problem. Medical experts acknowledged that spousal abuse occurred frequently. However, cultural norms discouraged victims from seeking medical or legal help, thus making it difficult to assess the extent of such abuse.

Abused women have the right to file a complaint in court against their spouses for physical abuse but, in practice, familial and societal pressures discouraged them from seeking legal remedies. Marital rape is not illegal. NGOs such as the Jordanian Women's Union, which had a telephone hotline for victims of domestic violence and provided assistance in such matters. Wife-battering technically was grounds for divorce, but a husband may seek to demonstrate that he has authority from the Koran to correct an irreligious or disobedient wife by striking her.

The Criminal Code provides for leniency for a person found guilty of committing an "honor crime," a violent assault with intent to commit murder against a female by a relative for her perceived immodest behavior or alleged sexual misconduct. Law enforcement treatment of men accused of honor crimes reflected widespread unwillingness to recognize the abuse involved or to take action against the problem. Although the press was in the past reluctant to report on honor crimes, 15 honor crimes committed during the year were reported. In 2002, 21 cases were reported. The actual number of honor crimes was most likely higher. Human rights observers believed that many more killings occurred but were not documented as honor crimes. According to women's rights activists, there was some evidence of a societal trend toward condemnation of honor crimes; however, in 2001, one forensic medical examiner estimated that 25 percent of all murders committed in the country were honor crimes. The police regularly imprisoned women who are potential victims of honor crimes for their own protection. Activists estimate that more than 25 women were detained in such "protective" custody.

The Penal Code provides that a "crime of honor" defense may be invoked by a defendant accused of murder who "surprises his wife or any close female relative" in an act of adultery or fornication, and the perpetrator of the honor crime is judged not guilty of murder. Although few defendants are able to meet the stringent requirements for a crime of honor defense (the defendant personally must have witnessed the female victim engaging in sexual relations), most avoided trial for the crime of murder, and were tried instead on the charge of manslaughter. Even those convicted of murder rarely spent more than 2 years in prison. In contrast to honor crimes, the maximum penalty for first-degree murder is death, and the maximum penalty for second-degree murder is 15 years. Such defenses also commonly relied on the male relative having acted in the "heat of passion" upon hearing of a female relative's alleged transgression, usually without any investigation on the part of the assailant to determine the veracity of the allegation before committing the assault. Defenses in such cases fall under Article 98 of the Penal Code. In 2001 the Government passed a provisional law amending Article 340 to apply equally to men and women; however, this legal change did not substantially affect the sentencing of perpetrators of honor crimes, as no defendant in an honor crime invoked Article 340 during the year. The Parliament actively debated the amendments during the year, but the provisional law remains in effect. Most activists believe that even if Article 340 were repealed, honor crimes likely would persist, with sentences continuing to be reduced under Article 98.

On February 4, a 28-year-old woman was strangled to death by her younger brother. Her brother, who turned himself in to the police after committing the murder, told them he killed his sister to save his family's honor. The victim, who was single, left the country, allegedly with the man she loved. She returned to the country a few weeks later without telling her family about her travels and the next day

had an argument with her brother about her conduct. He attempted three methods of killing her before succeeding. At trial, the original manslaughter charge was reduced to a misdemeanor under Article 98 and his (and the victim's) family dropped the charges. He was released after the trial at the end of December.

In late July, a 16 year-old girl went missing from her home for 3 days and was then found by authorities. She told them that, because her family was opposed to her relationship, she left home to be with a man she loved and wanted to marry. The National Institute of Forensic Medicine confirmed her virginity and the girl was taken to the administrative governor for protective custody. He released her after securing bail from her father with the promise she not be harmed. Minutes after returning to the family home her 18 year-old brother shot her several times, then went to a nearby police station and cited family honor as his motive for the killing. The case has not yet gone to trial.

In September, three brothers were arrested for hacking their two sisters to death with an axe. The older sister married without her family's consent and the younger victim was living with her sister at the time. According to press reports, in their confession the brothers stated that they acted to "cleanse the family's honor." At year's end the case is ongoing.

On September 11, the Criminal Court freed a man convicted of stabbing his sister to death for disappearing from the family home on two occasions in 2001. As he was drunk at the time of the killing and the victim had made "harsh and vulgar statements to her brother," the Court of Cassation previously found that "the crime did not fall under the premeditated murder charge category." The Criminal Court reduced the 2002 sentence of 10 years to 6 months and he was immediately released.

In 2002, a 39-year-old man was formally charged with the premeditated murder of his wife. After shooting her, he subsequently surrendered to local authorities. His wife had just finished serving a 2-year prison sentence for adultery and allegedly had returned to her Egyptian lover after her release from prison. On January 22, the man was sentenced to death, which was immediately reduced to 10 years' imprisonment by the court after the victim's mother dropped charges against him.

Female genital mutilation (FGM) was rarely practiced. However, one southern tribe of Egyptian origin in the small village of Rahmah near Aqaba reportedly practiced FGM. In 2001, one local Mufti issued a fatwa stating that FGM "safeguards women's chastity and protects them against malignant diseases by preventing fat excretions." However, the Mufti also stated that since FGM is not a requirement of Islam, women who do not undergo this procedure should not be embarrassed.

According to the law, sexual harassment is strictly prohibited and subject to criminal penalties including fines and imprisonment. Sexual harassment, assault, and unwelcome advances of a sexual nature against women did not appear to be widespread problems.

Women experienced legal discrimination in matters of pension and social security benefits, inheritance, divorce, ability to travel, child custody, citizenship, and the value of their Shari'a court testimony in certain limited circumstances (see Section 1.e.). The Government provided men with more generous social security benefits than women. The Government continued pension payments of deceased male civil servants but discontinued payments of deceased female civil servants to their heirs. Current laws and regulations governing health insurance for civil servants do not permit women to extend their health insurance coverage to dependents or spouses. However, divorced and widowed women may extend coverage to their children.

Under Shari'a as applied in the country, female heirs receive half the amount that male heirs receive and the non-Muslim widows of Muslim spouses have no inheritance rights. A sole female heir receives half of her parents' estate; the balance goes to designated male relatives. A sole male heir inherits both of his parents' property. Male Muslim heirs have the duty to provide for all family members who need assistance. Men are able to divorce their spouses more easily than women, although a provisional law passed in 2002 and currently under debate in Parliament adds to the circumstances under which a woman may file for divorce (see Section 2.c.). At year's end, the issue remained unresolved. Marriage and divorce matters for Christians are adjudicated by special courts for each denomination (see Section 2.c.). There were 19 female judges in the country, up from 11 in 2002.

The law requires a married woman to obtain her husband's permission to obtain, but not to renew, a passport (see Section 2.d.). Married women do not have the legal right to transmit citizenship to their children. Furthermore, women may not petition for citizenship for their non-citizen husbands. The husbands themselves must apply for citizenship after fulfilling a requirement of 15 years of continuous residence. Once the husbands have obtained citizenship, they may apply to transmit the citizenship to their children. However, in practice such an application may take years and, in many cases, citizenship still may be denied to the husband and children.

Such children become stateless and, if they do not hold legal residency, lack the rights of citizen children, such as the right to attend school or seek other government services.

Civil law grants women equal pay for equal work, but in practice this law was sometimes ignored. Press and union leaders reported during the year that a small number of employers in the private sector paid their female employees less than the legal minimum wage, despite the fact that the women were under contract, and that wage disparity increased with salary.

Social pressures discouraged many women from pursuing professional careers. Nonetheless, women had employment opportunities in many professions, including government, engineering, medicine, education, the military, and law. According to 2002 government statistics, women constituted 14.7 percent of the work force and 49.8 percent of university students. While female employees held approximately 52 and 39 percent of jobs in the education and health sectors respectively, they held only 7.5 percent of managerial posts and 10 percent of all jobs in the private sector. Women's groups stressed that the problem of discrimination was not only one of law, but also of women's lack of awareness of their rights or unwillingness to assert those rights. The Business and Professional Women's Club held seminars on women's rights and assisted women in establishing small businesses. The chapter was also one of the organizations providing programs for potential female voters and candidates leading up to the parliamentary elections. Members of the royal family worked actively to improve the status of women.

*Children.*—The Government is committed to children's rights and welfare in the areas of education and health; however, government efforts in these areas were constrained by limited financial resources. Education is compulsory until the age of 16; however, no legislation exists to enforce the law or punish guardians for violating it, and absence of children from school is without penalty. The overall school attendance and total secondary school attendance rates remained at 92 percent. Several domestic and foreign religious groups run private schools throughout the country. Since the beginning of the 1999–2000 school year, the Government denied Iraqi children admittance to public school unless they were legal residents of the country or recognized as refugees by the UNHCR (see Section 2.d.).

The Government attempted to address the issues of educational development and quality, and the relevance of education to job-market demand, with few concrete results. The Government does not charge tuition for public education and it grants food and transportation supplements to families with many children or to very poor families.

Students must obtain a good behavior certificate from the GID to qualify for admission under the university quota system. Activists reported that the GID sometimes withheld these certificates from deserving students due to a family member's allegedly problematic record.

The Government provided free inoculation programs typically administered through the school system for children. In addition, children had access to government-subsidized public clinics, which offer reduced fees for most services.

The National Team for Family Protection (NTFP) coordinates all issues concerning family safety. The Government-funded "Dar al Amman," the nation's first child protection center, provides temporary shelter, medical care, and rehabilitation for children ages 6 to 12 years who have suffered abuse.

Although the problem was difficult to quantify, social and health workers believe that there was a significant incidence of child abuse in families, and that the incidence of child sexual abuse was significantly higher than reported. The law specifies punishment for abuses against children. Rape or sodomy of a child under 15 years of age carries the death penalty.

The Family Protection Unit of the Public Security Department (PSD) works with victims and perpetrators of domestic and sexual violence. The Unit deals primarily with child and spousal abuse, providing multiple in-house services, including medical treatment for patients. The Unit cooperates with police to apprehend perpetrators of domestic violence, facilitates participation in education and rehabilitation programs, and refers patients to other facilities.

Illegitimate children are entitled to the same rights under the law as legitimate children; however, in practice, they suffered severe discrimination in a society that does not tolerate adultery or premarital sex. Most illegitimate children become wards of the State or live a meager existence on the fringes of society. In either case, their prospects for marriage and gainful employment are limited. Furthermore, illegitimate children who are not acknowledged legally by their fathers are considered stateless and are not given passports or identity numbers.

The Government attempts to safeguard some other children's rights, especially regarding child labor (see Section 6.d.). Although the law prohibits most children

under the age of 16 from working, child vendors worked on the streets of Amman. The Ministry of Social Development has a committee to address the problem and in some cases removes the children from the streets, returns them to their families or to juvenile centers, and may provide the families with a monthly stipend; however, the children often return to the streets. Stagnant economic conditions and social disruption have caused the number of these children to increase over the last 10 years. Child vendors sell newspapers, tissues, small food items, or gum, and other children who pick through trash dumpsters to find recyclable cans to sell, sometimes were the sole source of income for their families.

*Persons with Disabilities.*—High unemployment restricts job opportunities for persons with disabilities, who numbered 220,000. Thirteen percent of citizens with disabilities received monetary assistance from the Government. The Government passed legislation in 1993, reinforced in 2000, requiring future public buildings to accommodate the needs of persons with disabilities and to retrofit existing public buildings; however, implementation has been slow.

The law requires that 2 percent of available public sector jobs be reserved for persons with physical disabilities. Private organizations and members of the royal family actively promoted programs to protect and advance the interests of persons with disabilities.

*Indigenous People.*—The country's indigenous people, nomadic Bedouin and East Bank town-dwellers, traditionally have been the backbone of popular support for the Hashemite monarchy and are represented disproportionately in senior military, security, civil service jobs, and in the Parliament. Nevertheless, many Bedouin in rural areas were severely disadvantaged economically. Many persons of East Bank origin complained that the dynamic private sector largely is in the hands of the Palestinian majority.

*National/Racial/Ethnic Minorities.*—Palestinians residing in the country suffered discrimination in appointments to positions in the Government and the military, in admittance to public universities, and in the granting of university scholarships. The Government granted citizenship to all Palestinians who fled to the country in the period after the 1948 Arab-Israeli war, and to a large number of refugees and displaced persons who arrived as a result of the 1967 war. However, most refugees who fled Gaza after 1967 were not entitled to citizenship and were issued 3-year passports valid for travel only. In 1995, then-King Hussein announced that West Bank residents without other travel documentation would be eligible to receive 5-year passports. However, the Government emphasized that these passports are for travel only and do not connote citizenship (see Section 2.d.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers in the private sector, some state-owned companies, and in certain professions in the public sector have the right to form and join unions. Unions must be registered to be considered legal. Union by-laws limit membership to citizens, effectively excluding the country's more than 125,000 registered foreign workers. However, some unions represented the interests of foreign workers informally. Over 30 percent of the work force was organized into 17 unions. Unions are required by the Government to be members of the General Federation of Jordanian Trade Unions (GFJTU), the sole trade union federation. The Government subsidizes and audits the GFJTU's salaries and activities. Union officials are elected by secret ballot to 4-year terms. The Government cosponsors and approves the timing of these elections and monitors them to ensure compliance with the law. Union leaders complained about the requirement for government oversight of their elections.

The GFJTU belongs to the Arab labor organization, the International Confederation of Arab Trade Unions, and to the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—Unions have and exercise the right to bargain collectively. The Constitution prohibits antiunion discrimination, but the ICFTU claimed that in the past that the Government did not protect adequately employees from anti-union discrimination. Workers may lodge complaints of anti-union discrimination with the Ministry of Labor, which is authorized to order the reinstatement of employees discharged for union activities. There were no complaints of anti-union discrimination lodged with the Ministry of Labor during the year.

Labor laws mandate that workers must obtain Government permission to strike. Unions generally do not seek approval for a strike, but workers use the threat of a strike as a negotiating tactic. Strikes are prohibited if a labor dispute is under mediation or arbitration. If a settlement is not reached through mediation, the Min-

istry of Labor may refer the dispute to an industrial tribunal with agreement of both parties. After mediation attempts met with limited success, the Ministry referred a dispute between the Arab Potash Company and its workers to a tribunal at the end of December.

The tribunal is an independent arbitration panel of judges appointed by the Ministry of Labor. The decisions of the panel are legally binding. If only one party agrees, the Ministry of Labor refers the dispute to the Council of Ministers and then to Parliament. Labor law prohibits employers from dismissing a worker during a labor dispute.

During the year, there were more than 10 strikes reported in the textile sector. These employees went on strike claiming that, among other issues, the employers had failed to pay wages in a timely manner. There were other labor incidents during the year in the construction and cement sectors. In most cases, labor and management reached agreements quickly, and the Government assisted in mediating disputes.

The national labor laws apply in the free trade zones in Aqaba and Zarqa. The Qualified Industrial Zones (QIZs), export zones which produced manufactured goods with at least 8 percent Israeli input, applied national labor laws as well.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, except in a state of emergency such as war or natural disaster. It generally was not practiced. Some foreign domestic servants, almost exclusively female, were subject to coercion and abuse and, in some cases, worked under conditions that amounted to forced labor (see Section 6.e.). The law does not prohibit specifically forced or compulsory labor by children; however, such practices were not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is not a major problem, and the worst forms of child labor are virtually nonexistent. Labor law forbids children under the age of 16 from being employed, except as apprentices; however, there were reports of child labor. In February, the Government raised from 17 to 18 the minimum age for working with hazardous materials. Children under the age of 18 may not work for more than 6 hours continuously between the hours of 8 p.m. and 6 a.m., or during weekends, religious celebrations, or national holidays. Provisions in the labor laws do not extend to children in the informal sector, which consists of agriculture, domestic labor, and small family businesses.

The law provides that employers who hire a child under the age of 16 must pay a fine ranging from \$140 to \$710 (100 to 500 dinars). The fine is doubled if the offense is repeated. The Government, however, provided little training on child labor to the 89 Ministry of Labor inspectors responsible for enforcing the relevant laws. In 2002, the Ministry reported that it investigated the cases of over 3000 child laborers. No fines were levied as a result, and none of the employers were taken to court. The inspectors acted to ameliorate the situation of the involved families when appropriate, including directing some adult family members toward job training programs. In the past, some Government officials claimed that if children were barred from working, they would lose important income on which their families depend, and might turn to more serious activities, such as drug trafficking and prostitution, for income.

Since 2001, financial assistance from the International Labor Organization (ILO) and increases in Government funding have supported Ministry of Labor efforts to implement the provisions of ILO Convention 182 on the Elimination of the Worst Forms of Child Labor. Government policy also facilitated the work of NGOs in this area. The Ministry of Labor established a Child Labor Unit in 2001 to receive, investigate and address child labor complaints, although it has no formal mechanism for doing so, and to coordinate Government child labor activities. Anecdotal evidence suggests that child labor, especially of street vendors, is more prevalent now than it was 10 years ago due to declining economic conditions.

The law does not specifically prohibit forced or bonded labor by children; however, such practices are not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—In January the Government increased the national minimum wage by 6.25 percent from \$113 (80 dinars) to \$121 (85 dinars) per month. The minimum wage applies to all workers except domestic servants, those working in small family businesses and those in the agricultural sector. Although the increase exceeded the 2002 1.8 percent cost of living increase, the national minimum wage did not provide a decent standard of living for a worker and family. The Government estimated that the poverty level was at a monthly wage of about \$125 (89 dinars) per month for a family with 7.5 members. A 2002 United Nations Development Program survey found that 12 percent of the population lived at or below

the poverty level and that 2 percent lived in abject poverty. Poverty was defined as income of \$1.20 per person per day or less. The Government estimated that 193,000 persons received some form of welfare assistance during the year.

The law requires overtime pay for hours worked in excess of the standard workweek, which generally is 48 hours. Hotel, restaurant, and cinema employees may work up to 54 hours per week. Workers may not work more than 10 hours in any continuous period or more than 60 hours of overtime per month. Employees are entitled to 1 day off per week. Labor law does not apply to small family businesses, domestic servants, and non-professional and non-technical workers in the agriculture sector. However, it does apply to citizens and non-citizen workers in other sectors. There is a separate civil service law. The law specifies a number of health and safety requirements for workers, which the Ministry of Labor is authorized to enforce. The law requires employers to report industrial accidents to the Ministry of Labor within 48 hours. Although employers are not required to report occupational diseases to the Ministry of Labor, the law stipulates that if the Medical Authority determines that a worker suffers an occupational disease as a result of his work, the employer is liable for compensation. The Ministry of Labor mediates disputed amounts of compensation in cases of occupational disease. Workers do not have a statutory right to remove themselves from hazardous conditions without risking the loss of their jobs.

According to the Government's Department of Statistics, there are approximately 127,000 registered non-citizen workers in the country. The majority of these were engaged in low-wage, low-skill activities in the agriculture, construction and industrial sectors.

Domestic servants have no legal redress for labor grievances and cannot sue in court for nonpayment of wages. Abuse of domestic servants, most of whom were foreign and many of whom were working without legal status in the country, was widespread. Imprisonment of maids occurred, and illegal confiscation of travel documents by employers was common. Victims, who fear losing their employment and being returned to their home country, generally did not report complaints to Government officials. Domestic servants often were not given days off and frequently were called upon to work at any hour of the day or night. However, during the reporting period the Ministry of Labor instituted a number of new requirements for employment agencies that provide Ministry oversight of foreign domestic workers' recruitment and employment. In cooperation with the U.N. Development Fund for Women and several source country embassies, the Government also introduced a new standard work contract with greater protections that has applied to all newly arriving foreign domestic workers since July 1.

*f. Trafficking in Persons.*—The law prohibits trafficking in children; however, it does not specifically prohibit trafficking in other persons. Other criminal statutes prohibit slavery and indentured servitude. To reduce the potential for abuse of foreign domestic workers, the Government adopted new and stricter procedures during the reporting period that regulate the importation of such labor (see Section 6.e.).

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## KUWAIT

Kuwait is a constitutional, hereditary emirate ruled by the Al-Sabah family, who governs in consultation with prominent families and community leaders. The Constitution provides for an elected National Assembly; however, it permits the Amir to suspend any or all of its provisions by decree. Approximately 14 percent of citizens have the right to vote (only males age 21 and over who have been citizens for at least 20 years and are not in the military or police forces). The July general election was generally considered to be free and fair; however, there were some credible reports of Government and opposition vote-buying. The Constitution provides that the National Assembly has a limited role in approving the Amir's choice of Crown Prince. Following the July elections, the Amir appointed a new Prime Minister whose authority the Crown Prince previously held. The Crown Prince appoints government members; however, the elected National Assembly has at times influenced or overturned government decisions. The Constitution provides for some judicial independence; however, the Amir appoints all judges, and the Government must approve the renewal of most judicial appointments.

The national police, the Criminal Investigation Department (CID) and Kuwait State Security (KSS) are responsible for internal security under the supervision of civilian authorities of the Ministry of Interior (MOI). Civilian authorities generally maintained effective control of the security forces; however, there were some in-

stances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country has a small, relatively open, market-based economy dominated by the oil industry and the government sector. Out of a total population of approximately 2.4 million, roughly 1.5 million were foreigners. Production from the country's proven crude oil reserves of about 98 billion barrels accounted for nearly half of Gross Domestic Product (GDP). The government sector accounted for 91 percent of citizen employment while foreigners constituted 94 percent of the private sector workforce. According to government statistics, real GDP grew 4 percent in 2002 to \$35.5 billion and an estimated 2.3 percent during the year. High citizen population growth coupled with a large influx of foreign workers has caused GDP per capita to decline in recent years. Domestic servants and unskilled workers often lived and worked in poor conditions.

Although the Government's respect for human rights improved over the last decade, serious problems remain. Citizens do not have the right to change their government. Some police and members of the security forces reportedly abused detainees during interrogation. Overcrowding in the prisons continued to be a serious problem. There were some reports of mistreatment of noncitizen prisoners. The judiciary was subject to government influence. The Government infringed on citizens' privacy rights in some areas. Security forces occasionally monitored the activities of persons and their communications. The Government placed some limits on freedom of speech and the press. The Government restricted freedom of assembly and association. Journalists practiced self-censorship. The Government placed some limits on freedom of religion and freedom of movement. Violence and discrimination against women, especially noncitizens, persisted. Judicial authorities discriminated against non-citizens, especially foreign laborers. The legal status of tens of thousands of "bidoon" Arabs with residence ties but no documentation of their nationality remained unresolved. The Government restricted worker rights to organize and bargain collectively, and form unions. Domestic servants remained marginalized and lacked a system to protect their rights, monitor working conditions, and resolve labor disputes. Unskilled foreign workers continued to suffer from the lack of a minimum wage in the private sector, government failure to enforce some Labor Law provisions effectively, and, at times, physical or sexual abuse at the hands of their employers. Some worked under conditions that constituted indentured servitude. Young boys, usually from South Asia, were used as jockeys in camel races.

Many human rights violations committed by the Iraqi army during the 1990–91 occupation remained unresolved, particularly the fate of the majority of 605 citizens and other residents who were still unaccounted for during this reporting period. DNA analysis identified the remains of some of these missing from mass graves discovered in Iraq after the fall of the Saddam Hussein regime.

#### 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 were no developments in the investigations into the extrajudicial killings that occurred during the period after the country's liberation in February 1991 (see Section 1.b.).

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

The fate of 572 Kuwaitis (including 29 bidoon) and 33 other residents taken prisoner during Iraq's occupation of the country in 1990–91 remained a highly emotional issue. The remains of several of these missing were identified by DNA tests from mass graves found in Iraq after the fall of the Saddam Hussein regime. The Tripartite Commission on Gulf War Prisoners of War (POWs) and Missing Persons (TPC) resumed functioning with Iraqi participation shortly after the end of major hostilities in Iraq.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there continued to be credible reports that some police and members of the security forces abused detainees during interrogation. Reported mistreatment included blindfolding, verbal threats, and physical abuse. Police and security forces were more likely to inflict such abuse on noncitizens, particularly non-Gulf Arabs and Asians, than on citizens. The Government does not interpret Shari'a as providing for exceptionally harsh punishment.

The Government stated that it investigated all allegations of abuse and punished at least some of the offenders; however, in most cases, the Government did not make public either the findings of its investigations or punishments it imposed.



In August, the Ministry of Interior relieved 5 KSS officials of their duties as a result of accusations filed with the Public Prosecutor by 12 Islamist citizens accusing several KSS officers of allegedly torturing and verbally insulting them during interrogation (see Section 1.d). In November, three police reportedly raped a Philippine female domestic servant while she was in police custody at a district police station. The Philippine Embassy filed a criminal case against the officers in December on behalf of the domestic. During the year, two Ministry of Interior officers were reassigned after being accused of physically abusing citizens who had been to Afghanistan.

In February 2002, the Criminal Court sentenced a police officer to death for a 2001 killing of a news editor. The police officer believed that the editor had insulted the officer's tribe in articles written and published by the editor.

Defendants have the right to present evidence in court that they were mistreated during interrogation; however, the courts frequently dismissed abuse complaints because defendants were unable to provide physical evidence of abuse. Members of the security forces routinely did not reveal their identities during interrogation, complicating confirmation of abuse.

There were several cases in 2002 of police officials and security personnel abusing detainees while in police custody; however, there were no new developments in these cases during the year.

Prison conditions, including conditions for those held for security offenses, generally met international standards, and the Government permitted visits by independent human rights observers. The International Committee of the Red Cross (ICRC), which maintains an office in the country, visited some detainees during the year. Members of the National Assembly's Human Rights Defense Committee (HRDC) also visited prisons and inmates during the year. Credible reports from former inmates and the HRDC cited severe overcrowding (13–15 inmates per cell), lack of beds, poor sanitation, lack of clean toilet and washing facilities, poor ventilation, and inadequate containment of infectious diseases as common problems. The HRDC closely monitored prison conditions throughout the year, and the Government allowed the ICRC access to all prisons and detention facilities (see section 4). During the year, the Government completed construction of a new prison facility for rehabilitating drug offenders and neared completion of two new prison buildings to house inmates and alleviate overcrowding. One physician, a dentist, and a team of nurses staffed the prison clinic. Medical specialists attended the prisons weekly or once every two weeks. Urgent cases were transferred to local hospitals. However, the prison clinic remained severely understaffed and lacked modern medical equipment and technology. Approximately 3,150 men and 550 women were serving sentences or awaiting trial in prison; detainees were counted separately.

There were some reports of mistreatment of noncitizen prisoners at the Central Prison. There were no specific reports of mistreatment of prisoners at the Talha Prison or Shuwaikh deportation facility. The Government incarcerated an estimated 500 deportees at the deportation facility in Shuwaikh, some for 6 months or longer pending deportation. Deportees reportedly often waited months for their former employers to cancel their residency and work permits or to provide their travel documents (see Section 1.d.).

The Government held men and women in separate detention facilities. There were credible reports that prison conditions for noncitizens, including women, were less favorable than conditions for citizens. The Government held pretrial detainees separately from convicted prisoners. Juveniles were incarcerated separately from adults in a juveniles prison. The Government estimated that citizens constituted between 40 to 60 percent of the total inmate population.

The Ministry of Health requires routine tuberculosis (TB) tests for all prisoners. Inmates undergo a routine medical exam and a series of medical tests before they are incarcerated with other prisoners; however, a report by the HRDC during the year cited TB infection among inmates and staff as a major problem. In July 2002, it was reported that hundreds of prisoners at the Central Prison were infected with TB. A family of 15 tested positive for tuberculosis after visiting the Central Prison. Seven inmates reportedly were infected with HIV/AIDS during the year (see Section 5). Prison authorities reportedly transferred two of them to the Infectious Diseases Hospital during the year for advanced-stage treatment.

Drug-related offenders comprised approximately 55 percent of the inmate population. The Government provided educational and rehabilitation programs for inmates, psychological counseling, and specialized courses for inmates suffering from drug and alcohol addiction. A new prison facility specifically for the treatment of convicted drug addicts with a capacity to accommodate 500 inmates opened during the year. An Islamic educational facility under the supervision of the Ministry of Awqaf and Islamic Affairs with a capacity to accommodate 600 inmates and three

other specialized learning facilities provided religious, computer, carpentry, and other practical skills training to inmates.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. In general, police officers must obtain an arrest warrant from state prosecutors or a judge before making an arrest (see Section 1.f.), although in misdemeanor cases the arresting officer may issue them. There were some credible reports of police arresting and detaining foreigners without a warrant, based on mere accusation by a third party. Security forces occasionally detained persons at checkpoints in Kuwait City (see Section 2.d.). There were no reported deaths in detention from beatings or severe mistreatment.

According to the Penal Code, those suspected of serious crimes may be held for up to 4 days without charge, during which time security officers may prevent lawyers and family members from visiting them. In such cases, lawyers are permitted to attend legal proceedings, but are not allowed to have direct contact with their clients. If charges are filed, prosecutors may remand a suspect to detention for an additional 21 days. Prosecutors also may obtain court orders for further detention pending trial.

The police constitute a single national force under the purview of civilian authorities of the Ministry of Interior. There are 54 police stations, roughly 1 in each district, although larger districts may have more than 1 station. District police are responsible for maintaining internal security and investigating violations of the law in their respective districts. Citizens and noncitizens may file complaints or report violations of the law to police officials in any district but typically in the district in which the violation or incident occurred. In practice, however, many noncitizens complained of police indifference, discrimination, harassment, and favoritism of citizens. During the year, there were credible reports of police corruption and abuse of detainees during interrogation. (see Section 1.c.). The Government relieved several security officials of their duties during the year as a result of credible allegations of abuse of detainees during interrogation. There were no reported Government efforts during the year to reform the police or security forces. Of the approximately 3,700 persons serving sentences or being detained pending trial, approximately half were being held on security grounds, including some held for collaborating with Iraq during the occupation.

On October 18, the Criminal Court began trial of 12 citizens charged with involvement in the October 2002 attack that led to the death of a foreign marine on Failaka Island. The Government released 2 of the 12 suspects on bail. In June, the Criminal Court sentenced a citizen to death for the shooting of two foreign civilians, one fatally, in January near Camp Doha. The citizen appealed the verdict and, on October 28, the Court of Appeals commuted the death sentence to life in prison. The Public Prosecutor filed an appeal in November to the Court of Cassation requesting it to cancel the Court of Appeals ruling and uphold the death sentence. The case was still pending at year's end. The Criminal Court sentenced three other accomplices to varying terms in prison.

The Government may expel noncitizens, including bidoon, if it considers them security risks. The Government also may expel foreigners if they are unable to obtain or renew work or residency permits. There were approximately 500 foreigners including 28 bidoon, held in detention facilities. Some detainees were held for up to 6 months pending deportation. The Government issued many deportation orders administratively, without the benefit of a trial. However, the Government did not return deportees to their countries of origin forcibly, allowing those who objected to remain in detention (see Section 2.d.). This practice led to prolonged detention of deportees, particularly Iraqis. The practice also was a factor in the complex problem faced by stateless bidoon deportees, who essentially remained in detention because their stateless condition made the execution of the deportation order impossible (see Sections 2.d. and 5).

The Constitution prohibits the deportation or forced exile of citizens, and there were no reports of such practices during the year. The Penal Code stipulates that noncitizens convicted of felonies must be deported after finishing their jail terms, and in certain circumstances, citizens may have their citizenship revoked. This includes citizens sentenced for felonies during the first 10 years of attaining citizenship, citizens discharged from a public job for "acts against integrity" during the first 10 years of attaining citizenship, and citizens who take up residence in a foreign country and join an authority that is designed to undermine the country.

*e. Denial of Fair Public Trial.*—The Constitution provides for the right to a fair trial and states that "judges shall not be subject to any authority;" however, the Amir appoints all judges, and the renewal of judicial appointments is subject to gov-

ernment approval. Judges who are citizens have lifetime appointments; however, the majority of judges were noncitizens. Noncitizen judges hold 1- to 3-year renewable contracts, which undermines their independence. The Ministry of Justice may remove judges for cause, but rarely does so. Foreign residents involved in legal disputes with citizens frequently claimed that the courts showed a bias in favor of citizens.

The secular court system tries both civil and criminal cases. The Court of Cassation ("Supreme Court") is the highest level of judicial appeal. Sunni and Shi'a Muslims have recourse to their own independent courts for family law cases. Secular courts barred no groups from testifying and considered male and female testimonies equally; however, in the family courts, the testimony of one man was equal to the testimony of two women. By law, criminal trials are public unless a court or the Government decides that "maintenance of public order" or "preservation of public morals" necessitates a closed trial. There is no trial by jury.

Defendants have the right to confront their accusers and appeal verdicts. The Amir has the constitutional power to pardon or commute all sentences. Defendants in felony cases are required by law to be represented in court by legal counsel, which the courts provide in criminal cases. In misdemeanor cases, defendants have the right to waive the presence of legal counsel, and the court is not required to provide counsel to indigent defendants. However, the Kuwaiti Bar Association is obligated upon court request to appoint an attorney pro bono for indigent defendants in civil, commercial, and criminal cases. While virtually all indigent criminal defendants asked for and received pro bono counsel, in practice very few indigent civil and commercial plaintiffs requested this service.

Both defendants and prosecutors may appeal court verdicts to the High Court of Appeals, which may rule on whether the law was applied properly as well as on the guilt or innocence of the defendant. Decisions of the High Court of Appeals may be presented to the Court of Cassation, which conducts a limited, formal review of cases to determine only whether the law was applied properly.

The Government continued to incarcerate 36 citizens, bidoon, Palestinians, and Syrians convicted of collaboration with Iraq during the 1990-91 occupation. There were no new developments during the year. Under the law, such collaboration is considered a felony. Most of those convicted in the Martial Law Court in 1991 and the Special State Security Court, which the Government abolished in 1995, did not receive fair trials. Amnesty International (AI) faulted the trials in general, and particularly noted the absence of any right of appeal of the verdicts.

There were no reports of political prisoners during the year.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for individual privacy and the sanctity of the home, and the Government generally respected these rights in practice. The law generally requires police to obtain a warrant to search both public and private property; however, it permits searches without warrant if alcohol or narcotics are suspected on the premises or if police are in pursuit of a suspect fleeing the scene of a crime. A warrant may be obtained from the State Prosecutor or, in the case of searches of private property, from a judge (see Section 1.d.). The security forces occasionally monitored the activities of persons and their communications.

The law forbids marriage between Muslim women and non-Muslim men and requires male citizens to obtain government approval to marry foreign nationals. Muslim men marrying Muslim women require no such approval. Although the Government may advise men against marriage to a foreign national, there were no known cases of the Government refusing permission for such marriages. The Government advises women against marrying foreign nationals (see Section 2.c.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, several laws empower the Government to impose restrictions on freedom of speech and of the press, and journalists practice self-censorship. With some exceptions, citizens are free to criticize the Government at public meetings and in the media. The Press Law prohibits the publication of any direct criticism of the Amir, official government communications with other states, and material that serves to "attack religions" or "incite people to commit crimes, create hatred, or spread dissension among the public."

In May, the Government presented a new draft press law that would severely restrict press freedom by giving the Government power to close printing presses, veto advertisements, suspend publication of newspapers, and subject articles to pre-publication censorship (a practice the Government banned in 1992). Local newspapers sharply criticized the proposed law. At year's end, the National Assembly had not voted on it.

In June, the Government filed charges against the publisher and editor in chief of a prominent newspaper for "challenging the authority of the Amir" after the editor in chief stated publicly that unnamed members of the ruling family were interfering in the parliamentary election campaign (see Section 3). The case has not yet gone to court. The Government, through the Ministry of Information, threatened to impose penalties against individual publishers and editors believed to have criticized government policies or discussed subjects deemed offensive to Islam, tradition, or the State. In December, police arrested, detained, and interrogated a citizen for producing and distributing an audiotape allegedly defaming the Prophet Mohammed's companions. The Public Prosecutor ordered the suspect to remain in police custody pending further investigation. A local newspaper reported that the suspect allegedly fell ill during interrogation and was admitted to a local hospital. At year's end, the Court of Misdemeanor sentenced the citizen to 1 year in jail and imposed a \$3,500 (1,000KD) fine for "insulting the companions of the Prophet Mohammed."

The country has five Arabic and two English language daily newspapers. All newspapers are independent, privately owned, and free to report on social, economic, and political issues. Many frequently criticized government policies and officials, including the Prime Minister and Cabinet members. In June, an editorial in the largest-circulation Arabic daily openly debated the issue of separating the post of Prime Minister from that of the Crown Prince (see Section 3). In 2002, the National Assembly questioned the then Finance-Minister publicly on allegations of corruption in his ministry after a popular local newspaper published articles criticizing the minister and his conduct. Press accounts during the year that criticized the Government led to National Assembly members calling for formal question sessions of several Cabinet members.

The Government ended pre-publication censorship in 1992, but journalists still censored themselves. Direct press criticism of the Cabinet's foreign, domestic, and security policies continued.

In November 2002, the Government closed down the offices of and expelled independent Qatar-based Arab satellite network Al Jazeera on allegations of misrepresentation of information about Kuwait.

Publishers must obtain an operating license from the Ministry of Information to begin newspaper publications. Publishers may lose their license if their publications do not appear for 6 months, which prevents publishers from publishing sporadically. Individuals also must obtain permission from the Ministry of Information before publishing any printed material, including brochures and wall posters. There were no reported cases of the Ministry of Information denying permission to publish printed material during the year.

In December, security officials arrested a police officer for reportedly verbally and physically assaulting a journalist. There were no other specific reports of security forces subjecting journalists to violence or harassment during the year; however, in 2002, police confiscated film belonging to a press photographer covering a public disturbance. Police officials did not provide any explanations regarding the action taken towards the press photographer. In 2002, a police officer was sentenced to death for the 2001 killing of a news editor.

Fawwaz Muhammad Al-Awadi Bessisso and Ibtisam Berto Sulaiman Al-Dakhil, two journalists, were sentenced to life in prison in 1991 because of their work with a newspaper that published under Iraqi occupation. The Government deported one of the journalists to France during the year. The other reportedly departed the country in October.

The Government facilitated visas, established a press center, organized trips to closed military areas, and granted interviews to foreign journalists.

The law requires jail terms for journalists who defame religion (see Section 2.c.). The law provides that any Muslim citizen may file criminal charges against an author if the citizen believes that the author has defamed Islam, the ruling family, or public morals. Often, citizens filed such charges for political reasons.

The Government owns and controls local radio and television companies. Satellite dishes are widely available and operate without restriction. However, the Ministry of Information censored all books, films, videotapes, periodicals, and other imported publications deemed morally offensive. The Ministry of Information censored media for political content and did not grant licenses to political magazines. The General Organization of Printing and Publishing controlled the publication and distribution of all informational materials.

The Internet is available but access is limited. According to the latest U.N. statistics, there were approximately 120 personal computers per 1,000 people but only about 23 websites per 10,000 people and an estimated 50,000 Internet users. The Government imposed controls on Internet content in 2002 and threatened to shut down many private Internet cafes for noncompliance with new restrictive regula-

tions. The Ministry of Communications issued new directives in 2002 to Internet service providers to block some political sites and some deemed immoral. Internet providers installed filtering technology. Following the 2002 raid of 19 Internet cafes, the Ministry of Communications requires cafe owners to obtain the names and civil identification numbers of customers and to submit the information to the Ministry upon request. The law provides for a \$162,500 (50,000 dinars) bond.

The Constitution provides for freedom of opinion and of research, and states that every person shall have the right to express and propagate his opinion verbally, in writing, or otherwise. Academic freedom is limited by self-censorship, and academics were legally prohibited from criticism of the Amir or Islam.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Public gatherings require government approval. The Constitution protects informal weekly social and political gatherings of men (diwanias). Most adult male citizens, including the Amir, members of the Government, and members of the National Assembly hosted or attended diwanias to discuss current events. The diwaniya system provided an important forum for public debate on political, social, and economic issues. Women were not precluded from holding diwanias of their own; however, such diwanias were uncommon. Traditionally, women do not attend male diwanias although a few diwanias are open to both sexes. Most election campaign gatherings were well attended and women attended some. The Ministry of Information granted permission for a concert of popular music despite vocal opposition from some Islamist politicians.

There were a few public demonstrations during the year. Demonstrators were orderly and the police did not interfere in most cases. In December, approximately 1,000 foreign workers protested peacefully at the Ministry of Health over reported delays by the Ministry in processing their health insurance transactions. Security officials dispersed the crowd. There were no reports of police harassment or abuse of demonstrators (see Section 6.e.).

The Constitution provides for freedom of association; however, the Government restricted this right in practice. The Government banned political parties; however, several unofficial blocs existed and were active in the National Assembly. Candidates were allowed to run for elections only as individuals, not with a party (see Section 3); however, in many cases, a candidate's party affiliation was well known and may have influenced electoral performance.

The Government uses its power to license as a means of political control. There are 52 licensed, official nongovernmental organizations (NGOs) in the country, including professional groups, a bar association, and scientific bodies; however, since 1985, the Ministry of Social Affairs and Labor approved only 6 new NGO licenses. The Ministry licensed only one NGO during the year, the Kuwait Society for the Care of Children in Hospital. There were 92 NGOs pending licensing by the Ministry; many have been waiting years for approval. Licensed NGOs receive government subsidies for their operating expenses, including travel and per diem expenses for participating in international conferences. The Ministry has rejected license requests on the grounds that established NGOs already provide services similar to those proposed by the petitioners. Members of licensed NGOs must obtain permission from the Ministry in order to attend international conferences (see Sections 2.d. and 4).

There are hundreds of unlicensed civic groups, clubs, and unofficial NGOs in the country. These unofficial associations do not receive government subsidies and have no legal status. The Kuwait Human Rights Society, an unofficial NGO with approximately 500 members, has been waiting for a license since 1992. Despite its unofficial status, it produces an annual report on human rights and a quarterly magazine. However, it cannot operate its own official premises or speak officially with the Government on human rights issues without a license (see Section 4). At year's end, the Ministry of Social Affairs and Labor initiated a review of its NGO licensing regulations and procedures with a view towards streamlining the licensing of pending NGO applicants.

In August 2002, the Acting Minister of Social Affairs and Labor approved the creation of a charitable organizations department within the Ministry. The department regulates domestic charities by reviewing their applications for registration, monitors their operations, and utilizes an accounting system to comply with regulations governing charitable operations (see Section 2.c.). In 2001, the Government intensified its supervision of all charity groups as part of its effort to prevent any diversion of funds to terrorists. The Government reportedly did not shut down any unlicensed NGOs or unregistered branches of Islamic charities during the year, but removed a large number of unlicensed street-side charity boxes.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government placed some limits on this right in practice. The Constitution also provides that the State protect the freedom to practice religion in accordance with established customs, provided that it does not conflict with public policy or morals. The Constitution states that Islam is the state religion and that Shari'a (Islamic Law) is "a main source of legislation." The Government observes Islamic holidays.

The Ministry of Awqaf and Islamic Affairs has official responsibility for overseeing religious groups. Officially recognized churches must deal with a variety of government entities, including the Ministry of Social Affairs and Labor (for visas and residence permits for pastors and other staff) and the Municipality (for building permits). While there reportedly was no official government "list" of recognized churches, seven Christian churches have at least some type of official recognition that enables them to operate openly. These seven churches (Roman Catholic, Anglican, National Evangelical, Greek Orthodox, Armenian Orthodox, Coptic Orthodox, Greek Catholic) have open "files" at the Ministry of Social Affairs and Labor, allowing them to bring in staff. In October, the Government reportedly closed the National Evangelical Church's file due to its alleged failure to comply with the National Manpower Support Law by employing the requisite number of Kuwaiti nationals. At year's end, the Government reinstated its open file status.

By tradition, three churches benefit from full government recognition and are allowed to operate compounds officially designated as churches. These are the Catholic Church (which includes two separate churches, the Latin Catholic and the Maronite), the Anglican Church, and the National Evangelical Church. However, there are quotas on the number of clergy and staff that each church can bring into the country. Existing church facilities are inadequate to serve the needs of their respective communities. The Catholic Church faces severe overcrowding at its two official church facilities. Its cathedral in Kuwait City regularly attracts as many as 100,000 worshippers to its more than 30 weekly services in several languages. The National Evangelical Church, which serves a weekly average of 20,000 worshippers in 55 congregations, is also overcrowded. The church is seeking approximately 15–20 acres of new land to alleviate overcrowding and petitioned the Government for additional land during the year. No action had been taken on the issue at year's end.

The other four recognized churches reportedly were allowed to operate openly, hire employees, invite religious speakers, and conduct other such activities without interference from the Government; however, according to government records, their compounds were registered only as private homes. There were reports in previous years of at least two groups that applied for permission to build their own churches; however, the Government has yet to respond to their requests.

The Government continued to discriminate against the Shi'a minority. There are approximately 270,000–315,000 Shi'a citizens (one third of Kuwaiti citizens) and approximately 100,000 Shi'a noncitizen residents. Shi'a remained disadvantaged in the provision of mosques, access to Shi'a religious education, and representation in upper levels of government. There are approximately 30 Shi'a mosques and approximately 1,200 Sunni mosques. There is no independent Shi'a seminary. Shi'a must travel to Iran or Iraq for clerical training. Five Shi'a were elected to the 50-seat National Assembly in July, compared to 6 Shi'a in the previous National Assembly. The Government allows Shi'a to follow their own jurisprudence in matters of personal status and family law at the first-instance and appellate levels. In October, the Government approved a long-standing Shi'a request to establish a Shi'a Court of Cassation to handle Shi'a personal status and family law cases.

Shi'a were free to worship without government interference, and the overall situation for Shi'a improved somewhat during the period covered by this report. Since 2000, the Government has granted licenses for and has approved the construction of a total of 4 new Shi'a mosques. All four mosques are still reportedly under construction. In November, the Government publicly announced its approval of another long-standing Shi'a request for the establishment of an independent Shi'a Ja'fari Waqf (endowment) Department within the Ministry of Awqaf and Islamic Affairs to govern the use of funds for Shi'a charitable and religious purposes. In 2001, the Government established an independent Shi'a charity authority.

Shi'a leaders have complained that Shi'a who aspire to serve as imams are forced to seek appropriate training and education abroad due to the lack of Shi'a jurisprudence courses at Kuwait University's College of Islamic Law, which only offers Sunni jurisprudence. The Ministry of Education reviewed a Shi'a proposal to establish a private college to train Shi'a clerics within the country; however, at year's end, no action had been taken on the proposal.

Members of religions not sanctioned in the Qur'an, such as Sikhs, Hindus, Baha'is and Buddhists, are not permitted to build official places of worship as these religions lack legal status. However, they are allowed to worship privately in their homes without government interference. In January 2002, due to mounting pressure from citizens in the district of Salwa, the Government closed and later reopened an unofficial Sikh temple, located in a room in a private home. Sikhs who worshipped there were reportedly still able to worship elsewhere.

While some discrimination based on religion reportedly occurred on a personal level, most observers agreed that it was not widespread. There was a perception among some domestic employees and other members of the unskilled labor force, particularly Asian nationals, that they would receive better treatment from employers as well as society as a whole if they converted to Islam.

The seven officially recognized Christian churches were able to hold worship services freely without government interference. Other Christian denominations (including Mormons, Seventh Day Adventists, Marthoma, and Indian Orthodox), while not recognized legally, were allowed to operate in private homes or in the facilities of recognized churches without government interference, provided that they did not violate laws regarding assembly or proselytizing.

The Government prohibited proselytizing to Muslims; however, the Government permitted Christian churches to serve non-Muslim congregations. The law prohibited organized religious education other than Islam; however, the Government did not enforce this law rigidly, and such education took place. Although informal religious instruction occurred inside private homes and on church compounds without government interference, there were credible reports that government inspectors periodically visited public and private schools outside church compounds to ensure that no religious teaching other than Islam took place. There were also credible reports that government inspectors periodically observed church worship services to monitor the content of information for possible anti-Government or proselytizing rhetoric.

The Islamic Presentation Committee (IPC), under the authority of the Ministry of Awqaf and Islamic Affairs, actively encouraged proselytizing to non-Muslims. The IPC maintained an office at the Central Prison to provide religious education and information on Islam to inmates. IPC also established an NGO, AWARE, late in the year to promote awareness of Islam, Arab and Islamic culture, and provide training courses to foreigners.

The Government did not permit the establishment of non-Islamic publishing companies or training institutions for clergy. Nevertheless, several churches published religious materials for use solely by their congregations. Further, some churches, in the privacy of their compounds, provided informal instruction to persons interested in joining the clergy.

The Book House Company Ltd., a private company, imported a significant number of bibles and other Christian religious material including videotapes and compact discs for use solely by the congregations of the country's recognized churches. The firm was the only bookstore that had an import license to bring in such materials, which also required approval by government censors.

There were some reports of customs officials confiscating non-Islamic religious materials from private citizens upon their arrival at the airport. In May, police arrested five foreign workers for allegedly proselytizing with bibles in Andalus district. State security officials later released the individuals on condition that they sign commitments pledging to refrain from proselytizing.

The law prohibits the naturalization of non-Muslims; however, citizens who were Christians before 1980 (and children born to families of such citizens since that date) were allowed to transmit their citizenship to their children.

By law, a non-Muslim man must convert to Islam when he marries a Muslim woman if the marriage is to be legal in the country. The law forbids marriage between Muslim women and non-Muslim men (see Section 1.f.). By law, a non-Muslim woman does not have to convert to Islam to marry a Muslim man, but it is to her advantage to do so. In practice, many non-Muslim women faced tremendous economic and societal pressure to convert. Failure to convert may mean that, should the couple later divorce, the Muslim father would be granted custody of children, even those who most likely would have been left in the mother's custody if she were Muslim. Failure to convert may also mean that a non-Muslim woman would not be eligible to inherit her husband's property.

A few Muslim converts to Christianity reported harassment and discrimination by police and employers, including termination of employment, repeated summonses to police stations for questioning, verbal abuse, police monitoring of their activities, and imposition of fines without due process (see Section 1.e.).

The law requires jail terms for journalists who defame religion (see Section 2.a.).

The Ministry of Education announced its intention to combat religious intolerance by clarifying the concept of "jihad" in school curricula; this initiative encountered strong condemnation from some Islamist members of the National Assembly. At year's end, no reported changes had been made to school curricula regarding this concept.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Travel, Emigration, and Repatriation.*—The Constitution does not provide for the rights of freedom of movement within the country, freedom of foreign travel, or freedom to emigrate. The Government placed some limits on freedom of movement in practice. Citizens have the right to travel freely within the country and to change their workplace as desired. Unmarried women must be 21 years of age or older to obtain a passport and travel abroad without permission of a male relative. Married women must obtain their husbands' permission to apply for a passport. A married woman with a passport does not need her husband's permission to travel, but he may prevent her departure from the country by placing a 24-hour travel ban on her through immigration authorities. After this 24-hour period, a court order is required if the husband still wishes to prevent his wife from leaving the country. In practice, however, many travel bans were issued without court order, effectively preventing citizens (and foreigners) from departing.

All minor children under 21 years of age require their father's permission to travel outside the country. This also applies to dual national children born to citizen fathers and noncitizen mothers. The Government does not recognize dual nationality. A citizen father can place a travel ban on his (under 21) children through the Ministry of Interior or through a local court if he does not wish for them to travel without his permission. There were many reports of citizen fathers/husbands confiscating their children's/wives' travel documents to prevent them from departing.

Citizens were largely free to emigrate and to return. Security forces in Kuwait City occasionally set up checkpoints to detain individuals for immigration purposes and to apprehend undocumented aliens (see Section 1.d.). In July 2002, the Ministry of Interior allowed expatriates a 45-day grace period to legalize their residency status or to depart the country without facing legal action. During the year, there were some reports of police harassment of foreign workers at security checkpoints.

The law permits the Government to place a travel ban on any citizen or foreigner who has a legal case pending before the courts. The law also permits any citizen to petition authorities to place a travel ban against any other person suspected of violating local law. In practice, this has resulted in many citizens and foreigners being prevented from departing the country without investigation or a legal case being brought before a local court. This practice has become less prevalent in recent years but still persists. The travel ban is a tool used by some citizens to prevent domestic servants from departing the country. Although illegal, many citizen employers routinely confiscate the passports of foreign employees, which forces them to remain in the country against their will. There does not appear to be any concerted Government effort to prevent employers from engaging in this practice.

Members of licensed NGOs must obtain government approval to attend international conferences as official NGO representatives (see Sections 2.b. and 4). The Government severely restricted the ability of its bidoon population to travel abroad (see Sections 2.d. and 5). However, the Government permitted some bidoon to travel to Saudi Arabia during the year for the annual Hajj pilgrimage.

Since 2001, there have been no special restrictions against or permits required for Palestinian workers wishing to return to the country. According to the latest estimates, there were approximately 30,000 to 40,000 Palestinians, 30,000 to 40,000 Jordanians, and 5,000 Yemenis resident in the country.

The Government permitted the ICRC to verify if deportees objected to returning to their countries of origin; it detained those with objections until they either changed their minds or made alternative arrangements to travel to another country (see Section 1.d.).

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, in practice the Government provided protection against refoulement but did not grant refugee or asylum status. The Constitution prohibits the extradition of political refugees. The Government stated that it did not deport persons who claimed to fear persecution in their home countries; however, it often kept such persons in detention rather than grant them permission to live and work in the country (see Section 1.d.). The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR maintained an office in the country and had access to refugees in detention.



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

Citizens do not have the right to change their government. The Constitution provides that the elected National Assembly has a limited role in approving the Amir's choice of Crown Prince (the future Amir). If the Assembly rejects the Amir's nominee, the Amir then submits three names from which the Assembly must choose the new Crown Prince. There is no universal suffrage. The only citizens who have the right to vote and seek election to the National Assembly are males age 21 and over who have been citizens for at least 20 years and are not members of the armed forces, police, or other uniformed personnel of the Ministry of Interior.

Under the Constitution, the Amir holds executive power and shares legislative power with an elected National Assembly. The Amir appoints the Prime Minister, who presides over a 16-member Cabinet (Council of Ministers), who he chooses in consultation with the Amir. In accordance with the practice of the ruling family (but not specifically the Constitution), the Prime Minister always has been the Crown Prince; however, in an unprecedented development in July, the Amir named one of his younger brothers, not the Crown Prince, as Prime Minister; the new Prime Minister promptly formed a new Cabinet.

The Constitution empowers the Amir to suspend its provisions and to rule by decree. The Constitution provides that cabinet members sit in the National Assembly and vote on legislation. At least one member of the Cabinet must be an elected member of the National Assembly.

There are 50 elected National Assembly members. Members serve 4-year terms, and the most recent National Assembly elections were held in July. The Government banned political parties; however, several well-organized and unofficial blocs, acting much like political parties, existed and were active in the National Assembly. The Government acknowledged and, at times, worked with these blocs, which were organized on the basis of common ideological goals. Because of the ban on political parties, National Assembly candidates must nominate themselves as individuals and may run for election in any of the country's 25 constituencies. The top two finishers in each constituency are elected in single-round balloting.

The Constitution provides that the National Assembly can overturn the Amir's decrees, but only those made when the National Assembly is not in session. The National Assembly exercised this authority in previous years in some cases; however, the National Assembly did not amend any of the Amir's proposals during the year.

Members regularly require ministers to appear before the full National Assembly for formal question sessions when they are dissatisfied with their or the Government's performance. On occasion, pressure exerted by the National Assembly, including through votes of no confidence, has led to the resignation or removal of ministers.

A law promulgated in 1998 bans primaries previously conducted by religious sects and tribes; however, such primaries or by-elections, which are limited to tribal members and do not include all eligible voters in a given electoral constituency, continued in practice.

The July National Assembly elections were generally free and fair, although there were some credible reports of government and opposition vote buying, illegal and unevenly held tribal primaries (by-elections), ballot box tampering in some constituencies, and lax enforcement of some election laws. Recounts were ordered and undertaken in 2 of the 25 electoral districts due to allegations of vote fraud. During the year, candidates from several constituencies filed court petitions challenging the July National Assembly election results on allegations of ballot box tampering. In December, the Constitutional Court dismissed these petitions.

Women continued to be denied the right to vote and run for office and had little opportunity to influence government. There were no women in the 50-seat National Assembly and no women in the Cabinet. Women held some relatively senior non-political positions within some ministries.

The new Prime Minister appointed 1 minority Shi'a member to the 16-member Cabinet as the Minister of Information. Of 50 National Assembly members, 5 were Shi'a (after the July elections).

Several tribes conducted illegal primaries (by-elections) to select candidates for participation in the National Assembly elections held in July. Such primaries are limited to tribe members and thus do not include all eligible voters in a given electoral constituency. Some Shi'a claimed that if they had held such primaries as other groups did (in violation of election laws), they would have gained more seats in the National Assembly. In December, the National Assembly's Legislative and Legal Affairs Committee approved requests from the Public Prosecutor to lift the parliamentary immunity of four parliamentarians suspected of participation in illegal tribal primaries held before the July elections.

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

The Government permitted the existence of NGOs; however, it continued to deny NGOs, including new local human rights groups, licenses. All NGOs must obtain a license from the Ministry of Social Affairs and Labor in order to operate officially (see Section 2.b.). The only local human rights NGO is the Kuwait Human Rights Society, whose license application has been pending since 1992. Without a license, the NGO cannot have its own official facility, obtain government funding, operate any official accounts, or dialogue directly and officially with the Government on human rights issues. Despite its unofficial status, however, the NGO produces an annual report on human rights in the country, publishes a quarterly magazine, and meets some senior Government officials occasionally. The NGO reportedly paid for the legal fees and the return travel of an abused Indian maid in 2002 who had been severely beaten by her employer in a high-profile domestic abuse case.

The Government permitted international human rights organizations to visit the country and to establish offices. Several organizations conducted fieldwork and reported good communication with and reasonable cooperation from the Government. For example, AI and Human Rights Watch (HRW) regularly exchanged information with the Government either directly or through the Arab Human Rights Organization.

The Government has cooperated fully in the work of the U.N. Special Rapporteurs for Iran and Iraq and the high-level representative of the Secretary General on the issue of its citizens missing in Iraq since the end of the Gulf War.

The Government has not yet submitted the remaining two of eight conventions from the International Labor Organization's (ILO) Declaration of Basic Rights at Work to the National Assembly for ratification (see Section 6).

The National Assembly has an active Human Rights Defense Committee, which took testimony from individuals regarding abuses, investigated conditions in prisons and nursing homes, and made nonbinding recommendations for redress. Despite its designation as an advisory body, the HRDC has shown that, in practice, it is able to mobilize government agencies to address significant human rights problems. During the year, the HRDC focused particular attention on the issue of access to public education for bidoon children. HRDC members questioned the Minister of Education before the National Assembly on the issue. The Government established a special educational fund to help pay for school fees for bidoon children of primary school age whose parents cannot afford them. The Committee also issued a report critical of Central Prison conditions during the year. The Committee issued its first annual human rights report in May 2002. It did not issue a human rights report during the year.

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

The Constitution prohibits discrimination based on race, national origin, language, and religion; however, in practice, the Government did not uniformly or consistently enforce laws against discrimination. Many laws and regulations discriminated against women and noncitizens. There were no specific reports of any official or societal discrimination against persons with HIV/AIDS. However, the Government tightly controlled HIV testing, and foreign workers who have HIV/AIDS were often deported.

*Women.*—Violence against women continued to be a serious and overlooked problem. Certain provisions of the Penal Code reduce or eliminate penalties for violent crimes committed by men against women. Each of the country's 54 police stations reportedly received on average 1 to 2 complaints of spousal abuse each week, although this may be understated. Of the complaints received, approximately 60 percent involved spousal abuse of noncitizen women. The police and the courts generally sought to resolve family disputes informally. The police referred a few serious cases to the Ministry of Health.

The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases are not brought to court and abusive husbands, if charged, rarely face severe penalties. Typically, husbands accused of domestic abuse must pay a nominal fine and sign a pledge of good conduct. Police officials typically regard domestic violence as a private family affair and are reluctant to bring such cases to the attention of higher investigative authorities. Only the most egregious cases of abuse have resulted in conviction of the abuser or removal of the victim from the abusive environment. There are no shelters or hotlines for victims of domestic violence. Many noncitizen women married to citizen men reported domestic abuse and inaction or discrimination by police during the year. By law, a victim of domestic violence may file a complaint with the police and request that formal charges be brought against the abuser. In practice, however, even with documented evidence of the abuse (such as

hospital reports, eyewitness accounts, and social worker testimony), police officials rarely take into custody perpetrators of domestic violence. An abused woman may petition for divorce based on injury, but the law provides no clear legal standard as to what constitutes injury and a woman must provide at least two male witnesses (or a male witness and two female witnesses) to attest to the injury committed. There were some reports of individuals bribing police officials to ignore charges of domestic abuse. The law prohibits rape and provides that citizens found guilty of crimes that violate moral integrity, such as rape or incest, are forbidden from holding public jobs.

Rape and sexual assault remained serious problems, particularly for domestic servants and other foreign workers. Local newspapers highlighted dozens of rape and sexual assault incidents during the year, mostly involving female expatriates. In April, a male citizen, reportedly part of a criminal gang, allegedly broke into local homes and attempted to rape at least two foreign housemaids. In October, three unidentified men allegedly kidnapped and raped a female Philippine national in a remote desert area. The case was under investigation at year's end. In December, a citizen teacher reportedly raped an 11-year-old male pupil in a school bathroom. The Public Prosecutor referred the case to the Criminal Court at year's end. The police occasionally arrested rapists and several were tried and convicted during the year; however, laws against rape were not always enforced effectively. In January, the Court of Appeals upheld a Criminal Court verdict sentencing a Bangladeshi man to death for kidnapping, raping, detaining, and forcing two foreign women into prostitution in Mangaf district. Also in January, the court upheld a 15-year prison sentence handed down to a police officer who kidnapped and raped a woman. In April, Farwaniya district police arrested a male citizen, part of a criminal gang, for attempted rape of a housemaid. In November, the Public Prosecutor interrogated several police officers accused of raping a Philippine housemaid in a police station. The suspects were detained at year's end pending investigation. In previous years, the Government imposed severe penalties, including the death sentence, for particularly egregious rape cases.

The physical or sexual abuse of foreign women working as domestic servants was a pervasive problem. Some employers physically abused foreign women working as domestic servants, and, despite economic and social difficulties for a domestic servant who lodged a complaint, there were continuing reports of the rape of such women by male employers and male coworkers. The local press devoted considerable attention to the problem, and both the police and the courts have taken action against employers when presented with evidence of serious abuse. The courts fined or jailed some employers for abuse of domestics during the year. Some rapes resulted in unwanted pregnancies, and there were several reports of illegal abortions. There were also reports of domestic servants killing children that were fathered by employers. Occasionally, domestic workers were charged with assaulting their employers; in such cases, the workers claimed that they acted in response to physical abuse or poor working conditions. There also were dozens of reports of domestic workers allegedly committing or attempting to commit suicide because of desperation over poor working conditions or abuse.

Foreign-born domestic employees have the right to sue their employers for abuse, but few do so, fearing judicial bias and deportation. Local news sources reported a few criminal cases filed against abusive employers by domestics but informal out-of-court conciliation was attempted in most cases, usually with the assistance of the domestic's source country embassy. The Government deported most runaway domestics. A specialized police facility and a government domestic labor office investigated and resolved some complaints. The Government took some steps during the year to protect the rights of domestic servants, particularly victims of trafficking (see Sections 6.c., 6.e. and 6.f.). In April, the Government licensed a new union, the Kuwait Union of Domestic Labor Offices, charged with monitoring the activities of labor recruitment agencies and raising awareness among employers on the treatment of domestics. During the year, the union distributed educational brochures to both employers and newly arrived domestics on their rights and obligations. The union, in cooperation with various government ministries, proposed a new draft law to regulate the importation, training, and hiring of domestic servants. The Government had not yet taken action on the proposed law at year's end.

The Ministry of Interior sometimes pays for return airline tickets for runaway or abused domestic servants if their employers refuse to provide tickets. Some NGOs, such as the Kuwait Human Rights Society and the Kuwait Friendship Society, have paid for return airline tickets or legal fees on behalf of runaway or abused domestics in some cases. Employers often accused their runaway domestics of theft or other crimes to avoid furnishing tickets. In such cases, the domestics often were deported without owed compensation. The Ministry of Interior blacklists some delinquent em-

ployers to prevent them from sponsoring additional domestics. The Ministry reportedly blacklisted over 4,000 employers for failure to fulfill their duties as sponsors. In practice some blacklisted employers were able to hire new domestics due to their connections (“wasta”) with police officials or other authorities.

The Government prosecuted some employers accused of abusing their foreign-born domestic servants. In March, the High Court of Appeals overturned the acquittal by the Criminal Court of a female citizen charged with beating and burning her maid with an iron bar by fining her approximately \$3,300 (1,000 KD) and ordering her to sign a pledge of good conduct. In practice, however, enforcement of such pledges appears to be weak. In February, police detained a male citizen for allegedly raping his housemaid repeatedly over a period of 1 year. The maid took shelter in her source country embassy during the year. In November 2002, the Criminal Court sentenced a man to life in prison for stabbing and attempting to rape his maid while under the influence of alcohol.

There were a number of cases still pending resolution in which foreign-born domestic employees were tortured, severely beaten, or died at the hands of their employers. There were no developments in the 2002 case of an Indian maid who was beaten severely and tortured.

Runaway servants, including many women alleging physical or sexual abuse, often seek shelter at their country’s embassy pending repatriation or a change in employer (see Sections 6.c. and 6.e.). Out of an estimated 500,000 domestic servants in the country, approximately 1,000 women were reported to be in informal shelters run by source-country embassies at any given time during the year. Many runaway domestics remained in embassy shelters for months pending new employment or departure from the country. The Government does not prevent runaway domestics from seeking shelter in their host country embassies.

Some unemployed, runaway foreign domestic workers were susceptible to recruitment into prostitution. In January, a Bangladeshi man allegedly detained three Asian women inside an apartment in a remote district and forced them into prostitution. In May, a Bangladeshi man and two accomplices allegedly kidnapped two Asian women, detained them inside an apartment, and forced them into prostitution. Police arrested the man in May. The police actively enforced laws against pandering and prostitution, with arrests reported almost every week. Prostitutes generally were deported to their countries of origin. In recent years, procurers received stiff jail terms. There were several reports during the year of procurers kidnapping maids off the street and forcing them into prostitution (see Section 6.f.).

“Honor crimes” are prohibited; however, some provisions of the Penal Code reduced penalties for these crimes.

In November 2002, the High Court of Appeals upheld the original 2002 Criminal Court verdict sentencing a woman to life imprisonment and her three male accomplices to death for a 2002 “honor” killing of a 6-year-old girl. The citizens filed an appeal during the year and the Court of Cassation began considering their appeal in December.

There were some reports of women, mainly from Asia, who were trafficked into the country into situations of coerced labor, where they often suffered from physical abuse or other extreme working conditions. Some female domestic servants who ran away from their employers due to abuse or poor working conditions were recruited or kidnapped into prostitution (see Section 6.f.).

Women continued to experience legal, economic, and social discrimination. Women do not have the right to vote (see Section 3) or run for election to the National Assembly. Their testimony is worth half that of a man’s in proceedings before the family courts (see Section 1.e.). Married women require their husbands’ permission to obtain a passport (see Section 2.d.). By law, only men are able to confer citizenship; therefore, children born to citizen mothers and stateless fathers are themselves stateless. The Government forbids marriage between Muslim women and non-Muslim men (see Sections 1.f. and 2.c.). Inheritance is governed by Islamic law, which differs according to the branch of Islam. In the absence of a direct male heir, Shi’a women may inherit all property, while Sunni women inherit only a portion, with the balance divided among brothers, uncles, and male cousins of the deceased. Numerous women filed court cases and participated in marches in 2002 to press for voting rights. The courts postponed decisions on these cases and no action was taken during the year. Citizen families (a “family” must always include a male) are entitled to receive a plot of land and an approximately \$233,000 (70,000 KD) interest-free government loan (“housing allowance”) through the Credit and Savings Bank to purchase a house. The Government registers the house in the names of both the husband and the wife. In case of divorce, however, a female citizen loses her rights to the house regardless of any payments she may have made on the loan. She may continue to reside in the house if she has custody of any minor children

resulting from the marriage, but she must move out once the children reach age 18. A divorced single mother and her minor children or a female citizen married to a foreign national cannot, by law, qualify for the government housing allowance.

The Government makes family entitlement payments approximately \$165 (KD50) per child up to the seventh child to the employed parent, almost always the father. In divorce cases, the Government continues to provide these payments to the divorced father, who is expected by law and custom to provide for his children even though custody of minor children is almost always awarded to the mother.

The law provides for female "remuneration equal to that of a man provided she does the same work." This provision often was not generally respected in practice. The law prohibits women from working in "dangerous industries" and trades "harmful" to health. Educated women maintained that the conservative nature of society limited career opportunities. An estimated 33 percent of females citizen of working age were employed. Many women were employed as professors, attorneys, physicians, bankers, engineers, and businesswomen. A few women have been appointed to senior positions in the Ministry of Education, Ministry of Planning, and the state-owned Kuwait Petroleum Corporation. There was one female ambassador and two female undersecretaries; however, there were no female judges or prosecutors. During the year, the Government decided to appoint and assign female diplomats overseas to expand the public position of women.

There is no specific law that addresses sexual harassment; however, it was reportedly only a problem for domestic servants.

The law discriminates against female citizens married to foreign men. Unlike male citizens, such women are not entitled to government housing subsidies. The law also requires women to pay residence fees for their husbands and does not recognize marriage as the basis for granting residency to foreign-born husbands. Instead, the law grants residency only if the husband is employed. By contrast, male citizens married to foreign-born women do not have to pay residency fees for their spouses, and their spouses' right to residency derives from marriage.

Most classes at Kuwait University are fully segregated by gender. Construction is underway on a separate campus for female students, who comprise approximately 70 percent of the total student body at Kuwait University.

Polygyny is legal; however, it is more common among tribal elements of the population.

Several organizations followed women's issues, among the most active of which were the Women's Cultural and Social Society, the Women's Affairs Committee, Kuwait Economic Society, Kuwait Human Rights Society, and the Social Reform Society Women's Committee.

*Children.*—The Government is generally committed to the rights and welfare of citizen children. Citizen boys and girls receive a free education through the university level, often including advanced degrees and the opportunity to study abroad. Primary education is universal and compulsory. UNICEF estimates net primary enrollment at 66 percent. The Government provides free health care and a variety of other services to citizen children; non-citizen children must pay a small fee to be admitted into a health facility and pay additional fees for specialized care. Citizen parents also receive a monthly government allowance of approximately \$165 (50 KD) for each child up to the seventh child. The Government makes these payments to the employed parent, usually the father, and continues to provide these payments to the father even if the parents are divorced and the father does not have custody of the children. There is no legal requirement governing its use and anecdotal evidence suggests that many non-custodial fathers were not using it to contribute to the care and welfare of their children. There did not appear to be any monitoring of how the funds are spent.

There was no societal pattern of abuse; however, there were some cases of children, some as young as 6 years old, raped by men or gangs of youths. In February, a police officer allegedly raped a 9-year-old male citizen. The case was under investigation at year's end. In June, the Criminal Court sentenced a male citizen to death for kidnapping, raping, and murdering a Pakistani child. The citizen appealed the verdict and the High Court of Appeals began hearing testimony in December. In December, the Public Prosecutor referred to the Criminal Court the case of a citizen teacher accused of raping an 11-year-old boy. The teacher was reportedly in detention at year's end. There were incidents of arrests in some child abuse cases, but no reported convictions.

Some tribal groups continued to marry girls under age 17. There were credible reports of underage South Asian and Southeast Asian girls working as domestic servants (see Sections 6.c. and 6.d.).

Young boys, reportedly from South Asia and Africa, were trafficked into the country to be used as camel jockeys (see Sections 6.c., 6.d., and 6.f.). Many of the jockeys

came to the country from racing during the season in other Gulf nations. Some boys as young as five or six years old were reportedly used as camel jockeys. In response to growing criticism, the Government mandated during the year that all camel jockeys must be at least 18 years of age. The Ministry of Social Affairs and Labor, in cooperation with the Public Authority for Youth and Sport, issued a new regulation in September prohibiting the use of children under 18 years as camel jockeys, even as a sport. However, there were weight limits for camel jockeys. Camel jockeys reportedly had to weigh between 25–45 kilos, which directly contradicted the minimum age requirement. The Ministry mandated regular inspections of camel racing clubs during the year. There were no reported cases of sexual exploitation of youths used as camel jockeys.

Children of bidoon residents are not entitled to the free public education and health care provided to citizen children. The Government established an Educational Charity Fund for bidoon children during the year to help cover school fees for bidoon children of primary school age whose families cannot afford them.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and imposes penalties against employers who refrain from hiring persons with disabilities without reasonable cause. There was no reported discrimination against persons with disabilities in employment, education, or in the provision of other state services. In 1996, the National Assembly passed legislation on the rights of persons with disabilities. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. The Government paid stipends to citizens with disabilities, which covered transportation, housing, job training, and social welfare. There were no similar provisions for noncitizens.

*National/Racial/Ethnic Minorities.*—The legal status of tens of thousands of bidoon residents remained unresolved. The bidoon (a term meaning “without” as in “without citizenship”) are Arabs who have residency ties to the country, some going back for generations and some for briefer periods, but who either lack or have failed to produce documentation of their nationality. The exact number of bidoon residents is unknown. Since the mid-1980s, the Government has actively discriminated against the bidoon in areas such as education, medical care, employment and mobility. The Government eliminated the bidoon from the census rolls, discontinued their access to government jobs and free education, and deported many. The Government has denied bidoon official documents such as birth certificates, marriage certificates, civil identification, and drivers’ licenses, which made it difficult for many unregistered bidoon, particularly young bidoon, to find employment. Bidoon pay more for medical care than citizens do, although less than foreign residents. The Government does not issue travel documents to bidoon routinely, and if bidoon travel abroad without documentation, they risk being barred from returning to the country unless they receive advance permission from immigration authorities. The children of male bidoon inherit their father’s undetermined legal status, even if born to citizen mothers.

Only bidoon registered by June 27, 2000 could begin the process under which they could be documented as citizens. According to this law, bidoon who were able to prove sufficient ties to the country (that is, their presence, or the presence of their forebears, in the country prior to 1965) were eligible to apply for citizenship directly. The Government maintained that at least 40 to 50 percent of the bidoon were concealing their true identities. While the law allows up to 2,000 registered bidoon to be naturalized each year, the Government only granted citizenship to approximately 1,600 during the year. However, an additional 5,500 bidoon in 3 categories, wives of citizens, sons of female citizens married to bidoon, and those whose male relatives are citizens, have been permitted to apply for citizenship beyond the 2,000 per year limit.

Many bidoon are unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality, as they are truly stateless. Others (the Government claims 26,000 over the past 4 years) have disclosed their true nationalities and have obtained passports from their countries of origin (Iraq, Iran, Syria, Jordan, and Saudi Arabia). Once documented, bidoon are able to obtain residency permits and other official papers.

Active debate over the bidoon issue increased markedly after the July National Assembly elections. The political, economic, and long-term budgetary implications associated with extending citizenship (and the generous welfare benefits that come with it) to the equivalent of roughly 5 percent of the population have rendered the issue highly divisive. Some National Assembly members have threatened to question cabinet ministers, including the Minister of Education and Prime Minister, publicly over the issue. During the year, the Ministry of Defense approved granting citi-

zenship to an estimated 400 bidoon who participated in the liberation of the country from Iraqi occupation. The Minister of Interior proposed that deceased bidoon among the "Kuwaiti missing persons" whose remains had been identified in Iraq be naturalized, thereby allowing their surviving bidoon family members to gain citizenship. This proposal had not yet been approved at year's end. Of the 572 "Kuwaitis" missing from the Iraqi occupation, 29 were bidoon.

In 2002, the Government mandated that those who did not register by the June 27, 2000 cut-off date and did not rectify their nationality status by either disclosing their true nationality or furnishing evidence of their citizenship would be subject to deportation as illegal residents. However, no such action was taken. There were no reports during the year of the Government deciding the nationality of any bidoon without a hearing. As a result of what allegedly were fraudulent citizenship applications, the Government brought forgery charges against several bidoon applicants since July 2001. The only reported forgery conviction was in 2001. There continued to be reports of bidoon obtaining false documents in order to apply for citizenship.

The Council of Ministers and the Amir approved a draft law requiring bidoon to submit a passport with a valid residency permit when applying for Kuwaiti citizenship and referred it to the National Assembly for ratification. A final vote on the law had not yet taken place at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that workers have the right to join unions; however, the Government restricted the right of freedom of association to only one union per occupational trade, and permitted unions to establish only one federation.

Approximately 60,000 persons, less than 5 percent of a total work force of 1.36 million, were organized into unions, of which 14 were affiliated with the Kuwait Trade Union Federation (KTUF), the sole legal trade union federation. The Bank Workers Union and the Kuwait Airways Workers Union were independent of the KTUF. The law stipulates that any new union must include at least 100 workers, 15 of whom must be citizens. Both the ILO and the International Confederation of Free Trade Unions (ICFTU) have criticized this requirement because it discourages unions in sectors that employ few citizens, such as the construction industry and much of the private sector. Only about six percent of employed citizens worked in the private sector during the year. Despite KTUF complaints about the need for an updated law, draft proposals for a new labor law have stalled for more than 10 years.

The Government licensed a new union during the year, the Trade Union of Workers in the Public Authority for Agriculture and Fisheries.

During the year, the Government implemented the National Manpower Support Law, a new law aimed at increasing the number of citizens employed in the private sector. Article 15 of the law, not yet implemented, will require the establishment of a bank account for every foreign worker in order to ensure that workers are paid in a timely and transparent manner. The law imposes substantial fines on private companies that fail to employ the requisite number of citizens. Representatives of numerous companies and the Kuwait Industries Union met with government officials during the year to voice concern over the new law. The Ministry of Social Affairs and Labor initiated a review of the law at year's end to identify segments of the private sector that should be exempt from the law's provisions.

The Government's pervasive oversight powers further eroded union independence. The Government subsidizes as much as 90 percent of most union budgets and may inspect the financial records of any union. The law empowers the courts to dissolve any union for violating labor laws or for threatening "public order and morals," although such a court decision may be appealed. The Amir also may dissolve a union by decree. By law, the Ministry of Social Affairs and Labor is authorized to seize the assets of any dissolved union. The law subordinates the legal existence of the unions to the power of the State; however, no union has been dissolved.

The most recent government statistics cite approximately 1.1 million foreigners as employed in the country, comprising over 80 percent of the labor force. However, foreign workers constitute less than 5 percent of the unionized work force. The Labor Law discriminated against foreign workers by denying them voting rights and permitting them to join unions only after 5 years of residence, although the KTUF stated that this requirement was not widely enforced in practice. Any foreign worker covered under the Labor Law, which excluded maritime workers and an estimated 500,000 domestic servants, could submit a grievance to the Labor Office regardless of union status; however, such services were not utilized widely.

ILO officials visited the country during the year to assist the Ministry of Social Affairs and Labor in reviving 2001 proposals for Labor Law reform.

The Labor Law prohibits anti-union discrimination. Any worker who alleges anti-union discrimination has the right to appeal to the judiciary. There were no reports of discrimination against employees based on their affiliation with a union. Employers found guilty of such discrimination must reinstate workers fired for union activities.

Unions may affiliate with international bodies. The KTUF belonged to the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law provides workers with the rights to organize and bargain collectively, subject to certain restrictions, and the Government generally respected them in practice (see Section 6.a.). However, the Labor Law does not apply to domestic servants, who constitute roughly a third of the foreign labor force but lack the rights and protections under the law enjoyed by other foreign workers. Domestic servants may not organize or bargain collectively and suffer from low wages and often abuse at the hands of their employers. The Labor Law does not provide for a minimum wage for either domestic servants or private sector workers. Foreign private sector workers are allowed to join unions but are barred from leadership positions.

The Labor Law provides for direct negotiations between employers and “laborers or their representatives” in the private sector. Most disagreements were resolved in such negotiations; if not, either party may petition the Ministry of Social Affairs and Labor for mediation. If mediation fails, the dispute is referred to a labor arbitration board composed of officials from the High Court of Appeals, the Attorney General’s Office, and the Ministry of Social Affairs and Labor.

The Civil Service Law makes no provision for collective bargaining between government workers and their employers. Technically, the Government is responsible for establishing wages and employment conditions for civil service workers but generally determined benefits in consultation with civil service unions. Union officials resolved most issues at the working level and had regular access to senior officials.

The law limits the right of workers to strike. It requires all labor disputes to be referred to compulsory arbitration if labor and management are unable to reach a solution. The law does not contain any provision ensuring strikers freedom from legal or administrative action taken against them by the State. However, the Ministry of Social Affairs and Labor has been responsive to sit-ins or protests by workers who faced obvious wrongdoing by their employers. There were no reported sit-ins or worker protests during the year. However, there were two partial strikes during the year by employees of the Kuwait Municipality and the Finance Ministry; both were reportedly resolved amicably, with the employees attaining most of their demands.

The Government cooperated closely with the ILO, which maintained a representative office in the country. The ILO Regional Director for Arab States visited the country during the year and met with the Minister of Social Affairs and Labor to discuss labor reform issues. The ILO sent two senior officials in November 2001 to advise the Government on how to improve the country’s labor situation. At the ILO’s urging, the Government agreed to ratify the remaining two of eight conventions from the ILO’s Declaration of Basic Rights at Work, but had not yet submitted them to the National Assembly for ratification. The Ministry of Social Affairs and Labor approved the provisions, which were being reviewed by the Legal Advice and Legislation Department at year’s end.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced labor “except in cases specified by law for national emergency and with just remuneration;” however, many unskilled foreign workers were treated like indentured servants (see Section 6.e.). The Constitution prohibits forced and bonded labor by children; however, there were credible reports of young boys being used as camel jockeys, as well as of underage girls working as domestic servants (see Sections 5 and 6.d.).

Foreign workers generally may not change their employment without permission from their original sponsors unless they have been in the country for more than 2 years. Domestic workers are particularly vulnerable to abuses stemming from restrictions on transferring sponsorship because the Labor Law does not protect them. In many cases, employers exercised control over their servants by withholding their passports, although the Government prohibits this practice and in some instances acted to retrieve the passports of maids involved in disputes.

Some foreign workers, especially unskilled or semiskilled South Asian workers, lived and worked much like indentured servants. They frequently faced poor working conditions and at times encountered physical or sexual abuse (see Sections 5



and 6.e.). Domestic servants who run away from their employers as a result of abuse or poor working conditions are routinely treated as criminals under the law as they fall under the purview of the Ministry of Interior rather than the Ministry of Social Affairs and Labor. There were dozens of reports during the year of police arresting and charging domestic servants with crimes such as violating immigration procedures, for attempting to escape from abusive employers. The police typically regarded such problems as matters of law and order, and not as legitimate labor conflicts. Employers or local labor recruitment agencies routinely withheld wages from domestic servants to cover the costs involved in bringing them to the country.

There were credible reports of widespread illegal visa trading, a system by which local sponsors agree to extend their sponsorship (in name only) to foreign workers in exchange for a fee in the range of \$1,500 to \$4,000 (450 to 1,200 KD). Middlemen, generally foreigners, attract workers from economically depressed countries, take a commission, and remit the balance to the nominal sponsor. Once in the country, such agents transfer workers to employers in the informal sector or to parties that would otherwise be unable to sponsor them. Foreign workers recruited with traded visas not only faced possible prosecution for being engaged in illegal employment (that is, working for an employer other than their sponsor), but also were extremely vulnerable to extortion by employers, sponsors, and middlemen.

Visa and residence trading has resulted in a growing number of unemployed foreign workers in the country. Many are unable to earn enough money to pay the illegal fees often charged by their local sponsors or local labor recruitment agencies in exchange for residency and work permits. Many suffer from abuse or mistreatment at the hands of their unofficial employers. Abused foreign workers employed on the basis of illegally traded visas typically failed to report incidents of abuse or poor working conditions to authorities due to their illegal immigration status. Government efforts to crack down on visa trading, such as closing front companies for visa traders, have not made significant progress. There were laws aimed at curbing visa trading, with penalties against both employers and visa traders, but the Government seldom enforced these laws.

The Labor Inspection Department of the Ministry of Social Affairs and Labor is responsible for carrying out routine inspections of all private firms to ensure that all registered foreign workers are actually employed by their legal sponsors. The Ministry suspended the files of employers caught violating labor regulations. During the year, The Ministry of Labor reportedly referred more than 2,200 labor violations to its Labor Inspection Department. Most of these "violations" involved occupational health, environmental, and safety problems, and poor working conditions. The Ministry has reportedly suspended around 1,500 employer files to date for possible labor violations.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Law prohibits child labor, forced or compulsory labor, and exploitation of workers. Child labor was not a significant problem; however, there were credible reports of some South and Southeast Asian children under 18 years of age working as domestic servants (see Sections 5 and 6.c.). Such underage workers reportedly falsified their ages in order to enter the country. Some very young boys (reportedly from the Sudan, Bangladesh, Pakistan, Eritrea, and Yemen) also were used as camel jockeys (see Sections 5 and 6.c.). Some businessmen employed their children on a part-time basis.

The legal minimum age is 18 years for all forms of work, both full- and part-time. Employers may obtain permits from the Ministry of Social Affairs and Labor to employ juveniles between the ages of 14 and 18 in certain trades. Juveniles may work a maximum of 6 hours a day on the condition that they work no more than 4 consecutive hours followed by a 1-hour rest period.

The Government has ratified 18 ILO conventions, including 6 of the 8 core conventions. Among the ratified conventions are those prohibiting servitude and forced labor, and Convention 182 concerning the prohibition and elimination of the worst forms of child labor. The Labor Inspection Department of the Ministry of Social Affairs and Labor inspected private firms routinely during the year to monitor compliance with labor laws, including those against child labor. There were no reported Government programs to prevent exploitative child labor or remove children from such labor.

*e. Acceptable Conditions of Work.*—The Ministry of Social Affairs and Labor is responsible for enforcing all labor laws. An institutionalized two-tiered labor market ensured high wages for citizen employees, most of whom were in government white collar or executive positions, while foreign workers, even those in skilled positions, received substantially lower wages. Bangladeshi domestic workers reportedly earned as little as \$70 per month (21 KD). There was no legal minimum wage in the pri-

ivate sector. In the public sector, the monthly legal minimum wage was approximately \$753 (227 KD) for citizens and approximately \$300 (90 KD) for non-citizens. However, non-citizens do not receive the same social benefits as citizens and must pay fees for education and health care, which are provided free for all citizens. The Government maintains a two-tier health care system that provides substantially lower quality care to non-citizens. The best, most effective medicines, even for serious illnesses, and certain kinds of specialized treatment are officially reserved for citizens only.

Private sector wages ranged from \$10,000 (3,000 KD) each month for top managers of large companies to between \$500 to \$2,500 (150 to 750 KD) for other skilled professionals and workers. The public sector minimum wage provided a decent standard of living for a worker and family. Wages of unskilled workers in the private sector did not always provide a decent standard of living, with housemaids often making less than \$115 (35 KD) per month. To be eligible to sponsor family members for residency, government and private sector workers must receive a minimum wage of \$1,300 (400 dinars) per month. Many foreign workers who met or exceeded the minimum income threshold often waited months for government approval to sponsor their immediate family members to the country. During the year, the Government exempted public school teachers from the minimum salary threshold for sponsoring family members.

The Labor Law establishes general conditions of work for the private sector, with the oil industry treated separately. The Civil Service Law also prescribes additional working conditions for the public sector, which consisted almost entirely of citizen workers. The Labor Law limits the standard work week to 48 hours with 1 full day of rest per week, 1 hour of rest after every 5 consecutive hours of work, provides for a minimum of 14 workdays of leave each year, and establishes a compensation schedule for industrial accidents. In May 2000, the Government implemented an unemployment allowance program for citizens unable to find jobs in the public sector or with private companies. The program provides regular allowance payments averaging \$330 (100KD) to unemployed citizens until they found jobs. There were no reported cases of abuse of this program during the year. Domestic servants, who specifically are excluded from the Labor Law, and other unskilled foreign workers in the private sector frequently worked greatly in excess of 48 hours, often with no day of rest and no annual leave.

In amendments to the Labor Law in the Private Sector implemented in 1997, the Government extended the weekly 24-consecutive-hour rest period to temporary workers employed for a period of less than 6 months and workers in enterprises employing fewer than five persons. The law pertaining to the oil industry provides for a 40-hour workweek, 30 days of annual leave, and sick leave. Laws establishing working conditions were not applied uniformly to foreign workers.

The Government has issued occupational health and safety standards; however, compliance and enforcement appeared poor, especially with respect to unskilled foreign laborers. To decrease accident rates, the Government periodically inspected enterprises to raise awareness among workers and employers and to ensure that they abided by safety rules, controlled the pollution resulting from certain dangerous industries, trained workers who used new machines in specialized institutes, and reported violations. Workers had the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and legal protection existed for both citizen and foreign workers who filed complaints about such conditions. However, Government attention to worker safety issues remained insufficient, resulting in poor training of inspectors, inadequate injury reports, and no link between insurance payments and accident reports.

The law provides that all outdoor work stop in the event that the temperature rises above 120 degrees Fahrenheit; however, there were allegations that the Government's Meteorological Division falsified official readings to allow work to proceed. The Meteorological Division consistently denied these allegations. In the past, recorded temperatures reached 120 degrees Fahrenheit but work reportedly continued at many outdoor locations.

Employers often exploited workers' willingness to accept substandard conditions. Some foreign workers, especially unskilled or semiskilled South Asian workers, lived and worked much like indentured servants, were unaware of their legal rights, and generally lacked the means to pursue legal remedies. They frequently faced contractual disputes and poor working conditions, and sometimes physical and sexual abuse (see Sections 5 and 6.c.). Most were in debt to their employers before they arrived in the country and had little choice but to accept the employer's conditions, even if they breached the contractual terms. It was not uncommon for wages to be withheld for a period of months, or to be decreased substantially in violation of their labor contracts. Many foreign workers were forced to live in "housing camps," which

generally were overcrowded and lacked adequate cooking and bathroom facilities. Workers were housed 10 or more to a room in squalid conditions, many without access to adequate running water. The workers were only allowed off the camp compound on company transport or by permission of the employer. Foreign workers' ability to change their employment was limited, and, in some cases, employers' possession of foreign workers' passports allowed them to exercise control over such employees (see Section 6.c.). Many foreign workers went heavily into debt and could not afford to return home.

The Labor Law discriminates against foreign workers by limiting their ability to join unions (see Section 6.a.). The KTUF administered an Expatriate Labor Office, which was authorized to investigate complaints of foreign laborers and provide them with free legal advice. However, these services were not utilized widely. Any foreign worker could submit a grievance to the labor office regardless of union status.

The Labor Law provides for employer-provided medical care and compensation to both citizen and foreign workers disabled by injury or disease due to job-related causes. Once a worker files a claim, the courts decide the amount of compensation, which is typically paid in one lump sum payment rather than in monthly payments. Workers, especially foreigners, have had difficulty enforcing such decisions. The law also requires that employers provide periodic medical examinations to workers exposed to environmental hazards on the job, such as chemicals and asbestos. Adequate and affordable health care is a serious problem for many foreign workers. Official health policies discriminate against foreigners in the provision of medicines and treatment. Foreigners must pay high yearly medical coverage fees to the Ministry of Health and additional fees each time they receive medical care, require tests, specialized procedures, or medication. Many employers deduct the medical fees from employees' salaries. Foreign workers and their family members must pay these yearly government-mandated medical coverage fees in order to obtain or renew residency or work permits. The best medicines, even for serious or life-threatening illnesses, are officially reserved for citizens. In September, more than 1,000 foreign workers protested at the Ministry of Health against reported delays in processing their medical claims (see Section 2.b.). The Ministry reportedly called in security officials to disperse the crowd. There were no reports of violence or arrests.

In September, the Government implemented the National Manpower Support Law. Article 15 of the law, not yet implemented, will require employers to deposit the salaries of all foreign private sector workers into local bank accounts on a monthly basis to help ensure that workers receive their full wages in a timely and transparent manner. At year's end, many local banks were increasing staff or adding new shifts to accommodate the increased workload.

It was common for employers to confiscate and withhold the passports of their domestic servants illegally, preventing them from departing the country. Maids paid the same amount or more than other unskilled or semiskilled workers for visas to work in the country.

Runaway servants often sought refuge at their source country embassies for either repatriation or assistance in dealing with employers. The number of runaway servants in need of assistance remained high during the year as conditions for domestic employees remained poor. An estimated 1,000 domestic servants (out of approximately 500,000 foreign domestic servants in the country) were reported to be in source country embassy shelters at any given time during the year.

Although most such workers sought shelter due to contractual or financial problems with their employers, some women also alleged physical or sexual abuse. Some embassies continued to report the steady occurrence of physical abuse and mistreatment involving domestic servants, including withheld salaries, overwork, and inadequate food. Each government has attempted to register its nationals who arrive to work in the country as domestic employees and to regulate recruiting agents in their home countries, with some success. Limited services provided by the police facility designated to mediate among embassies, domestic workers, and employers made it very difficult for domestic servants to file complaints, receive withheld salary, or reach settlement in cases of mistreatment. Domestic servants must deal with neighborhood police stations, whose personnel are untrained and inexperienced in handling such cases and often side with the employer. Source country embassies reported widespread police harassment of and discrimination against domestic servants during the year (see Sections 5 and 6.c.).

Some countries warned their female citizens about the risks of exploitation or banned them altogether from working in the country as domestic servants. Some years ago, the Government of India temporarily banned its nationals from working in the country as domestic employees, but Indian nationals continued to buy visas and enter the country as domestic workers. The Government of India limits the granting of domestic work permits for the country to women over age 30 and only

from specific states, which has helped reduce some employment problems. The Embassy of Bangladesh estimated that 90 percent of the approximately 160,000 Bangladeshi workers in the country were unskilled laborers and that 30 percent of these workers received no salaries at all from their private sector employers while 10 percent of Bangladeshi domestics were paid nothing beyond room and board. The Embassy reported that it received approximately 100 calls per month from Bangladeshi workers, including domestic servants, complaining of serious employment problems. Out of the approximately 130 runaway Philippine domestic servants in the Philippine Embassy shelter, on average, at any given time during the year, approximately 30 percent reported some form of mistreatment by their employers and 6 percent reported sexual abuse.

The courts rule in favor of employees in an estimated 90 percent of the labor disputes they hear; however, no legal mechanism exists to enforce judgments. There is no compulsion for employers to obey court rulings, and workers often do not receive court-ordered compensation. Employers also reportedly use illegal methods to pressure foreign employees to drop cases against them, such as withholding their passports, encouraging police intimidation and brutality, threatening deportation, and filing criminal charges against them for fabricated crimes, such as theft.

**Trafficking in Persons.**—The law does not specifically prohibit trafficking in persons, although laws against slavery, prostitution, forced labor, coercion, kidnapping, and other acts can be used collectively to prosecute traffickers. The Government has ratified some international conventions that commit it to apply these laws. The country is a destination for internationally trafficked men, women, and children. The problem principally is one of foreign workers, mostly female, coming to work as domestic servants but being abused by their employers or coerced into situations of debt bondage or involuntary servitude.

In at least a dozen incidents reported by local newspapers during the year, procurers kidnapped domestic servants and other foreign-born female workers off the street and forced them into prostitution. Most victims do not report these crimes. There were several reported incidents during the year of police raiding prostitution rings and arresting both organizers and prostitutes. In February, the Criminal Court fined an expatriate woman around \$9,600 (3,000 KD) and sentenced her to 3 years in jail followed by deportation for running a brothel and forcing other expatriate women into prostitution. In March, police arrested six men and seven foreign prostitutes in a 2-hour crackdown in Farwaniya district. In April, police raided three prostitution "houses" and arrested 10 Asian female prostitutes in an outlying district, Jleeb Al-Shuyoukh, populated mainly by expatriate workers.

In January, the High Court of Appeals upheld the verdict of the Criminal Court and sentenced a Bangladeshi man to death for kidnapping, raping, and forcing two foreign women into prostitution. The man reportedly bought one of the women for \$800 (250 KD) from another unidentified man. In February, the Court of Appeals upheld the verdict of the Criminal Court and sentenced a woman to 3 years in prison and imposed a \$10,000 (3,000 KD) fine for running a prostitution ring and holding several foreign women captive. In April 2002, a foreign development agency report on female foreign workers in the country revealed that in most trafficking cases, local manpower agents or visa traders had promised women domestic work. Upon arrival, however, numerous migrants were expected to provide sexual services in addition to their domestic duties, and some were forced to engage in prostitution exclusively.

The Government took some measures to help combat trafficking. A conciliation center attached to a district police station processed some complaints filed by domestic servants or their source country embassies against abusive or exploitative employers. A government domestic labor office, under the authority of the Ministry of Interior, investigated and resolved some labor complaints. The Government formed an inter-ministerial committee of representatives from the Ministry of Foreign Affairs, Ministry of Interior, and Ministry of Social Affairs and Labor to discuss strategies for protecting the rights of domestic employees. The committee held its first meeting in May. In April, the Government approved the establishment of a new association, the Kuwait Union of Domestic Labor Offices, to more closely monitor the activities of domestic labor recruitment agencies in the country and to educate employers and domestics about their rights. At year's end, 29 labor recruitment agencies reportedly representing about 60 percent of all domestic servants in the country were members of the association. At year's end, the association proposed a new law to regulate the hiring of domestic servants. The only human rights NGO in the country, the Kuwait Human Rights Society, does not have a Government license and thus lacks the leverage and funding necessary to raise broad public awareness on the issue of human trafficking.

There were no specific reports of government or police involvement in trafficking during the period covered by this report.

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## LEBANON

Lebanon is a parliamentary republic in which the President is a Maronite Christian, the Prime Minister a Sunni Muslim, and the Speaker of the Chamber of Deputies a Shi'a Muslim. President Emile Lahoud took office in 1998 after an election by Parliament that was heavily influenced by Syria. The Parliament consists of 128 deputies, equally divided between Christian and Muslim representatives. In the 2000 parliamentary elections, incumbent Prime Minister Salim al-Hoss lost his seat in a contested election, and former Prime Minister Rafiq Hariri was named Prime Minister by President Lahoud in October 2000. According to international observers, the elections were flawed; however, there reportedly were fewer voting irregularities than in the 1996 parliamentary elections. The Constitution provides for an independent judiciary; however, in practice, it was subject to political pressure.

Non-Lebanese military and paramilitary forces retained significant influence over much of the country. Approximately 15,000 to 17,000 Syrian troops were stationed in locations throughout the country, excluding the south. An undetermined number of Syrian military intelligence personnel in the country continued to conduct their activities independently. In 2000, following the Israeli Defense Forces (IDF) withdrawal from the south, the Government deployed more than 1,000 police and soldiers to the former security zone. The Government did not attempt to disarm Hizballah, a terrorist organization operating in the region. Palestinian groups, including armed factions, operated autonomously in refugee camps throughout the country.

The security forces consist of the Lebanese Armed Forces (LAF), which may arrest and detain suspects on national security grounds; the Internal Security Forces (ISF), which enforce laws, conduct searches and arrests, and refer cases to the judiciary; and the State Security Apparatus and the Surete Generale, both of which collect information on groups deemed a possible threat to state security. The Lebanese security forces committed numerous, serious human rights abuses, sometimes acting independently, and other times on instruction of senior government officials. Syrian and Palestinian security forces operated independently of Lebanese security forces and also committed numerous, serious human rights abuses. There were credible reports that Lebanese security detained individuals on the instruction of Syrian intelligence agencies.

The country maintained a free market economy, with no controls on the movement of capital and foreign exchange. The country's population of approximately 4.4 million had an estimated active labor force of 1.5 million, the majority of which were employed in the service sector and in a small industrial sector. Real gross domestic product (GDP) growth was estimated at approximately 2 to 2.5 percent. While there were no reliable government statistics, most analysts estimated unemployment at 20 to 25 percent.

The Government's overall human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The right of citizens to change their government remained significantly restricted by the lack of complete government control over parts of the country, shortcomings in the electoral system, the flawed 2000 elections, and Syrian influence. Members of the security forces used excessive force and tortured and abused some detainees. Prison conditions remained poor. The Government also arbitrarily arrested and detained persons who were critical of government policies. Lengthy pretrial detention and long delays in trials remained problems. The courts were subject to political pressure, seriously hampering judicial independence. During the year, the Government infringed on citizens' privacy rights and continued surveillance of political activities. The Government limited press and media freedom. The Government continued to restrict freedom of assembly and imposed some limits on freedom of association. There were some restrictions on freedom of religion. The Government imposed some limits on freedom of movement. Violence and discrimination against women, abuse of children, discrimination against Palestinians, forced labor, including by children, child labor, and the mistreatment of foreign domestic servants remained problems. Trafficking in persons was a problem.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, on May 19, militant Islamists killed at least two persons and injured a photographer when they clashed with Palestinian gunmen in the Palestinian refugee camp of Ain al-Hilweh. Abdallah Shreidi, the leader of the Asbat al-Nur Sunni Islamic extremist group was critically injured and died 3 months later.

On August 2, a man identified as 42-year-old Hizballah member Ali Hussein Saleh was killed in a car bomb explosion in Beirut's southern suburbs. Some government officials and Hizballah accused Israel of carrying out the killing; however, at year's end, no one claimed responsibility for the attack.

No group claimed responsibility for the 2002 killing of American citizen missionary Bonnie Weatherall, and the case remained unsolved at year's end (see Section 2.c.).

There were no developments in the 2002 killing of Ramzi Irani, the officer-in-charge of the banned Lebanese Forces.

Unlike in previous years, there were no reported deaths in custody during the year.

During the year, violent cross-border incidents since the 2000 IDF withdrawal, involving Hizballah, Palestinian, and other unidentified armed elements, continued. In January, a cross-border fire exchange critically injured one civilian who later died of his injuries. In August, Hizballah anti-aircraft fire that landed in Israel killed a civilian.

The country's landmine and unexploded ordinance (UXO) problem was estimated at over 400,000 landmines and UXOs throughout the country, with the majority in the former Israeli occupied security zone. During the first half of the year, the Government successfully demined 600,000 square meters of land, allowing it to be returned to productive use. According to the Lebanese Demining Office, there have been a total of 2,784 landmine victims in the country since 1990. During the year there were 42 landmine victims, including 4 fatalities and 38 injured persons.

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

At year's end, the Government had not yet disclosed the findings of a 2000 committee's report investigating cases of disappearance during the country's civil war.

In October, Hizballah allowed a German mediator to visit IDF reservist Elhann Tannenbaum, kidnapped in 2000. At year's end, Tannenbaum was still presumed to be detained.

On August 25, Israel returned the bodies of two Hizballah fighters who died fighting Israeli forces in the southern part of the country in the 1990s. During the year, Hizballah continued to maintain the position that it would release Israeli soldiers in return for the release of Arab prisoners held by Israel.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution does not specifically prohibit torture, and there continued to be credible reports that security forces abused detainees and, in some instances, used torture. Human rights groups reported that torture was a common practice. The Government acknowledged that violent abuse usually occurred during preliminary investigations conducted at police stations or military installations, in which suspects were interrogated without an attorney. Such abuse occurred despite laws that prevented judges from accepting any confession extracted under duress.

Methods of torture reportedly included beatings and suspension by arms tied behind the back. Some former Southern Lebanese Army (SLA) detainees reported that they were abused or tortured. Amnesty International (AI) and other human rights organizations reported that some detainees were beaten, handcuffed, blindfolded, and forced to lie face down on the ground. Supporters of exiled General Michel 'Awn, and detained Tawfiq Hindi, political advisor to former Lebanese Forces commander Samir Ja'Ja who were arrested in 2001, claimed that officers had abused them and that they were psychologically tortured when authorities threatened their families (see Section 1.d.).

During the year, there were credible reports that army intelligence held detainees blindfolded and handcuffed in the "farouj" position (Arabic for "chicken"—individuals are handcuffed with their hands at their ankles in a hunched over position) for days at a time while being interrogated.

Abuses occurred in areas outside the Government's control, including in Palestinian refugee camps. During the year, there were reports that members of the various groups who controlled the camps detained their Palestinian rivals (see Section 1.d.). Rival groups, such as Fatah and Asbat al-Nur, regularly clash over territorial

control in the various camps, sometimes leading to exchanges of gunfire and/or detention of rival members.

Prison conditions were poor and did not meet minimum international standards. The Government did not allocate funds for prison reform. The Government has made a modest effort to rehabilitate some inmates. On May 22, 40 prisoners were awarded certificates for computer skills they acquired at Roumieh central prison. The ISF donated 20 used computers to provide training for more inmates. On June 27, the First Lady awarded certificates to 44 women held in Baabda prison who completed training in hairdressing, make-up, and knitting. Men, women, and juveniles were held separately in government prisons.

In 2000, AI issued a report on prison conditions for women that highlighted numerous, serious human rights abuses, including torture, as well as the breach of legal rights of citizens. In response to public concern, the Prosecutor General appointed a senior aide to investigate allegations of torture and mistreatment of women in pre-trial detention. On August 13, in response to an AI report claiming that prisoners are tortured, Prosecutor General Adnan Addoum refuted these allegations, saying that his senior aide carried out an investigation in 2002 and concluded that torture against women does not occur.

The Surete Generale, which is in charge of border posts, operated a detention facility for detainees, mostly Egyptians and Sri Lankans, pending deportation. Their detention was supposed to be for 1 to 2 months, pending the regularization of their status. However, some persons, primarily asylum seekers, were detained for more than a year and eventually deported.

Former Lebanese Forces leader Samir Ja'Ja, who is serving four life sentences for the murder or attempted murder of various political figures during and after the civil war, was kept in solitary confinement in a prison in the basement of the Ministry of Defense. Government officials stated that his solitary confinement was necessary for his own protection.

During the year, local journalists and human rights organizations were given access to certain prisons except the Yarze prison controlled by the Ministry of Defense. The Government did not grant independent monitors access to former SLA soldiers in custody. In September 2002, the Cabinet ordered that International Committee of the Red Cross (ICRC) representatives should be allowed to visit all prisons, including the one under the control of the Ministry of Defense. However, by year's end, the ICRC had not done so because the Ministry of Defense had not granted permission. Hizballah did not permit visits by human rights monitors to persons in its custody.

*d. Arbitrary Arrest, Detention, or Exile.*—The law requires the ISF to obtain warrants before making arrests; however, the Government used arbitrary arrest and detention. Military intelligence personnel made arrests without warrants in cases involving military personnel and those involving espionage, treason, weapons possession, and draft evasion (see Section 1.e.). The most recent estimates in 2001 by the Parliamentary Commission for Human Rights reported that of the 7,230 persons being held in prison, only 2,500 were convicted.

The Code of Criminal Procedure provides legal protection to suspects, including the right to a lawyer, to a medical examination, and to inform next of kin. Under the Code, arresting officers are required to refer a subject to a prosecutor within 48 hours of arrest. If a suspect is held more than 48 hours without formal charges, the arrest is considered arbitrary and the detainee must be released. In such cases, officials responsible for the prolonged arrest may be prosecuted on charges of depriving personal freedom. A suspect caught in hot pursuit must be referred to an examining judge, who decides whether to issue an indictment or order the release of the suspect. Under the Code, bail is available in all cases regardless of the charges. Many provisions of the Code were not observed in practice.

Defendants have the right to legal counsel, but there was no state-funded public defender's office. The bar association operated an office for those who could not afford a lawyer, and the court panel on many occasions asked the bar association to appoint lawyers for defendants.

Security forces continued the practice of arbitrary detention and arrest. On several occasions during the year, security forces detained and arrested hundreds of citizens on grounds of national security. Protestors were also arbitrarily detained and arrested (see Section 2.b.). The Government also detained, interrogated, and beat journalists (see Section 2.a.).

On September 10, the Surete Generale detained and questioned Samira Trad, executive manager of Frontiers Center, a private company that conducted studies and advocates for the rights of marginalized people, for her human rights activities. Authorities questioned her concerning slandering the country and operating an illegal association.

The Government initially held incommunicado most of the 3,000 SLA members who surrendered to the authorities following the IDF's withdrawal in 2000; however, lawyers and family members have since been provided access. The authorities often detained without charge for short periods of time political opponents and opponents of the Syrian Government. Legal action against them remained pending at year's end; however, they were free to travel abroad.

Palestinian refugees were subject to arrest, detention, and harassment by state security forces, Syrian forces, and rival Palestinians. For example, Palestinian refugees living in camps are not allowed to bring in construction material to repair damaged houses. Lebanese security services use this as leverage to recruit informers and buy their allegiance. In December, the LAF arrested without charge Khalid Shayeb, Fatah's chief official in the Biq'a at a checkpoint outside of Ain el-Hilweh camp; he was released shortly thereafter.

There were no allegations during the year of the transfer of citizens by government authorities to Syria. By year's end, 9 of 54 persons who were arrested by Syrian Forces during and after the civil war, and turned over in 2000 to the Government, remained in government custody, including Abu Haytham Karara, an official of the Progressive Socialist Party. No formal charges were brought against them. Human rights activists believed that there were numerous Lebanese, Palestinians, and Jordanians in prolonged and often secret detention. According to AI, Syrian forces operating in the country carried out searches, arrests, and detentions of citizens outside any legal framework.

The law does not provide for forced exile, and it was not practiced regularly.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it was subject to political pressure. The Constitution provides for a constitutional council to determine the constitutionality of newly adopted laws upon the request of 10 members of Parliament and stipulates that judges shall be independent in the exercise of their duties; however, influential politicians as well as Syrian and Lebanese intelligence officers at times intervened and protected their supporters from prosecution.

The judicial system consists of the regular civilian courts; the Military Court, which tries cases involving military personnel and civilians in security-related issues; the Judicial Council, which tries national security cases; and the tribunals of the various religious affiliations, which adjudicate matters of personal status, including marriage, divorce, inheritance, and child custody (see Section 5).

The Judicial Council is a permanent tribunal of five senior judges that adjudicates threats to national security. Upon the recommendation of the Minister of Justice, the Cabinet decides whether to try a case before this tribunal. Verdicts from this tribunal are irrevocable and may not be appealed.

The Ministry of Justice appoints all other judges based on the religious affiliation of the prospective judge. A shortage of judges impeded efforts to adjudicate cases backlogged during years of internal conflict. Trial delays were aggravated by the Government's inability to conduct investigations in areas outside of its control.

Trials were generally public, but judges had the discretion to make a court session secret. Defendants have the right to be present at trial and the right of timely consultation with an attorney. Defendants have the right to confront or question witnesses against them but must do so through the court panel, which decides whether or not to permit the defendant's question. Defendants and their attorneys have access to government-held evidence relevant to their cases and the right of appeal. These rights generally were observed in practice.

Defendants on trial for security cases, which were heard before the Judicial Council, have the same procedural rights as other defendants; however, there was no right to appeal in such cases. The testimony of a woman is equal to that of a man (see Section 5).

The Military Court has jurisdiction over cases involving the military as well as those involving civilians in espionage, treason, weapons possession, and draft evasion cases. Civilians may be tried for security issues, and military personnel may be tried for civil issues. The Military Court has two tribunals—the permanent tribunal and the cassation tribunal—the latter hears appeals from the former. A civilian judge chairs the higher court. Defendants on trial under the military tribunal have the same procedural rights as defendants in ordinary courts.

During the year, the Military Court continued trying the cases of the approximately 3,000 SLA militiamen who surrendered to the Government following the IDF withdrawal. Domestic human rights groups and international nongovernmental organizations (NGOs) reported that the trials were open to journalists and members of the public but were not fair. AI reported that such summary trials neither allowed the innocent to be acquitted nor ensured the discovery of those who may be guilty of war crimes. The standard defense presented by lawyers for the militiamen



was that the Government had been unable to defend citizens living under Israeli occupation for the last 22 years. Therefore the residents had no choice but to work with the occupiers.

Approximately one-third of the former SLA members received 1-year prison sentences and approximately one-third received sentences of 3 to 4 weeks. Two persons implicated in torture of prisoners at al-Khiam prison were sentenced to life in prison. The military prosecutor recommended the death sentence for 37 (21 tried while in government custody; 16 tried in absentia) former SLA militiamen for allegedly killing members of "the resistance" (i.e., Hizballah). The Military Court denied every recommendation for the death sentence. Unlike in previous years, there were no reports that the Government or Hizballah subjected former SLA members who returned to their villages to regular harassment.

In 2002, Mahmoud Salim Mahbouba filed a claim that armed individuals broke into his house and kidnapped his son, Mohammed, a former SLA member who was released from Roumieh prison after serving a 2-year sentence. By year's end, no action had been taken on Mahbouba's claim.

On August 8, a prominent human rights lawyer critical of the judiciary, Muhammad Mughrabi, was arrested and charged with impersonating a lawyer. The arrest followed a January action by the Beirut Bar Association disbaring Mughrabi. He was released after 3 weeks in detention, and charges were dropped in September due to lack of evidence.

In 2001, the bar association lifted the immunity of lawyer Muhammad Mughrabi to permit Mughrabi's prosecution for criticizing the country's judicial system at a press conference. Consequently, five different penal cases were started against him, but due to appeals filed by Mughrabi against the bar association, all remained pending in court at year's end. In one case, the prosecution moved against Mughrabi without seeking the Bar Association's permission. Mughrabi appealed the prosecutor's decision to the Court of Cassation, which ruled in his favor (see Section 2.a.).

There was no action taken in the 77 military and civilian cases of 'Awn and Ja'Ja supporters. The cases of Nadim Lteif and Hikmat Deeb, who were charged with defaming the Lebanese and Syrian armies, were referred to both military and civilian courts (see Section 1.d.). In December, a trial session in the case of 13 of the 'Awnist supporters was held, and the court announced that it would render a verdict in February 2004.

Palestinian groups in refugee camps operated an autonomous and arbitrary system of justice. For example, local popular committees in the camps attempted to solve disputes using tribal methods of reconciliation. If the case involved a killing, the committees occasionally used their good offices to hand over the perpetrator to Lebanese authorities for trial.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for the inviolability of the domicile; however, authorities frequently interfered with the privacy of persons regarded as enemies of the Government. The law requires that prosecutors obtain warrants before entering homes, except when the security forces are in close pursuit of armed attackers; however, the law was not respected in practice.

The Government and Syrian intelligence services used informer networks and monitored telephones to gather information on their perceived adversaries. The Army Intelligence Service monitored the movements and activities of members of opposition groups (see Section 2.b.). The Government conceded that security services monitored telephone calls but claimed that monitoring occurred only with prior authorization from competent judicial authorities.

Militias and non-Lebanese forces operating outside the area of central government authority frequently violated citizens' privacy rights. Various factions also used informer networks and the monitoring of telephones to obtain information regarding their perceived adversaries. Despite a 2000 law regulating eavesdropping, security services continued to eavesdrop without prior authorization. Politicians and human rights advocates reported increasing and more overt government intelligence services' surveillance of political meetings and political activities across the religious and political spectrum.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice, particularly by detaining and charging activists critical of government policies and by intimidating journalists and broadcasters into practicing self-censorship. The Government censored television and radio broadcasts on a case-by-case basis.

Despite repeated attempts to restrict freedom of opinion and speech during the year, daily criticism of government policies and leaders continued. Dozens of news-

papers and hundreds of periodicals were published throughout the country and were financed by various local and foreign groups. The press was privately owned, and press content often reflected the opinions of financial backers.

The Government continued to restrict radio and television broadcasts in a discriminatory manner. There were 7 television stations and 37 radio stations. The Government owned one television and one radio station; the remaining stations were owned privately. Inexpensive satellite television was available widely.

Although the Government did not censor broadcasts directly, government officials exerted pressure on journalists to practice self-censorship. In November 2002, the Government pressured the Lebanese Broadcasting Corporation International (LBCI) not to air a talk show that was to include an outspoken opposition figure. During 2002, the Government also pressured the media not to report on the arrest in Syria of an al-Hayat correspondent.

The Government had several legal mechanisms at its disposal to control freedom of expression. The Surete Generale was authorized to censor all foreign magazines and nonperiodical works, including plays, books, and films, before they were distributed in the market. The law prohibits attacks on the dignity of the head of state or foreign leaders. The Government may prosecute offending journalists and publications in the Publications Court, a special tribunal empowered to try such matters. Moreover, the 1991 security agreement between the Government and Syria contained a provision that effectively prohibits the publication of any information deemed harmful to the security of either state. In view of the risk of prosecution, journalists censored themselves on matters related to Syria.

During the year, the Government continued to harass, abuse, and detain journalists. On March 12, Adonis Akra, author of a book entitled "When My Name Became 16: 15 Days in Detention," was banned from attending the signing ceremony at a book festival. Prosecutor General, Adnan Addoum, indicated that Akra signed a petition pledging neither to publish his book nor to participate in any advertising activity for the book. Akra was among those arrested during a 2001 opposition crackdown. Akra and the owner of the publishing house were referred to the Publication Court for harming the army, the judiciary, the political authority, and the country's relations with a sisterly nation. The court had begun a hearing process by year's end; however it was unclear when a verdict would be issued.

On July 23, upon instruction of the Prosecutor General, Beirut Public Prosecutor Joseph Maamari charged Amer Mashmushi, the managing director of daily al-Liwa, with defaming the President of the Republic. If convicted, Mashmushi could serve a sentence of up to 2 years imprisonment and a fine of up to \$60,000 (90 million pounds). The case remained pending in court at year's end.

On November 3, Beirut Chief Investigating Judge Hatem Madi formally indicted self-exiled former general Michel 'Awn and charged him under Article 288 of the Penal Code for making statements unauthorized by the Government which could harm the country's relations with a sisterly nation, spreading false news abroad, aggravating sectarian tensions, and impersonating a high civilian government official when he testified before a foreign government. If convicted, 'Awn could face imprisonment for up to 15 years and be banned from returning to the country. The case was referred to court, which had not taken any action by year's end.

There were no new developments in the 2002 censorship lawsuits against the Saudi-owned daily Asharq al-Awsat and the International Herald Tribune (IHT) for a pro-Israeli advertisement of the Anti-Defamation League.

On February 21, the Beirut investigating judge issued a permanent search warrant to disclose the names of persons responsible for running a pro-Israeli advertisement in the IHT. The judge also dropped charges brought against the publisher and editor-in-chief of the local English newspaper Daily Star, who was the legal representative of IHT in the country.

In 2002, the Beirut Public Prosecutor filed a lawsuit against the chairman and news editor of LBCI for having "instigated sectarian discord and threatened civil peace" during its coverage of a shooting incident in which eight employees of the Ministry of Education were killed. The case remained pending in court at year's end. In 2002, the Beirut Public Prosecutor charged the Murr Television Station (MTV), its political news director, and the host of the "Referendum" political talk show with "broadcasting material whose nature is to damage ties to a sisterly nation" (Syria) and "assailing the dignity of the President, slandering the security services and undermining social order." At year's end, the cases against the news director and the talk show host remained pending.

At year's end, MTV and Radio Mount Lebanon (RML) remained closed. On April 23, the Lebanese Publication Court of Cassation ruled against reopening MTV and RML, marking the end of a series of appeals to reverse the September 2002 closure

decision. Both had been closed in 2002 under the Parliamentary Election Law, which stipulates closure for broadcasting election propaganda during campaigns.

During 2002, State Prosecutor Addoum announced that he would examine declarations, including TV interviews and press statements, made by opposition members in the country and abroad after the Christian Maronite World Congress held in Los Angeles in June in search of elements which could incriminate them. This included statements about Syria and the Syria Accountability Act. Addoum ordered security agencies to gather information about opposition activities outside of the country.

There was no action taken in the 2001 cases of: Joseph Nasr, the editor-in-chief of the daily newspaper An-Nahar; Rafi Madayan; and the weekly newspaper Al-Watan Al-Arabi.

In general, the Government did not restrict Internet access, and it was used widely.

The Government did not restrict academic freedom, and the country had a strong private educational system.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Any group that wished to organize a rally had to obtain the prior approval of the Ministry of Interior, which did not render decisions consistently. Groups opposing government positions sometimes did not receive permits.

On several occasions during the year, military personnel used excessive force to disperse protesters of government political and economic policies and the Syrian presence in the country, sometimes detaining or arresting them (see Sections 1.c. and 1.d.).

During February and March, several demonstrations and sit-ins were staged in the country to protest the war in Iraq. The Government provided protection and security for foreign interests during that period. On March 21, approximately 450 protesters gathered near an embassy in Awkar. A small group of protesters threw rocks at LAF and ISF personnel, while others attempted to breach the perimeter established by government authorities. The authorities repelled and dispersed the crowd using water canons and tear gas. Sit-ins were also organized near another embassy and U.N. House in downtown Beirut.

On May 3, the anti-Syrian Free Patriotic Movement staged a demonstration near the Ministry of Foreign Affairs to reject terrorism and to reiterate its call for Syrian withdrawal from the country. The protesters clashed with riot police, who used water canons and batons to disperse the crowd. At least 7 demonstrators were injured and the security forces arrested more than 15 persons, all of whom were later released. The ISF issued a statement saying that protesters had stoned ISF personnel and attacked them with flagpoles, resulting in the serious injury of three ISF officers and damage to a military vehicle.

In 2002, at least 20 nonviolent demonstrations and sit-ins occurred in support of the Palestinian Intifada. The Government provided protection and security for foreign interests during that period. However, on April 3, a demonstration of 3,500–4,000 took place at a diplomatic mission. When the crowd attacked security forces with stones, the security forces deployed tear gas and water cannons to disperse it. At least seven police members and some demonstrators were slightly injured.

The Constitution provides for freedom of association, and the Government did not interfere with most organizations; however, it imposed limits on this right. The law requires every new organization to submit a notification of formation to the Ministry of Interior, which issues a receipt. In addition to what is provided by law, the Ministry of Interior imposed on organizations further restrictions and requirements that were not enforced consistently. The Ministry at times withheld the receipt, essentially transforming a notification procedure into an approval process. In December, the State Consultative Council ruled in favor of a complaint lodged by a human rights watchdog, ADEL (Justice), revoking the Ministry of Interior's practice of turning a notification process into an approval process. The Ministry in some cases sent notification of formation papers to the security forces, which then conducted inquiries regarding an organization's founding members. The Ministry may use the results in deciding whether to approve the group.

Organizations must invite Ministry representatives to any general assembly where votes are held for by-law amendments or elections are held for positions on the board of directors. The Ministry also required every association to obtain its approval of any change in by-laws; failure to do so could result in the dissolution of the association.

The Cabinet must license all political parties. The Government scrutinized requests to establish political movements or parties and to some extent monitored

their activities. The Army Intelligence Service monitored the movements and activities of members of opposition groups (see Section 1.f.).

The Government closely monitored groups critical of Syrian policies, and their members were subject to harassment and arrest by the Government.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions. Discrimination based on religion is built into the system of government. The Government subsidized all religions, and all Muslim religious judges received monthly salaries from the Government.

There is no state religion; however, politics are based on the principle of religious representation, which was applied to every aspect of public life.

A group that seeks official recognition must submit its dogma and moral principles for government review to ensure that such principles did not contradict popular values and the Constitution. The group must ensure that the number of its adherents is sufficient to maintain its continuity. Alternatively, religious groups may apply to obtain recognition through existing religious groups. Official recognition conveys certain benefits, such as tax-exempt status and the right to apply the recognized religion's codes to personal status matters. Each recognized religious group has its own courts for family law matters, such as marriage, divorce, child custody, and inheritance. State recognition is not a legal requirement for religious worship or practice. For example, although Baha'is, Buddhists, Hindus, and some evangelical denominations were not recognized officially, they were allowed to practice their faith without government interference; however, their marriages, divorces, and inheritances in the country were not recognized under the law.

Protestant evangelical churches are required to register with the Evangelical Synod, which represents those churches to the Government. Representatives of some churches have complained that the Synod has refused to accept new members since 1975, thereby crippling their clergy's ability to administer to communities with their beliefs. The last time a group was registered was the Coptic Church in 1997. Other groups, such as the Pentecostal Church, encountered difficulty in registering. The Pentecostal Church applied for recognition from the Evangelical Sect, but the leadership of the Evangelical Sect refused to register new groups in contravention of Lebanese law. The Pentecostal Church is pursuing recourse through the Ministry of Interior.

The unwritten "National Pact" of 1943 stipulates that the President, the Prime Minister, and the Speaker of Parliament be a Maronite Christian, a Sunni Muslim, and a Shi'a Muslim, respectively. The 1989 Taif Accord, which ended the country's 15-year civil war, reaffirmed this arrangement, but resulted in increased Muslim representation in Parliament and reduced the power of the Maronite President. The LAF, through universal conscription and an emphasis on professionalism, significantly reduced the role of confessionalism (or religious sectarianism) in the armed forces. Christians and Muslims were represented equally in the Parliament. Seats in the Parliament and Cabinet and posts in the civil service were distributed proportionally among the 18 recognized groups (see Section 3).

The Government required that religious affiliation be encoded on national identity cards, but not on passports.

Many family and personal status laws discriminated against women. For example, Sunni inheritance law provides a son twice the inheritance of a daughter. Although Muslim men may divorce easily, Muslim women may do so only with the concurrence of their husbands. There is no law that permits civil marriages, although such ceremonies performed outside the country were recognized by the Government. Only religious authorities may perform marriages.

There were no legal barriers to proselytizing; however, traditional attitudes and edicts of the clerical establishment strongly discouraged such activity. In 2002, there were reports that members of the Maronite Christian community in Kesirwan, with the knowledge of local clergy, occasionally verbally harassed church leaders and persons who attended an unrecognized Protestant evangelical church.

In December 2002, a bomb blast destroyed a mosque and shrine in the east near the border with Syria but injured no one. A 110-pound explosive charge was planted on the mosque grounds in the town of Anjar, home to a large Armenian community. Local residents stated that a Muslim charitable endowment that owned the mosque grounds had been involved in long-running disputes with local persons over land ownership in the area. Authorities were investigating the attack on the shrine, which was estimated to date back 800 years and was a popular pilgrimage site for Sunni Muslims, at year's end. Local Muslim clerics severely criticized the attack, which occurred as Muslims prepared for the 'Eid al-Fitr feast marking the end of the holy month of Ramadan.

Also in December 2002, a Sunni army conscript shot a Christian conscript. The security forces chased the culprit and killed him in an exchange of gunfire. Security forces arrested one Sunni cleric and charged him with inciting confessional violence.

At year's end, no one had been arrested in connection with the 2002 bombing of a Greek Orthodox church in Tripoli and the Saint Elias Maronite Church in Sidon and the burning of a mosque.

During 2002, an American citizen missionary affiliated with the Christian and Missionary Evangelical Alliance was killed in Sidon. No group claimed responsibility for the killing (see Section 1.a.).

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations. The law prohibits travel to Israel. The LAF and Syrian troops maintained checkpoints throughout much of the country. All men between 18 and 21 years of age are subject to compulsory military service and are required to register at a recruitment office and obtain a travel authorization document before leaving the country. Married women can obtain a passport without their husband's signature and approval. Spouses may obtain passports for their children who are less than 7 years of age after obtaining the approval of the other spouse. To obtain a passport for a minor child between 7 and 18 years the father or legal guardian needs to sign the request to obtain a passport (see Section 5).

There were no legal restrictions on the right of citizens to return to the country. However, many emigres were reluctant to return for a variety of political, economic, and social reasons. The Government encouraged the return to their homes of over 600,000 internally persons displaced during the civil war. Although some persons began to reclaim homes abandoned or damaged during the war, the vast majority had not attempted to reclaim and rebuild their property. The resettlement process was slowed by tight budgetary constraints, destroyed infrastructure, political feuds, a lack of schools and economic opportunities, and the fear that physical security still was inadequate in some parts of the country.

In 2000, approximately 6,000 SLA militiamen and their families fled to Israel. At year's end, approximately 3,000 had returned to the country. Several hundred relocated elsewhere outside of Israel, and approximately 3,000 remained in Israel at year's end. Of the former SLA personnel who returned to the country, most received prison sentences of varying lengths (see Section 1.e.). The Government publicly stated that the former SLA militiamen were welcome to return to the country, but that they would face trial upon their return.

Most refugees were Palestinians. The U.N. Relief and Works Agency (UNRWA) reported that the number of Palestinian refugees in the country registered with the UNRWA was approximately 390,000 in May. This figure, which represented refugees who arrived in 1948 and their descendants, was presumed to include many thousands who reside outside of the country. Most experts estimated that the actual number in the country was between 150,000 and 200,000. According to Surete Generale records, the number of registered Palestinian refugees was approximately 418,000. Most Palestinian refugees were unable to obtain citizenship and subject to governmental and societal discrimination, particularly in the area of employment; however, Palestinian women who married Lebanese men could obtain citizenship (see Section 5). On May 8, the State Consultative Council invalidated the 1994 naturalization decree in which several thousand Palestinian nationals were naturalized. As a result, approximately 4,000 cases, some of which are families including several siblings, will lose their Lebanese citizenship. The Council referred the issue to the Ministry of Interior to review the files and decide their legal status. The Ministry was reviewing the files and had not issued a decision by year's end.

The Government issued travel documents to Palestinian refugees to enable them to travel and work abroad. The Government did not issue visitors' visas to Jordanian nationals who were born in the country and were of Palestinian origin.

On several occasions, Hizballah operatives interfered with the freedom of movement of UNIFIL personnel. According to the U.N. Secretary General's report, at year's end, no action was taken against the 15 Hizballah operatives who injured 3 UNIFIL observers in April 2002, despite government assurances that the perpetrators would be arrested and brought to trial.

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided some protection against refoulement and granted refugee status. On September 9, the Surete Generale signed an agreement with the U.N. High Commissioner for Refugees

(UNHCR) recognizing and granting protection to non-Palestinian refugees, providing temporary relief for those seeking determination of refugee status. Those wishing to claim refugee status have to do so within 2 months of arriving in the country. The Surete Generale issues residence permits, valid for 3 months, during which time UNHCR must make a refugee status determination. The Surete Generale extended residency permits for up to a total of 12 months for those accorded refugee status by UNHCR. The Government granted admission and temporary (6 months) refuge to asylum seekers, but not permanent asylum. The Government generally cooperated with the offices of UNHCR and UNRWA.

According to the UNHCR, there were nearly 2,500 non-Palestinian refugees, primarily Iraqis, Somalis and Sudanese, residing in the country. The Surete Generale detained few and the UNHCR was granted access to them.

On October 25, 16 of 46 Iraqi Kurds stranded in Naquora on the Lebanese-Israeli border were voluntarily repatriated to Iraq after 2 years spent in limbo. The return was organized in coordination with UNHCR, the U.N., the Surete Generale, and foreign embassies.

More than 1,500 Iraqis voluntarily returned to Iraq on Government-sponsored convoys in May, June and December.

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

The Constitution provides that citizens have the right to change their government in periodic free and fair elections; however, lack of control over parts of the country, defects in the electoral process, strong Syrian influence over politics and decision makers, and weak security significantly restricted this right.

The Constitution provides that elections for the parliament must be held every 4 years. In turn, the parliament elects the president every 6 years. The president and parliament nominate the prime minister, who, with the president, chooses the Cabinet. According to the unwritten National Pact of 1943, the president must be a Maronite Christian, the prime minister a Sunni Muslim, and the Speaker a Shi'a Muslim (see Section 2.c.).

The parliamentary elections in 2000 showed fewer incidents of voter fraud and tampering with ballots than previous elections; however, the process was flawed with serious shortcomings, including Syrian government influence on the electoral law and candidate selection, progovernmental media manipulation, and improper activities of security services.

On September 14, a by-election held in the Baabda-Aley district for a Maronite Christian seat was reportedly held in a calm atmosphere, without government pressure to vote for a particular candidate or government interference in campaigning. The Lebanese Association for Democratic Elections (LADE) registered several irregularities, such as the presence of security personnel in polling stations, incomplete voter registration lists, and a lack of secret balloting.

In June 2002, a by-election held in the Metn district for the Greek-Orthodox seat was reportedly marred by numerous irregularities, in addition to the Minister of Interior's claim that the secret ballot is "optional." In November 2002, the Constitutional Council named the third-placed candidate the winner.

In September 2001, municipal elections were held for the first time since 1963 in 64 villages and towns in areas formerly occupied by Israel. Local observers reported that the elections were generally free and fair; however, there were some irregularities, including attempts by government agencies to pressure candidates and voters, the presence of unauthorized persons inside polling stations, and the absence of registration committees on voting day to correct errors in voters lists.

Women have the right to vote, and there are no legal barriers to their participation in politics; however, there were significant cultural barriers. No woman has ever held a cabinet position. There were 3 women in the 128-seat Parliament.

Palestinian refugees had no political rights (see Section 5). An estimated 17 Palestinian factions operated in the country and were generally organized around prominent individuals. Most Palestinians lived in refugee camps controlled by one or more factions. Refugee leaders were not elected, but there were "popular committees" that met regularly with UNRWA and visitors.

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

Several local human rights groups generally operated freely without overt government restriction, including the Lebanese Association for Human Rights, the Foundation for Human and Humanitarian Rights-Lebanon, and the National Association for the Rights of the Disabled, investigating and publishing their findings. In general, government officials were cooperative, except when some of these groups

sought to publicize the detention in Syria of hundreds of citizens. The bar association and other private organizations regularly held public events that included discussions of human rights issues. Some human rights groups reported harassment and intimidation by government, Syrian, or Hizballah forces. In September, the Government detained overnight the head of Frontiers Center (see Section 1.d.).

The Government generally cooperated with international NGOs and met with them during the year. In 2002, the U.N. High Commissioner for Human Rights met with senior government officials. The ICRC and AI maintained offices in the country. During the year, government officials discussed human rights problems with representatives of foreign governments and NGOs.

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

The Constitution provides for equality among all citizens; however, in practice, some aspects of the law and traditional beliefs discriminated against women. Although the law reserves a percentage of private sector and government jobs to persons with disabilities, there were few accommodations made for them. Discrimination based on race, language, or social status is illegal and was not widespread among citizens; however, foreign domestic servants often were mistreated. There was credible evidence that foreign domestic servants suffered physical abuse, had pay withheld or unfairly reduced, or were forced to remain locked within their employer's home for the duration of their contracts.

*Women.*—The law does not specifically prohibit domestic violence; however, violence against women was a common problem. Cases reported were believed to be only a fraction of the actual number. There were no authoritative statistics on the extent of spousal abuse; however, most experts agreed that the problem affected a significant portion of the female population. Despite a law prohibiting battery with a maximum sentence of 3 years in prison for those convicted, some religious courts legally may require a battered wife to return to the house in spite of physical abuse. Many women were compelled to remain in abusive marriages because of social and family pressures. Possible loss of custody of children and the absence of an independent source of income also prevented women from leaving their husbands.

The Government had no separate program to provide medical assistance to battered women; however, it provided legal assistance to victims who could not afford it regardless of their gender. In most cases, police ignored complaints submitted by battered or abused women. The Lebanese Council to Resist Violence Against Women worked actively to reduce violence against women by offering counseling and legal aid and raising awareness about domestic violence.

Foreign domestic servants often were mistreated, abused, and in some cases, raped or placed in slavery-like conditions (see Section 6.f.). Asian and African female workers had no practical legal recourse available to them because of their low status, isolation from society, and because the labor laws did not protect them (see Section 6.e.). Because of such abuse, the Government prohibited foreign women from working if they were from countries that did not have diplomatic representation in the country.

The law prohibits rape, and the minimum sentence for a person convicted of rape is 5 years in prison. The minimum sentence for a person convicted of raping a minor is 7 years. During the year, the courts issued several sentences in cases involving rape; most offenders received 5 to 7 years in jail.

The legal system was discriminatory in its handling of "honor crimes." According to the Penal Code, a man who kills his wife or other female relative may receive a reduced sentence if he demonstrates that he committed the crime in response to a socially unacceptable sexual relationship conducted by the victim. For example, while the Penal Code stipulates that murder is punishable by either a life sentence or the death penalty, if a defendant can prove it was an honor crime, the sentence is commuted to 1 to 7 years imprisonment. Several instances of honor crimes are reported in the media every year, and reportedly there were an average of two to three cases of honor crimes each month. No person has been convicted in a case legally considered an honor crime.

The 1931 law on prostitution requires that brothels be licensed and that sex workers be tested regularly for disease. The law remains on the books and technically in effect. However, government policy since the late 1960s was to stop issuing new licenses for brothels in an attempt to gradually eliminate legal prostitution in the country; however, as a result of the civil war and the weakness of government institutions, illicit prostitution spread. In practice, most prostitution is unlicensed and illegal. Thousands of foreign women, primarily from Russia and Eastern Europe, traveled to the country to work as "artistes." The Surete General actively investigates adult clubs employing "artistes" and issues warnings to those that do not comply with regulations regarding employee working schedules and documentary re-

quirements. The country was a destination for trafficked persons, primarily women (see Section 6.f.).

The law prohibits sexual harassment; however, it was a widespread problem. Women had varying employment opportunities in government, medicine, law, academia, the arts, and to a lesser degree, business. However, social pressure against women pursuing careers was strong in some parts of society. Men sometimes exercised considerable control over female relatives, restricting their activities outside of the home or their contact with friends and relatives.

Women may own property but often ceded control of it to male relatives for cultural reasons and because of family pressure.

The law provides for equal pay for equal work for men and women. The law gives women serving in government the same rights as men in terms of medical coverage and hospitalization, meaning that women serving in government can claim reimbursement for medical coverage, hospitalization, and family allowances in cases when they are single or their husband is unemployed or does not otherwise have coverage. Only men may confer citizenship on their spouses and children. Accordingly, children born to citizen mothers and foreign fathers are not eligible for citizenship. Citizen widows may confer citizenship on their minor children.

*Children.*—The plight of children was a growing concern for the Government. Education was free in public schools and compulsory until age 13. However, public schools generally were inadequate, lacking proper facilities, equipment and trained staff. A recent study indicated that 70 percent of Arabic teachers in public schools do not know the rules of Arabic. A public school in Quornet Shahwan must use the adjacent village cemetery as its playground. The cost of private education was a significant problem for the middle and lower classes. UNICEF reported that in the 2000 school year, approximately 85 percent of children between the ages of 3 and 5, and approximately 98 percent of children between the ages of 7 to 11 were enrolled in school. In some families with limited incomes, boys received more education than girls. The illiteracy rate was approximately 38 percent. An undetermined number of children were neglected, abused, and exploited. There are periodic reports that parents force children to beg in the streets or work in the fields to help support the family. The normal procedure for adoption was through religious homes or institutions authorized to arrange adoption; however, the demand to provide infants for adoption abroad resulted in illegal international adoptions. There were no statistics available concerning the prevalence of the illegal adoption of infants. Poor children often were compelled by their parents to seek employment and often took jobs that jeopardized their safety (see Section 6.d.). The Government did not have specific child protection laws to remove children from abusive situations and did not grant NGOs adequate legal standing to litigate on behalf of abused minor children.

In 2002 and during the year, the police discovered and broke up several child prostitution rings.

*Persons with Disabilities.*—The Disability Law mandates disabled access to buildings; however, the Government failed to take steps to amend building codes to conform to the law. Approximately 100,000 persons became disabled during the civil war. Families generally cared for persons with disabilities. Most efforts to assist persons with disabilities were made by approximately 100 private organizations. These organizations were relatively active, although poorly funded.

The law on persons with disabilities stipulates that at least 3 percent of all government and private sector positions should be filled by persons with disabilities, provided that such persons fulfill the qualifications of the position; however, there was no evidence that the law was enforced in practice.

In 2002, joint committees composed of the National Committee for the Disabled and the Ministries of Health, Labor, and Education were formed to implement the law on persons with disabilities. In 2002, the Ministry of Finance informed all firms and companies that it would not settle obligations with them unless they proved that 3 percent of their workforce was composed of persons with disabilities; however, the Ministry failed to enforce this decision in practice.

Many persons with mental disabilities are cared for in private institutions, many of which are subsidized by the Government.

*National/Racial/Ethnic Minorities.*—According to the UNRWA, an estimated 390,000 Palestinian refugees were registered in the country (see Section 2.d.); however, it was believed that approximately 150,000 to 200,000 Palestinians actually resided in the country. Most Palestinian refugees lived in overpopulated camps that suffered repeated heavy damage as a result of fighting during the civil war, during the Israeli invasion of the country, and during on-going camp feuds. The Government generally prohibited the construction of permanent structures in the camps on the grounds that such construction encouraged the notion of permanent refugee set-



tlement in the country. Refugees feared that the Government may reduce the size of the camps or eliminate them completely. Very few Palestinians received work permits, and those who found work usually were directed into unskilled occupations. Palestinian incomes continued to decline. The law prohibited Palestinian refugees from working in 72 professions.

Palestinian refugees do not have the right to own property in the country. Palestinians no longer may purchase property and those who owned property prior to 2001 will be prohibited from passing it on to their children. The Parliament justified these restrictions on the grounds that it was protecting the right of Palestinian refugees to return to the homes they fled after the creation of the state of Israel in 1948. Other foreigners may own a limited-size plot of land, but only after obtaining the approval of five different district offices. The law applies to all foreigners, but it was applied in a manner disadvantageous to the 25,000 Kurds in the country. The Government did not provide health services or education to Palestinian refugees, who relied on UNRWA for these services.

Palestinian children reportedly were forced to leave school at an early age to help earn income. The U.N. estimated that 18 percent of street children in the country were Palestinian. Poverty, drug addiction, prostitution, and crime reportedly were increasing in the camps, although reliable statistics were not available.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, except government employees, may establish and join unions, and workers exercised this right in practice. Worker representatives must be chosen from those employed within the bargaining unit. About 900,000 persons formed the active labor force, 14 percent of whom were members of 210 labor unions and associations. Most of these unions formed federations. At year's end, 37 federations, with about 200,000 workers, were represented in the General Confederation of Labor (GCL).

Anti-union discrimination did not appear to be widespread, although there were credible reports that a small number of workers were fired following their participation in a general strike in October.

Palestinian refugees may organize their own unions; however, because of restrictions on their right to work, few Palestinians participated actively in trade unions.

Unions were free to affiliate with international federations and confederations, and they maintained a variety of such affiliations.

*b. The Right to Organize and Bargain Collectively.*—The right of workers to organize and to bargain collectively exists in law and practice. Most worker groups engaged in some form of collective bargaining with their employers. Stronger federations obtained significant gains for their members and on occasion assisted non-unionized workers. There were no government mechanisms to promote voluntary labor-management negotiations, and workers had no protection against anti-union discrimination.

The law provides for the right to strike. In 2002, the teachers' union went on a strike and then staged a demonstration to protest budget proposals including taxes on pensions and working hour increases.

In December, Lebanese University (LU) professors and students staged the largest demonstration in the country since 1992 when more than 15,000 people marched to protest threats to LU's autonomy, administrative shortcomings, and shrinking budgets.

In October, the General Confederation of Labor called a general strike to protest high unemployment, deteriorating social benefits, high taxes, planned privatization, and frozen minimum wages. An estimated 4,000 to 8,000 people participated in a peaceful march.

In June and July 2002, taxi and bus drivers held separate strikes to protest a new government anti-pollution measure calling for a switch from diesel to gasoline for all passenger vehicles carrying less than 15 passengers. Similar protests were carried out during the year.

There are no export processing zones (EPZs).

*c. Prohibition of Forced or Bonded Labor.*—The law does not prohibit forced labor; however, children, foreign domestic servants, and other foreign workers sometimes were forced to remain in situations amounting to coerced or bonded labor (see Sections 5 and 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor was a problem. The Labor Code prohibits employment of workers under the age of 18 for more than 6 hours per day, and requires 1 hour of rest if work is more than 4 hours. The law defines workers under the age of 14 as child laborers. The amendments also entitle children to 21 days of paid annual leave. Children are pro-

hibited from working between the hours of 7 p.m. and 7 a.m. The Code also prohibits certain types of mechanical work for children between the ages of 8 and 13 and other types for those between the ages of 13 and 16. The law prohibits children under the age of 18 from working in jobs that jeopardize their health, safety, or morals. The Ministry of Labor was responsible for enforcing these requirements; however, it did not apply the law rigorously. In 2002, a law was passed regarding the protection of juveniles exposed to danger; however, at year's end, there was no evidence of its implementation.

According to the Central Statistics Administration, 7.6 percent of working children were between the ages of 6 and 14. The report also indicated that of this 7.6 percent, 45.3 percent were performing all kinds of jobs, such as working in the fields and helping their parents in the home. Most of these child laborers were citizens, but some were Syrian; they worked predominantly in the agricultural, industrial, craft, and metallurgical sectors.

Approximately 40 percent of working children worked 10 to 14 hours per day, and few received social welfare benefits. In addition, the active labor force included approximately 52,000 workers between the ages of 15 and 19, who were not eligible for the minimum wage until they reached the age of 21.

*e. Acceptable Conditions of Work.*—The Government set a legal minimum wage; during the year, it was approximately \$200 (300,000 Lebanese pounds) per month. The law was not enforced effectively in the private sector. The minimum wage was insufficient to provide a decent standard of living for a worker and family. Trade unions attempted to ensure the payment of minimum wages in both the public sector and the large-scale private sector.

The Labor Law prescribes a standard 6-day workweek of 48 hours, with a 24-hour rest period per week. In practice, workers in the industrial sector worked an average of 35 hours per week, and workers in other sectors worked an average of 30 hours per week. The law includes specific occupational health and safety regulations. Labor regulations require employers to take adequate precautions for employee safety. The Ministry of Labor was responsible for enforcing these regulations, and it did so unevenly. Labor organizers reported that workers did not have the right to remove themselves from hazardous conditions without jeopardizing their continued employment. Foreign domestic servants, mostly of Asian and African origin, often were mistreated, abused, raped, or placed in situations of coerced labor or slavery-like conditions (see Sections 5 and 6.f.). Recruitment agencies and employers generally signed employment contracts requesting a foreign worker; the prospective foreign workers rarely were party to such contracts or, if they were, might not know what the contract stipulates because it was written in Arabic. Recruitment agencies or employers illegally confiscated the passports of foreign domestic workers when the workers arrived at the airport. The Government enacted regulations prohibiting employment agencies from withholding foreign workers' passports for any reason and specifically defined sponsors responsibilities with regard to the treatment of domestics. The Ministry of Labor regularly met with source country embassies to ensure that foreign laborers and domestic workers were aware of the new employment agency regulations and the "complaint line" for reporting violations.

The labor laws do not protect foreign domestic servants. Domestic servants often worked 18 hours per day, and in most cases did not receive vacations or holidays. There was no minimum wage for domestic servants; their average wage was approximately \$100 (150,000 pounds) per month. Victims of trafficking or abusive labor situations may file civil suits or seek legal action.

The Ministry of Labor referred cases of abuse reported to its complaint line to law enforcement for investigation and prosecution. It also enacted regulations prohibiting employment agencies from withholding foreign workers' passports for any reason and specifically define sponsors' responsibilities with regard to the treatment of domestics. In 2002, 18 employment agencies were closed for non-compliance with these regulations.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, trafficking in persons was a problem. The Penal Code stipulates that "any person who deprives another of freedom either by abduction or any other means shall be sentenced to temporary hard labor;" however, during the year, the Government did not prosecute such cases. During the year, the country was a destination for African and Asian women contracted as household workers, and East European and Russian women contracted as dancers in adult clubs. These women may have come voluntarily; however, there was evidence that many found themselves in coercive work situations from which they had little practical legal recourse. If forced prostitution or forced rendering of sexual services occurred as a result of

an abduction, the Penal Code stipulates that the abductor be sentenced to at least 1 year in prison.

Many women became illegal workers because their employers did not renew their work and residency permits. Unscrupulous employers sometime falsely accused the employee of theft in order to relinquish responsibility for the employee as well as the taxes and airline ticket home (see section 6.e). Restrictions of movement and withholding of passports were common practices. A very small number of exploited foreign workers won cases against their employers. The judiciary did not usually acknowledge the violation of maids' rights, but in a few cases, courts decided in favor of foreign workers against whom charges had been brought.

In January, the public prosecutor bought and won a case on behalf of a maid against her employer. A Sri Lankan domestic worker was assaulted and burned with boiling water by her employer. The court ruled that the sponsor was responsible for the maid's well-being and ordered that the maid be paid compensation for her suffering as well as repatriation expenses.

On September 30, in an unprecedented verdict, a penal judge sentenced an employer to 15 days imprisonment on charges of beating her Filipina maid and burning her with an iron in 1999. The judge imposed a fine of \$1,000 (1.5 million pounds) as compensatory damages.

In October 2002, the criminal court of the Metn district acquitted two Filipina maids on charges brought against them by their employers for theft. In another case, a Sri Lankan maid was repatriated after her employer dropped charges brought against her for leaving her house.

During the year, the Government took new measures to counter trafficking, including signing the U.N. Convention against Transnational Organized Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. During the year, the Ministry of Labor enacted regulations prohibiting employment agencies from withholding foreign workers' passports for any reason and specifically defining sponsors' responsibilities with regard to the treatment of domestics.

In 2002, the Surete Generale actively investigated adult clubs employing "artistes" from Eastern Europe and issued warnings to those who did not comply with regulations. It issued 20 warnings and closed one club. Other anti-trafficking measures included the closure of approximately 18 illegal employment agencies for violating trafficking related regulations by the Ministry of Labor, and participation in awareness programs, namely with the Embassy of Sri Lanka.

The Government did not fully comply with the minimum standards for the elimination of trafficking; however, it was making significant efforts to do so. The Government's strengths in combating trafficking are in the area of prevention.

The Government did not provide foreign workers with relief from deportation, shelter, or access to legal, medical or psychological services. However, social workers from the Caritas Migrant Center had full-time access to the government retention Center for Foreign Persons. A number of NGOs provided pro bono legal assistance and counseling to victims of trafficking; however, few victims used this service. In 2002, the Ministry of Labor also began implementing procedures for lodging complaints against employers or employment agencies.

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## LIBYA<sup>1</sup>

The Socialist People's Libyan Arab Jamahiriya is a dictatorship that has been ruled by Colonel Mu'ammarr Al-Qadhafi since 1969, when he led a military coup that overthrew King Idris I. Borrowing from Islamic and pan-Arab ideas, Qadhafi created a political system that rejects democracy and political parties and purports to establish a "third way" superior to capitalism and communism. The country's governing principles are derived predominantly from Qadhafi's "Green Book." In theory, the citizenry rules the country through a series of popular congresses, as laid out in the Constitutional Proclamation of 1969 and the Declaration on the Establishment of the Authority of the People of 1977; however, in practice, Qadhafi and his inner circle monopolize political power. Qadhafi is aided by extragovernmental organizations, the Revolutionary Committees, that exercise control over most aspects of citizens' lives. The judiciary is not independent of the Government, and security forces have the power to pass sentences without trial.

<sup>1</sup>The United States has no official presence in Libya. Information on the human rights situation therefore is limited; this report draws heavily on non-U.S. Government sources.

The country maintains an extensive security apparatus, consisting of several elite military units, including Qadhafi's personal bodyguards, local Revolutionary Committees, People's Committees, and "Purification" Committees. The result was a multilayered, pervasive surveillance system that monitored and controlled the activities of individuals. The various security forces committed numerous serious human rights abuses.

The Government exercised complete control over the country's oil resources, which accounted for approximately 95 percent of export earnings and an estimated 23 percent of the gross domestic product. The population of the country was approximately 5.7 million. Oil revenues were the principal source of foreign exchange. Much of the country's income has been lost to waste, corruption, conventional armament purchases, and attempts to develop weapons of mass destruction, as well as to large donations made to "liberation" movements and to developing countries in attempts to increase Qadhafi's influence in Africa and elsewhere. The Government's mismanagement of the economy has led to high inflation and increased import prices, resulting in a decline in the standard of living for most of its citizens in recent years.

The Government's human rights record remained poor, and it continued to commit numerous, serious abuses. Citizens did not have the right to change their government. Qadhafi used summary judicial proceedings to suppress domestic opposition. Security forces tortured prisoners during interrogations and as punishment. Prison conditions were poor. Security forces arbitrarily arrested and detained persons, and many prisoners were held incommunicado. Many political detainees were held for years without charge or trial. The Government controlled the judiciary, and citizens did not have the right to a fair public trial or to be represented by legal counsel. The Government infringed on citizens' privacy rights, and citizens did not have the right to be secure in their homes or to own private property. The Government restricted freedom of speech, press, assembly, association, and religion. The Government imposed some limits on freedom of movement. The Government prohibited the establishment of independent human rights organizations and of free trade unions.

Violence against women was a problem. Traditional attitudes and practices continued to discriminate against women, and female genital mutilation (FGM) was practiced in remote areas of the country. The Government discriminated against and repressed tribal groups. The Government continued to repress banned Islamic groups and exercised tight control over ethnic and tribal minorities, such as Amazighs (Berbers), Tuaregs, and the Warfalla tribe. The Government denied basic worker rights, used forced labor, and discriminated against foreign workers. There were reports of slavery and trafficking in persons.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, poor prison conditions contributed to an unknown number of deaths in custody (see Section 1.c.).

In July, the Human Rights Society of the Qadhafi International Foundation for Charity Association (commonly known as the Qadhafi Foundation), headed by Saif al-Islam al-Qadhafi, called for an investigation into the deaths of detainees in custody; however, no subsequent investigation was known to have taken place.

In 2002, the World Organization Against Torture (OMCT) reported that authorities detained and tortured Mohammad Massaud Izbeda after he inquired as to why his son had not been among 62 prisoners released by the Government on September 1, 2002. According to reports, he was released later that day and died the same night (see Section 1.c.).

Since 2001, the Government has suppressed all opposition within the country, focusing its efforts primarily on Islamist groups. It reinforced the tightened security measures put in place following a 1996 prison mutiny in Benghazi by arresting possible dissidents, conducting military operations in the areas of insurrection, and killing a number of persons.

In 2001, a German court found four persons, including a former government diplomat, guilty of murder and attempted murder in connection with the 1986 bombing of the La Belle disco in then-West Berlin. The judge declared that there was clear government responsibility. The German Government immediately called upon the Government to admit responsibility and provide compensation for the victims.

U.N. sanctions against the country were lifted on September 12 after the country fulfilled the remaining U.N. Security Council obligations imposed upon it in connection with the bombing of Pan Am flight 103 in 1988. In fulfilling these obligations,

the country accepted responsibility for the actions of its officials and made arrangements for the payment of appropriate compensation to the families of the victims. On November 24, a Scottish court ruled that Abdelbasset al-Megrahi must serve a minimum of 27 years in prison before he will be considered for parole. In 2002, Megrahi appealed his conviction to the European Court of Human Rights, alleging that his rights were breached during his 2000–2001 trial and the subsequent appeal. At year's end, the appeal remained pending.

In 1999, a French court convicted in absentia 6 defendants in the bombing of UTA flight 772 over Chad in 1989, which killed 171 persons, and sentenced them to life in prison. In 2000, the Government paid the French Government \$31 million (17 million dinars) to compensate the victims' families. In August, France threatened to veto any U.N. Security Council resolution to lift sanctions against the country in an effort to obtain additional compensation for the families of UTA victims. The two sides reached a framework agreement that enabled France to abstain on the resolution, but at year's end they had not reached a final agreement on the amount of compensation.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances; however, in the past, the Government abducted and killed dissidents in the country and abroad.

In September, tensions flared with Lebanon over accusations of government responsibility for the 1978 disappearance of Lebanese Shi'a leader Imam Mousa al-Sadr and two of his companions in the country. Lebanese Shi'a Muslim groups pressed for Qadhafi to be held accountable for the disappearance. The country's embassy in Beirut was closed and its diplomats relocated to Damascus as a result of the renewed controversy. In October, a representative of the Lebanese Communist Party visited Tripoli, and the embassy was subsequently reopened.

At year's end, the Government still had not taken any action in the 1993 disappearance in Cairo of its citizen Mansur Kikhiya, a human rights and political activist.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Security personnel routinely tortured prisoners during interrogations or for punishment. Government agents reportedly detained and tortured foreign workers, particularly those from sub-Saharan Africa. Reports of torture were difficult to corroborate because many prisoners were held incommunicado. Although the Government promised to make public the names of any government personnel involved in the torture in 2002 by Qadhafi's son, Saif al-Islam, it had not done so by year's end.

Methods of torture reportedly included: Chaining to a wall for hours; clubbing; applying electric shock; applying corkscrews to the back; pouring lemon juice in open wounds; breaking fingers and allowing the joints to heal without medical care; suffocating with plastic bags; depriving of food and water; hanging by the wrists; suspending from a pole inserted between the knees and elbows; burning with cigarettes; attacking with dogs; and beating on the soles of the feet.

In September, Amnesty International (AI) reported that an Eritrean national died in custody after having been denied appropriate medical treatment. According to the report, the individual had been detained for approximately 18 months without being charged. He and seven other Eritreans were arrested for allegedly having deserted from the Eritrean military. AI also reported that the other seven detainees had been beaten and kicked, and that a prison guard had wounded one of the men with a knife. In 2002, the Government amputated the hands and legs of four individuals in punishment for theft. The sentences were the first issued since 1969.

In September 2002, OMCT reported that Mohammad Massaud Izbeda inquired at the Revolutionary Committee Headquarters as to why his son, Abdallah Mohammad Massaud Izbeda, had not been among the 62 prisoners released by the Government on September 1, 2002. Authorities at the headquarters detained and tortured Mr. Izbeda. According to reports, he was released later that day and died the same night. Security forces reportedly attempted to remove Izbeda's body from its gravesite on September 13, 2002, when a group of young persons intervened. Authorities arrested several, subjecting at least one, Seif Salem Aljadik, to torture, and reportedly killing others. Authorities also demolished both Mr. Izbeda and Mr. Aljadik's homes (see Section 1.a.).

In a 1999 case involving the HIV infection of nearly 400 children, 16 defendants claimed that their confessions had been obtained under duress. In February 2002, a court in Benghazi conducted an official inquiry into the defendants' claims of torture. Defense lawyers for the health care professionals told the press that the inquiry was completed but the results were not communicated to the defense. In November 2002, seven of the suspects told the Sunday Times that they had signed confessions after months of torture. The torture methods they described included elec-

tric shocks, beatings, sleep deprivation, intimidation by police dogs, and forcing one female suspect to undress and threatening to insert a lighted lamp into her vagina. These signed confessions were the prosecution's best evidence against the suspects. The case remained pending at year's end after a series of delays in court proceedings.

Prison conditions reportedly were poor. According to AI, political detainees reportedly were held in cruel, inhuman, or degrading conditions, and denied adequate medical care, which led to several deaths in custody. The Government did not permit prison visits by human rights monitors, including the International Committee of the Red Cross.

*d. Arbitrary Arrest, Detention, or Exile.*—By law, the Government may hold detainees incommunicado for unlimited periods. Security forces arbitrarily arrested and detained citizens. The Government held many political detainees incommunicado in unofficial detention centers controlled by members of the Revolutionary Committees.

Scores of businessmen, traders, and shop owners have been arrested arbitrarily on charges of corruption, dealing in foreign goods, and funding Islamic fundamentalist groups in violation of the 1994 Purge Law. The Purge Law was established to fight financial corruption, black marketeering, drug trafficking, and atheism. Purification committees enforced the law.

Hundreds of political detainees, many associated with banned Islamic groups, reportedly were held in prisons throughout the country (but mainly in the Abu Salim prison in Tripoli); many have been held for years without charge. Some human rights organizations estimated this number to be as high as 2,000. Hundreds of other detainees may have been held for periods too brief (3 to 4 months) to permit confirmation by outside observers.

In October, an official from the Bulgarian Embassy was banned from the courtroom proceedings in the trial of the Bulgarian health professional charged with intentionally infecting 400 children with HIV.

In 2002, a People's Court in Tripoli sentenced to death Salem Abu Hanak and Abdullah Ahmed Izzedin, 2 out of at least 152 professionals who were arbitrarily arrested in 1998 in Benghazi for involvement with Islamic organizations. Eighty-six of the 152 men were sentenced, while 66 were acquitted. Those who were convicted received sentences ranging from 10 years to life imprisonment. The appeal trial opened in December 2002 and continued at year's end. AI reported that lawyers for the accused were neither allowed to study their case files nor to meet with their clients. The lawyers were denied access to the court, and the judge appointed government clerks to replace them. Family members were allowed to meet with the accused briefly for the first time since their arrest in April 2001, but then not again until at least December 2001 (see Sections 1.c. and 1.e.). In September, the Qadhafi Foundation, headed by Saif al-Islam al Qadhafi, announced that it had intervened with authorities in the case asking that they, "work towards the release of the group . . . in order to re-integrate them into society."

In 1999, the 16 defendants of the case involving the HIV infection of nearly 400 children were kept in incommunicado detention for approximately 10 months, without access to their families or legal representation (see Sections 1.c. and 1.e.).

There was no information available on Abdullah Ali al-Sanussi al-Darrat, who was detained without charge and has not had a trial since 1973 (see Section 2.a.).

The Government did not impose forced exile as a form of punishment, and it continued to encourage citizen dissidents abroad to return, promising to ensure their safety. It was unclear whether such promises were honored. During the year, the Government continued to repatriate family members of suspected citizens who were members of the terrorist group al-Qa'ida. Students studying abroad have been interrogated upon their return.

*e. Denial of Fair Public Trial.*—The judiciary was not independent of the Government, and security forces had the power to pass sentences without trial. The Government used summary judicial proceedings to suppress domestic dissent.

There are four levels of courts: summary courts, which tries petty offenses; the courts of first instance, which tries more serious crimes; the courts of appeal; and the Supreme Court, which is the final appellate level.

Special revolutionary courts tried political offenses. Such trials often were held in secret or even in the absence of the accused. In other cases, the security forces had the power to pass sentences without trial, especially in cases involving political opposition. In the past, Qadhafi incited local cadres to take extrajudicial action against suspected opponents.

The private practice of law is illegal; all lawyers must be members of the Secretariat of Justice.

The trial of the 152 professionals and students who were arrested in Benghazi for alleged involvement with an Islamic organization remained under appeal at year's end (see Sections 1.c. and 1.d.).

In February 2002, the special People's Court, charged with trying 16 health professionals in 1999 for allegedly infecting 400 children with HIV, dropped the conspiracy charge and transferred the proceedings to the criminal court. The attorney defending the persons claimed he was allowed to meet with his clients twice in the 3 years since their jailing. The case was still pending at year's end after a series of delays in the court proceedings (see Sections 1.c. and 1.d.).

The Government held a large number of political prisoners. AI estimated that there were hundreds of persons imprisoned for political reasons; other groups put that number as high as 2,000. On September 1, 2002, the Government announced that it had pardoned and released 3,000 citizen and foreign prisoners on the occasion of the 34th anniversary of the revolution that brought Qadhafi to power. It was unclear how many of these may have been political prisoners.

The Government did not permit access to political prisoners by international human rights monitors.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Government does not respect the right to privacy. The security agencies often disregarded the legal requirement to obtain warrants before entering a private home. They also routinely monitored telephone calls.

The security agencies and the Revolutionary Committees oversaw an extensive network of informants; one credible foreign observer estimated that 10 to 20 percent of the population was engaged in surveillance for the Government. Exiles reported that family ties to suspected government opponents may result in harassment and detention. The Government may seize and destroy property belonging to "enemies of the people" or those who "cooperate" with foreign powers. In the past, citizens reported that the Government warned members of the extended family of government opponents that they too risked the death penalty.

The law provides for the punishment of families or communities that aid, abet, or do not inform the Government of criminals and oppositionists in their midst. The crimes include "obstructing the people's power, instigating and practicing tribal fanaticism, possessing, trading in or smuggling unlicensed weapons, and damaging public and private institutions and property." The law also provides that "any group, whether large or small," including towns, villages, local assemblies, tribes, or families, be punished in their entirety if they are accused by the General People's Congress (GPC) of sympathizing, financing, aiding in any way, harboring, protecting, or refraining from identifying perpetrators of such crimes. Punishment under the Collective Punishment Law ranges from the denial of access to utilities (water, electricity, telephone), fuels, food supplies, official documents, and participation in local assemblies, to the termination of new economic projects and state subsidies. The "Code of Honor," passed by the GPC in 1997, provides for collective punishment to be inflicted on the relatives of persons having committed certain crimes, normally opponents of the regime.

The 1994 Purge Law provides for the confiscation of private assets above a nominal amount, describing wealth in excess of such undetermined amounts as "the fruits of exploitation or corruption." In 1996, the Government ordered the formation of hundreds of "Purge" or Purification Committees composed of young military officers and students. The Purification Committees reportedly seized some "excessive" amounts of private wealth from members of the middle and affluent classes; the confiscated property was taken from the rich to be given to the poor in an effort to appease the populace and to strengthen the Government's power and control over the country. The activities of the Purification Committees continued during the year.

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

*a. Freedom of Speech and Press.*—The Government severely limited the freedoms of speech and of the press. This was especially true with regard to criticism of Qadhafi or his Government. The occasional instances of criticism of political leaders and policies in the state-controlled media usually were government attempts to test public opinion or weaken a government figure who may be a potential challenger to Qadhafi. The authorities tolerated some difference of opinion in People's Committee meetings and at the GPC.

By year's end, the Government still had not responded to requests on the whereabouts of the journalist Abdullah Ali al-Sanussi al-Darat, who has been detained without trial or charges brought against him since 1973 (see Section 1.d.).

In October, the Government banned the newspaper *Az-Zahf Al-Akhdar* for 2 weeks following its criticism of Lebanese Shi'ite parties and politicians. Following the 2 week ban, a new editor was appointed.

The Government restricted freedom of speech by prohibiting all political activities not officially approved, by enacting laws so vague that many forms of speech or expression may be interpreted as illegal, and by operating a pervasive system of informants that created an atmosphere of mistrust at all levels of society (see Section 1.f.).

The Government owned and controlled the media. There was a state-run daily newspaper, *Al-Shams*, with a circulation of approximately 40,000. Local Revolutionary Committees published several smaller newspapers. The official news agency, JANA, was the designated conduit for official views. The Government did not permit the publication of opinions contrary to its policy. Such foreign publications as *Newsweek*, *Time*, the *International Herald Tribune*, *L'Express*, and *Jeune Afrique* were available, but authorities routinely censored them and had the power to prohibit their entry into the market.

The Internet and satellite television were widely available in the country. According to numerous anecdotal reports, both were accessed easily in Tripoli.

The Government restricted academic freedom. Professors and teachers who discussed politically sensitive topics faced the risk of government reprisal.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution does not provide for the freedom of assembly, and the Government severely restricted this right. Public assembly was permitted only with Government approval and in support of the Government's positions.

The Government restricted the right of association; it grants such a right only to institutions affiliated with the Government. Under the law, political activity found by the authorities to be treasonous is punishable by death. An offense may include any activity that is "opposed to the principles of the Revolution."

*c. Freedom of Religion.*—The Government restricts freedom of religion. Although the country is a dictatorship, the Government was tolerant of other faiths, with the exception of fundamentalist and militant forms of Islam, which it viewed as a threat to the regime.

In an apparent effort to eliminate all alternative power bases, the Government banned the once powerful *Sanusiyya* Sufi order of Islam. In its place, Qadhafi established the Islamic Call Society (ICS), which was the outlet for state-approved religion, as well as a tool for exporting the revolution abroad. The ICS also was responsible for relations with other religions, including Christian churches in the country. In 1992, the Government announced that the ICS would be disbanded; however, its director still conducted activities, suggesting that the organization remains operational. The Government heavily censored its clerics. Islamic groups whose beliefs and practices were at variance with the state-approved teaching of Islam were banned. Although most Islamic institutions were under state control, prominent families endowed some mosques; however, they generally followed the government-approved interpretation of Islam. Government officials repeatedly denounced militant Islam during the year.

Members of some minority religions were allowed to conduct services. Christian churches operated openly and were tolerated by the authorities. However, Christians were restricted by the lack of churches; there was a government limit of one church per denomination per city.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government usually does not restrict the internal movement of citizens; however, it has imposed blockades on those cities and regions (primarily in the east) in which anti-government attacks or movements originated.

The Government requires citizens to obtain exit permits for travel abroad and limits their access to hard currency. A woman must have her husband's permission to travel abroad (see Section 5). Authorities routinely seized the passports of foreigners married to citizens upon their entry into the country.

The right of return exists. The Government has called on students, many of whom receive a government subsidy, and others working abroad, to return to the country on little or no notice. The Government expelled noncitizens arbitrarily. The Government continued to repatriate family members of suspected al-Qa'ida members during the year.

Following reports in 2001 of mob violence in which 150 African workers were killed, the Government expelled hundreds of thousands of African migrants by driv-



ing them in convoys to the border with Niger and Chad and abandoning them there in the desert (see Sections 5 and 6.e.).

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The U.N. High Commissioner for Refugees (UNHCR) reported that there were approximately 33,000 refugees in the country, including 30,000 Palestinians and 3,000 Somalis. During 2001, the UNHCR assisted approximately 1,300 of the most vulnerable refugees in the country and supported income-generating programs for refugee women. The Government cooperated with UNHCR and provided free housing to approximately 850 refugees during 2001.

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

Citizens do not have the right to change their government. Qadhafi, his close associates and committees acting in his name controlled major government decisions. Political parties are banned. Qadhafi appointed military officers and official functionaries down to junior levels. Corruption and favoritism, partly based on tribal origin, were major problems that adversely affected government efficiency.

In theory, popular political participation is provided by the grassroots People's Committees, which are open to both men and women, and which send representatives annually to the national GPC; however, the GPC is chosen by Qadhafi and merely approves all recommendations made by him.

Qadhafi established the Revolutionary Committees in 1977. These bodies consisted primarily of youths who guard against political dissent. Some committees have engaged in show trials of government opponents; the committees also have been implicated in the killing of opponents abroad. The committees approve all candidates in elections for the GPC.

There was no reliable information on the representation of women and minorities in the Government.

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

The Government prohibits the establishment of independent human rights organizations. The Government created the Libyan Arab Human Rights Committee in 1989; however, the committee was not known to have published any reports.

The Government had not responded substantively to appeals from AI on behalf of detainees by year's end.

The Government's human rights record came under renewed international scrutiny as a result of its chairmanship of the 57th U.N. Commission on Human Rights (UNCHR). The Government repeatedly dismissed criticism of its human rights record and there was no evidence that chairing the CHR prompted better behavior as Qadhafi's son, Saif al-Islam, had claimed would be the case.

In September, the Government appointed for the first time a Secretary for Human Rights; however, at year's end, this ministry had yet to demonstrate any influence over the country's human rights policies.

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

The Constitution prohibits discrimination based on these factors; however, the Government did not enforce the prohibitions, particularly with regard to women and tribal minorities.

In 1999, 16 health professionals were charged for allegedly infecting 400 children with HIV. The case was still pending at year's end after a series of delays in the court proceedings (see Sections 1.c, 1.d., and 1.e.). In 2000, mobs beat and killed numerous African workers and, in some cases, burned their places of residence and employment. The mobs blamed the foreign population for increased crime and the presence of HIV/AIDS in the country.

*Women.*—There was little detailed information regarding the extent of violence against women; however, it reportedly remained a problem. In general, the intervention of neighbors and extended family members tended to limit the reporting of domestic violence. Abuse within the family rarely was discussed publicly, due to the value attached to privacy in society.

Some nomadic tribes located in remote areas still practiced FGM on young girls. Citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children (see Section 6.f.).

The 1969 Constitutional Proclamation granted women total equality; however, traditional attitudes and practices continued to discriminate against women. Women were reportedly prevented, in practice, from owning property. A woman must have

the permission of her husband or another close male relative to travel abroad (see Section 2.d.).

Although their status was not equal to that of men, the opportunity for women to make notable social progress increased in recent years. Oil wealth, urbanization, development plans, education programs, and even the impetus behind Qadhafi's revolutionary government have contributed to the creation of new employment opportunities for women. In recent years, foreign diplomats have noted a growing sense of individualism in some segments of society, especially among educated youth. For example, many educated young couples preferred to set up their own households, rather than move in with their parents, and viewed polygyny with scorn. Educational differences between men and women have narrowed.

In general, the emancipation of women is a generational phenomenon: Urban women under the age of 35 tended to have more "modern" attitudes toward life; however, older urban women tended to have more traditional attitudes toward family and employment. Moreover, a significant proportion of rural women did not attend school and were inclined to instill in their children such traditional beliefs as women's subservient role in society.

Female participation in the workforce, particularly in services, continued to increase. However, employment gains by women were often inhibited by lingering traditional restrictions that discourage women from playing an active role in the workplace and by the resurgence of Islamic fundamentalist values. Some observers noted that even educated women often lacked self-confidence and social awareness and sought only a limited degree of occupational and social equality with men.

*Children.*—The Government subsidized education (which is compulsory until age 15) and medical care, and it has improved the welfare of children; however, declining revenues and general economic mismanagement have led to cutbacks, particularly in medical services.

Sudanese girls reportedly have been trafficked and sold as slaves in the country (see Section 6.f.).

FGM was practiced on young girls (see Section 5, Women).

*Persons with Disabilities.*—No information was available on the Government's efforts, if any, to assist persons with disabilities.

*National/Racial/Ethnic Minorities.*—Arabic-speaking Muslims of mixed Arab and Amazigh ancestry constituted 97 percent of the population. The principal minorities are Amazighs and sub-Saharan Africans. There were frequent allegations of discrimination based on tribal status, particularly against Amazighs in the interior and Tuaregs in the south. The Government manipulated the tribes to maintain a grip on power by rewarding some tribes with money and government positions and repressing and jailing members of various other tribes. The Government also attempted to keep the tribes fractured by pitting one against another.

Foreigners constituted a significant part of the workforce. According to some estimates, there were 2.5 million foreign workers in the country. Africans in particular have become targets of resentment in the past. In 2001, mobs of citizens in several locations reportedly killed 150 African workers, including a Chadian diplomat. The Government dispersed the rioters, but then reportedly expelled hundreds of thousands of African workers (see Sections 1.a., 2.d., and 6.e.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Independent trade unions and professional associations are prohibited, and workers do not have the right to form their own unions. The Government regards such structures as unacceptable "intermediaries between the revolution and the working forces." However, workers may join the National Trade Unions' Federation, which was created in 1972 and is administered by the People's Committee system. The Government prohibited foreign workers from joining this organization.

The official trade union organization played an active role in the International Confederation of Arab Trade Unions and the Organization of African Trade Union Unity. The Arab Maghreb Trade Union Federation suspended the membership of the country's trade union organization in 1993. The suspension followed reports that Qadhafi had replaced all union leaders, and in some cases, with loyal followers without union experience.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining did not exist in any meaningful sense, because labor law requires that the Government must approve all agreements.

The law does not provide workers with the right to strike and there were no reports of strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—There was no information regarding whether the law prohibits forced or bonded labor including by children, or whether such practices occurred. In its 2000 report, the International Labor Organization's (ILO) Committee of Experts stated that in the country "persons expressing certain political views or views ideologically opposed to the established political, social, or economic system may be punished with penalties of imprisonment," including "an obligation to perform labor." The ILO report also noted that public employees may be sentenced to compulsory labor "as a punishment for breaches of labor discipline or for participation in strikes, even in services whose interruption would not endanger the life, personal safety, or health of the whole or part of the population."

There have been credible reports that the Government arbitrarily forced some foreign workers into involuntary military service or coerced them into performing subversive activities against their own countries.

Despite the Penal Code's prohibition on slavery, citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children, who were captured by Sudanese government troops in the ongoing civil war in Sudan (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment of children is 18. There was no information available on the prevalence of child labor, or whether forced or bonded labor by children is prohibited or practiced (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours.

Wages, which are forbidden by the Green Book and are actually paid in the form of "entitlements" to workers, frequently were in arrears. A public sector wage freeze was imposed over a decade ago particularly in the face of consistently high inflation. According to some reports, the average family lived on \$170 (86.7 dinars) a month. Although there was no information available regarding whether the average wage was sufficient to provide a worker and family with a decent standard of living, the Government heavily subsidized rent, utilities, oil, and every day food staples such as flour and sugar. The legal maximum workweek is 48 hours.

Labor inspectors are assigned to inspect places of work for compliance with occupational health and safety standards. Certain industries, such as the petroleum sector, attempted to maintain standards set by foreign companies. There was no information regarding whether a worker may remove himself or herself from an unhealthy or unsafe work situation without risking continued employment.

Although foreign workers constitute a significant percentage of the work force, the Labor Law does not accord them equality of treatment. Foreign workers were permitted to reside in the country only for the duration of their work contracts and could not send more than half of their earnings to their families in their home countries. They were subjected to arbitrary pressures, such as changes in work rules and contracts, and had little option but to accept such changes or to depart the country. Foreign workers who were not under contract enjoyed no protection.

In 1997, the U.N. Committee on Economic, Social, and Cultural Rights cited inadequate housing, threats of imprisonment to those accused of disobeying disciplinary rules, and accusations of causing a variety of societal problems as some of the problems in the Government's treatment of foreign laborers.

The Government used the threat of expulsion of foreign workers as leverage against countries whose foreign policies ran counter to the Government's.

*f. Trafficking in Persons.*—There was no information available regarding whether the law specifically prohibits trafficking in persons; however, the Penal Code prohibits prostitution and related offenses, including sexual trafficking.

There were reports of trafficking in persons. The country was a place of transit for women trafficked from Africa to central Europe, and there were reports that Sri Lankan women were transported through the country as well. The country was also a transit point for sub-Saharan Africans attempting to reach Italy and other European Union countries. In September, dozens of Somalis died at sea after spending 3 weeks adrift in their attempt to reach the Italian island of Lampedusa. In 2001, Senegalese authorities detained 100 young Senegalese women from boarding a charter flight to the country. According to a media report, in 2001 two French nationals of Senegalese origin were arrested and charged with organizing international prostitution. There were reports that these women were being sent to the country to work as prostitutes.

Citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children, who were captured by Sudanese government troops in the ongoing civil war in Sudan (see Section 6.c.).

## MOROCCO

Morocco is a constitutional monarchy with an elected parliament; however, ultimate authority rests with the King, Mohammed VI, who presides over the Council of Ministers, appoints or approves members of the Government, and may, at his discretion, terminate the tenure of any minister, dissolve the parliament, call for new elections, and rule by decree. The bicameral legislature consists of a lower house, the Chamber of Representatives, which is elected through universal suffrage, and an upper house, the Chamber of Counselors, whose members are elected by various regional, local, and professional councils (members of whom are elected directly). The lower house of parliament also may dissolve the Government through a vote of no confidence. In September 2002, the country held parliamentary elections for the lower chamber that were widely regarded as the first free, fair, and transparent elections in its history. The King appointed nonparty member and former Interior Minister Driss Jettou as the new Prime Minister. In September, elections were held for local government councils. The elections were widely recognized as well administered; the Government limited the participation of the Islamist Party of Justice and Development (PJD). The Constitution provides for an independent judiciary; however, it remained subject to government influence and corruption.

The security apparatus includes several overlapping police and paramilitary organizations. The National Police (which includes the Border Police and the Mobile Intervention Corps), and the country's intelligence service (Direction de la Surveillance du Territoire—DST) and the Auxiliary Forces are departments of the Ministry of Interior; the Judicial Police is under the jurisdiction of the Ministry of Justice; and the Royal Gendarmerie reports to the Palace. Civilian authorities maintained effective control of the security forces. Some members of the security forces continued to commit serious human rights abuses.

The market-based economy was led by a sizable services sector with a strong tourism component, a growing manufacturing sector, a diverse agricultural and fisheries sector, and large phosphate reserves. The population was approximately 31.7 million. Citizens working abroad were a source of substantial remittances. The Government expected a real GDP increase of 5.5 percent for the year. Wages and benefits kept pace with inflation during the year. One in five citizens lived in poverty.

Although there was important progress in some areas, the human rights record remained poor in other areas. Citizens lacked the full ability to change their government. The May 16 terrorist attacks on five Western and Jewish targets in Casablanca altered the human rights, as well as the security environment in the country. Forty-five persons were killed in the attacks, including 12 suicide bombers. During the year, authorities detained more than 1000 people for possible involvement with terrorist groups. An anti-terrorist law passed by parliament on May 27 very broadly defined terrorism as an act or acts intended to create fear and discord in society and threaten its safety. There were deaths in police custody. Impunity remained a problem. Authorities, at times, arbitrarily arrested and detained persons. Human rights groups did not believe that the Government disclosed all the information available about citizens who were abducted from the 1960s through the 1980s. At times, the authorities infringed on citizens' privacy rights. Prison conditions remained extremely poor. The judiciary lacked independence and was subject to government influence and corruption. Freedom of the press was restricted; journalists regularly practiced self-censorship, and seven journalists were sentenced to prison. The police violently dispersed several peaceful demonstrations during the year. The Government generally respected freedom of religion; however, there were some limitations. Violence and societal discrimination against women were problems. The protection of unaccompanied, repatriated children was a problem. The Government violated worker rights, subjected unions to government interference, restricted the right to strike and to form unions, and used security forces to break up strikes. Child labor was a problem, including the practice of the illegal employment of young girls who were subjected to exploitative domestic servitude. Trafficking in persons remained a problem, but the Government fully complied with the minimum standards for the elimination of trafficking in persons.

In November, the King approved the establishment of a nonjudicial Justice and Reconciliation Commission to provide out-of-court settlements and to rehabilitate victims in approximately 13,000 cases of alleged abuses that occurred before he as-

sumed the throne in 1999. On July 3, parliament passed a new Labor Code, based on extended, society-wide consultations, which provides a new basis for labor relations. On December 12, the Cabinet approved a new Code of Family Law to improve the status of women and establish a more egalitarian society. Parliamentary action was expected early in 2004. Increased human rights awareness training continued, including for prison officials and medical personnel.

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; however, according to human rights groups and press reports, several detainees died in police custody, with little or no serious investigation into the circumstances. For example, Abdelhaq Bentasser, described by a state prosecutor as the general coordinator of the May 16 attacks, died May 28 while being taken by investigators from Fez to Casablanca. According to government officials, he died from chronic heart and liver disease. On June 24, Mohamed Boualnit reportedly died in a road crash near Marrakech on June 24, while in police custody. Ministry of Justice officials reported that three policemen were charged in the case. In another instance of alleged unlawful death, the Moroccan Organization for Human Rights (OMDH) cited the case of Driss Dida who was arrested by gendarmes near Meknes on August 31 and died on September 1. His family was told that he had suffered a heart attack.

In July, three prisoners were convicted for the November 2002 death in custody of Mohamed Boucetta, imprisoned in Laayoune for drug charges. A prison guard was acquitted in the case.

*b. Disappearance.*—There were no new cases of confirmed disappearance; however the large increase in detainees and prisoners has resulted in an increase in allegations of disappearance that were, by their nature, difficult to confirm. For example, in its statement to the U.N. Committee against Torture in November, the OMDH cited the case of Mohamed Damir, whose brother was sentenced to death in connection with an Islamist group, who disappeared after the May attacks. His family had still not received any news from him at year's end.

The Moroccan Association for Human Rights (AMDH) claimed that the continued practice of incommunicado detention without informing family members of those detained confirmed the continued practice of forced disappearance (see Section 1.d.). According to Amnesty International (AI), the DST practice is to deny holding the person in question, particularly those held in the DST detention center in Temara. In such cases, family members and lawyers usually learned of the detention after the detainee was brought before a magistrate, charged and placed in pre-trial detention; in this context, the secret detention amounted to a period of disappearance.

The forced disappearance of individuals who opposed the Government and its policies occurred during several decades. In 1997, the Government pledged that such activities would not recur, and that it would disclose as much information as possible about past cases. The Government provided information and death certificates for many of those who had disappeared over the years. However, hundreds of families did not have any information about their missing relatives, many of whom disappeared over 20 years ago. Authorities stated that they released information on all 112 confirmed disappearance cases. However, human rights groups and families continue to claim hundreds more cases of disappearances, many from the Western Sahara.

The CCDH also was responsible for assisting the Royal Arbitration Commission in providing compensation to victims of past human rights abuses, or their surviving family members, including Sahrawis.

According to the Ministry of Human Rights, the Commission had resolved 4677 cases, in which 3657 claimants were awarded \$ 94.5 million (945 million DH). The Commission rejected 885 cases because they did not involve disappearances or arbitrary detention and 133 cases because the claimants did not respond to a summons to appear before the Commission or did not supply documentation.

Two cases were suspended, and a further 450 were considered to be duplicates. The Arbitration Commission did not review a further 6500 requests for compensation because they were received after the December 31, 1999 application deadline.

Associations that sought information regarding those who have disappeared called upon the Government for full disclosure of events surrounding cases that date back to the 1960s. Associations in the Western Sahara that sought information on disappearances were not free from government interference; there were reports that some members of these associations were harassed and intimidated while seeking

information regarding missing Sahrawis. Some also continued to be denied passports (see Section 2.d.).

In November, the CCDH announced the formation of a Justice and Reconciliation Committee to replace the Arbitration Commission and whose purpose would be to settle definitively serious violations of human rights, including compensation for all outstanding cases of arbitrary detention and disappearance, prior to the King's assumption of the throne in 1999 (see Section 4).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture, and the Government denied the use of torture; however, some members of the security forces tortured or otherwise abused detainees. The Penal Code stipulates sentences up to life imprisonment for public servants who use or oblige the use of violence against others in the exercise of their official duties. By law, pretrial-investigating judges must, if asked to do so or if they themselves notice physical marks that so warrant, refer the detained person to an expert in forensic medicine. However, according to human rights groups, judges often ignored this requirement in practice, which called into question the Government's commitment to resolving the problem.

Attorneys for some persons convicted under the new anti-terrorism law claimed their clients were convicted on the basis of confessions coerced by torture. For example, according to the OMDH, in early August, at the Court of Appeal in Fez, most of the 29 accused of terrorist involvement stated that they had been tortured; judicial authorities refused to order any medical examinations.

In October after a mission to the country, AI reported a sharp rise in the number of cases of torture or ill treatment in the last 2 years. Allegations generally involved detainees held during an illegally extended period of pre-arraignment detention.

The Government continued to admit past torture and abuses. While its mandate was not to prosecute those responsible, the Royal Arbitration Commission continued to hear and rule on claims and offer restitution to victims and has permitted human rights groups to organize conferences on the subject.

During the year on a number of occasions, police violently dispersed demonstrators (see Section 2.b.).

Prison conditions remained extremely poor, and did not generally meet international standards, despite some improvements in medical care and efforts to expand capacity. There were separate facilities for men, women and minors. Pretrial detainees were not held separately from convicts.

Extreme overcrowding, malnutrition, and lack of hygiene continued to aggravate the poor health conditions inside prisons.

In January, a local NGO, the Moroccan Prison Observatory (OMP) reported that the population in the country's 46 prisons, which were designed for 39,000 had reached 59,000 prisoners. The OMP reported that food, hygiene and medical conditions were grossly inadequate, with a daily budget of only \$1.30 (13 DH) per prisoner.

In June 2002, the OMP alleged that 12 percent of prisoners were minors that the prison administration failed to protect. The OMP continued to call attention to problems of corruption, maltreatment, malnutrition, sexual abuse, lack of training and education, drug abuse and violence within the prisons, as well as the issue of incarcerating first-time offenders with hardened criminals.

The Government permitted some independent monitors to visit prisons; however, some monitors were refused entry to the country to have access to alleged political prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution does not prohibit arbitrary arrest or detention, and police continued to use these practices. Although legal provisions for due process have been revised extensively in recent years, reports indicated that authorities sometimes ignored them. Although police usually made arrests in public and during the day, they did not always identify themselves and did not always obtain warrants. Under the new antiterrorism law, administrative detention has increased from 48 to 96 hours, with two additional 96 hour extensions allowed at the prosecutor's discretion. In state security cases, the administrative detention period is 96 hours; the prosecutor may also extend this time. Defendants were denied access to counsel or family members during this initial period, which is when the accused is interrogated and abuse or torture is most likely to occur. Some members of the security forces, long accustomed to indefinite access to detainees before charging them, continued to resist the time limits. In November, AI reported that some of those arrested had been held for up to 5½ months in secret detention.

The police were required to notify a person's next of kin of an arrest as soon as possible; however, lawyers were not always informed promptly of the date of arrest,

and thus were not able to monitor compliance with the administrative detention limits. The law provides for a limited system of bail; however, it rarely was granted. Defendants in some instances were released on their own recognizance. The law does not provide for habeas corpus or its equivalent. Under a separate military code, military authorities may detain members of the military without warrants or public trial.

Although accused persons generally are brought to trial within an initial period of 2 months, prosecutors may request up to five additional 2-month extensions of pretrial detention. Thus, an accused person may be kept in detention for up to 1 year prior to trial.

The National Police (6,000 personnel) and the Mobile Intervention Corps (5,000 personnel) are part of the Ministry of the Interior. The National Police contains the border and immigration services which have responsibility for matters concerning the frontiers and immigration laws, and also contains the main federal investigative body, the National Brigade which is responsible for investigating violations of the federal penal code, such as terrorism, organized crime, and white-collar crime. The DST, part of the Ministry of Interior, has security functions. The Auxiliary Forces (25,000 personnel) are also part of the Ministry of Interior. The Judicial Police are part of the Ministry of Justice. The Royal Gendarmerie (29,000 personnel) is a paramilitary force reporting directly to the Palace and is responsible for law enforcement in rural regions, including national highways.

Police impunity remained a problem. Bribery and smuggling were prevalent. During the year, the Government acted against smuggling rings and police corruption in the northern regions of the country.

In August, the Government announced that 1048 persons had been detained for links with terrorist groups, including involvement in the May 16 suicide attacks. The law provides for the right to a fair trial; however, some human rights groups criticized the conduct of trials which proceeded very quickly for some defendants, including by mass trials of 50 persons. According to law, all the defendants had the right to be represented by attorneys and, if a defendant could not afford private counsel a court appointed attorney was to be provided. Attorneys for two prominent defendants, Hassan Kettani and Mohamed Abdelouhab, withdrew from their cases on the grounds that they were not allowed to call witnesses. Other attorneys alleged that a number of prosecutions were based solely on police interrogations and confessions coerced by torture.

There were numerous other arrests of persons whom authorities described as criminals but whom activists for Western Sahara independence described as victims of forced confessions.

The law provides for forced exile; however, there were no known instances of its use during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the courts were subject to extrajudicial pressures, including government influence. Some members of the judiciary were corrupt and delays were lengthy in some cases.

There are four levels in the common law court system: Communal and district courts; courts of first instance; the Appeals Court; and the Supreme Court. In theory there is a single court system under the Ministry of Justice; however, other courts also operate, including: The Special Court of Justice, which handles cases of civil service corruption; administrative courts; commercial courts; and the military tribunal. At the Government's discretion, serious state security cases such as those relating to the Monarchy, Islam or territorial integrity (i.e., advocating independence for the Western Sahara) may be brought before a specially constituted military tribunal, responsible to the military and the Ministry of Interior.

In October, the Minister of Justice began to establish new family courts to adjudicate divorce and child custody cases in anticipation of proposed reforms to the Moudawana (Personal Status Code). Family issues for Muslim citizens are adjudicated by a Family Court system formed in July 2002 whose judges are trained in Shari'a (Islamic law) as applied in the country; Jewish citizens deal with these matters in their own courts.

In general, detainees were arraigned before a court of first instance. If the judge determined that a confession was obtained under duress, the law requires him to exclude it from evidence. However, human rights activists alleged that cases often were adjudicated on the basis of forced confessions.

While appeal courts may in some cases be used as a second reference for courts of first instance, they primarily handled cases involving crimes punishable by 5 years or more in prison. In practice, defendants before appeals courts who are implicated in such crimes consequently have no method of appeal. The Supreme Court did not review and rule on cases sent to it by courts of appeal; the Supreme Court

may overturn an appellate court's ruling on procedural grounds only. The absence of appeals for defendants in such crimes therefore became more problematic given the fact that an investigation into the case by an examining magistrate was mandatory only in those crimes punishable by sentences of life imprisonment or death.

Efforts continued with very limited success to increase efficiency and to end corruption, which, according to most observers, remained a routine cost of court business.

Resource constraints also affected the court system. Although the Ministry of Justice provided an attorney at public expense for serious crimes (when the offense carries a maximum sentence of more than 5 years), appointed attorneys who were poorly paid often provided inadequate representation.

The law does not distinguish political and security cases from common criminal cases. The Government did not consider any of its prisoners to be political prisoners; however, AI identified 60 persons whom it considered to be political prisoners.

Various international human rights groups' estimates of the number of persons in prison for advocating independence for the Western Sahara varied from 0 to 700; however, there was no consensus on a definitive number. Conditions in the Western Sahara complicated attempts to confirm whether Sahrawis were imprisoned solely for their political affiliation or open advocacy of independence, or for other actions in violation of the law. The AMDH claimed that it knew of no persons imprisoned for having solely overtly advocated independence.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution states that the home is inviolable and that no search or investigation may take place without a search warrant however, authorities sometimes ignored these provisions. The law stipulates that a prosecutor may issue a search warrant on good cause.

Government security services monitored certain persons and organizations, both foreign and domestic, and government informers monitored activities on university campuses.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression; however, Article 41 of the anti-terrorist law as well as the Press Code permits prison sentences and financial penalties for journalists and publishers who violate its restrictions on defamation, libel and discussion regarding three topics: the Monarchy; territorial integrity, i.e., advocating independence for the Western Sahara; and Islam. The Press Code lists threats to public order as one of the criteria for the censor to consider. Within these limits, newspapers and weeklies were published across the political spectrum and were sometimes critical of government policies.

The Government controlled the media generally through directives and guidance from the Ministry of Interior. Publications that were judged offensive could be confiscated or indefinitely suspended. The Government may censor newspapers directly by ordering them not to report on specific items or events. The Government registered and licensed domestic newspapers and journals and could use the licensing process to prevent the publication of materials that exceeded its threshold of tolerable dissent. The Ministry of Interior controlled foreign publications by removing banned publications from circulation.

On May 21, journalist Ali Lmrabet was sentenced under the press code to 4 years imprisonment and fined \$2000 (20,000 DH) for disrespect to the King, disparaging the monarchy, and challenging the country's territorial integrity. Lmrabet began a hunger strike before his trial, which he continued for 54 days. On June 17, his sentence was reduced to 3 years on appeal.

Five other journalists received sentences for various offenses. On June 5, Mustapha Alaoui, editor of the newspaper *Al Usbua* was arrested after his newspaper published a statement from an organization called *Assaiqa* that claimed to be involved in some of the May 16 attacks. The Government argued that his actions undermined public security. Alaoui, who was not jailed, received a 1-year suspended sentence, a fine of \$50 (500 DH), and his newspaper was banned for 3 months.

Three journalists from the northern town of Oujda were arrested on June 10 for publishing an interview in the journals *Al Hayat Al Maghribiya* and *Al Sharq* in which an alleged member of the extremist movement-Salafiya Jihadiya described the May 16 suicide attackers as martyrs and discussed the history of the Islamist movement in the country and its relationship with the DST. Two of the journalists, Abdel Majid Ben Taher and Mustapha Kechnini, were sentenced on August 4 to 2-year prison terms, but were free at year's end on appeal. Another journalist, Mohamed Al Herd, director of the *Asharq* newspaper was sentenced to a 3-year imprisonment in August for re-printing the interview linking the security services with the May 16 attacks.



On May 21, the Government banned under the provisions of the Press Code the publication of Lmrabet's weeklies, the French language *Demain* and the Arabic language *Doumain*, the Arabic language publication *Al Usbua* and the Arabic language publication *Asharq*, for articles or cartoons viewed as defaming the monarchy or violating the new antiterrorism law.

The law requires the Ministry of the Interior to justify to the courts any seizure or banning of domestic or foreign publications, suspension of the publisher's license, or destruction of equipment. The law provides for 3 to 5 year jail sentences, fines, and payment of damages for newspaper officials found guilty of libeling public officials.

There were approximately 2,000 domestic and foreign newspapers, magazines, and journals in circulation during the year. The Government owned the official press agency, *Maghreb Arab Press* (MAP), and the Arabic daily newspaper, *Al-Anbaa*. The Government also supported two semiofficial dailies, the French-language *Le Matin* and the Arabic-language *Assahra Al Maghribia*. In addition, the Government subsidized the press through price controls for newsprint and office space. The Government generally tolerated satirical and often stinging editorials in the opposition parties' dailies. The media continued to engage regularly in self-censorship to avoid possible sanctions.

The Government owned Moroccan Radio-Television (RTM). Another major broadcaster was the French-backed *Medi-1*, which operated from Tangier. While nominally private and independent, *Medi-1* practiced self-censorship, as do other media outlets. A government-appointed committee monitored broadcasts. The Government owned the only television stations whose broadcasts could be received in most parts of the nation without decoders or satellite dish antennas. Dish antennas were in wide use throughout the country. The Government did not impede the reception of foreign broadcasts during the year. In December, parliament passed an Audio Visual Law that is designed to encourage private investment in broadcast media.

During the year, the Government continued to block the publication of newspapers of the Islamist Justice and Charity Organization (JCO), *Al Addle Awl Insane* and *Rissalat Al Foutuwa*. The authorities blocked two of the JCO's websites at the same time and cut domestic access to them.

During 2001, the Government banned two publications: *Le Journal* and *Assahifa*. However, these publications continued to circulate with name changes from *le Journal* to *le Journal Hebdo* and *Assahifa* to *Assahifa Al Ousbiya*. Unlike in previous years, there were no libel awards to government figures during the year.

The press also published unflattering and critical articles that would have been censored previously. The press openly reported on topics such as government corruption and financial scandals, sensitive human rights cases, harsh prison conditions, torture, poverty, prostitution, violence against women, exploitation of child maids, and sexual abuse of children. There were also articles critical of Morocco's diplomatic efforts on the Western Sahara issue.

Books that openly criticized the country's past sold freely except for five related to disappearances and the regime of King Hassan II.

The Government did not block Internet access generally, apart from JCO's websites.

The Government restricted academic freedom. There was no open debate on the monarchy, the Western Sahara, and Islam. Government informers monitored campus activities, mostly Islamist, and the Ministry of Interior approved the appointments of rectors (see Section 1.f.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and during the year, most meetings and marches took place peacefully without government interference; however, the law also permits the Government to suppress peaceful demonstrations and mass gatherings, and at times during the year police forcibly prevented and disrupted gatherings. Most conferences and demonstrations required the prior authorization of the Ministry of Interior, ostensibly for security reasons. However, local observers generally agreed that the authorities required a declaration of a public meeting and their own authorization in order for public-venue meetings or peaceful sit-in to proceed, and the authorities only allowed such events to take place if they were considered non-threatening to government policy.

In March, authorities arrested five students of the Faculty of Letters in Beni Mellal following a sit-in at which the students protested their expulsion from the Faculty, ostensibly on grounds that they were members of the JCO.

Also in March, police in Rabat detained the President of the AMDH, Amine Abdelhamid after he made inquiries into the whereabouts of arrested AMDH member Faouzi Lachhab. Police reportedly arrested Abdelhamid and Lachhab for their participation in a demonstration of solidarity with the people of Iraq.

In October, police forcibly broke up a sit-in at the Mohammedia University Faculty of Law. The students were protesting the earlier conviction and sentencing to 8 months imprisonment by a Mohammedia Magistrates Court of four Islamist law students who allegedly disrupted university reforms.

The Constitution provides for freedom of association; however, the Government limited this right in practice. Under a decree, restricting civil society organizations, persons who wish to create an organization are required to obtain the approval of the Ministry of Interior before holding meetings. In practice, the Ministry generally only used this requirement to prevent persons suspected of advocating causes opposed by the Government from forming legal organizations. Historically, extreme Islamist and leftist groups encountered the greatest difficulty in obtaining official approval. Although there were over 20 active Islamist groups, the Government prohibited membership only in the JCO due to its anti-Monarchist orientation. However, the Government tolerated some JCO activities, such as meetings and conferences. The Ministry of Interior, which has used this power to control participation in the political process, also must approve political parties. However, individual Islamists were not barred from participating in recognized political parties.

Prior to the September 2002 parliamentary elections, the Government decreed that any existing political party that had not participated in at least two elections would be dissolved and that public aid would not be granted to any party that did not hold a congress every four years. To create a new party, a declaration must be submitted to the Interior Ministry, and signed by at least 1,000 co-founding members from all regions of the country. Twenty-seven parties participated in the September 12 local elections. The PJD was the only Islamist party that participated in the elections, and its participation was somewhat restricted; it ran candidates in only 18 percent of the municipalities.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respected this right in practice; however there were some restrictions. The Constitution provides that Islam is the official state religion; however, non-Muslim communities openly practiced their faith. The Constitution characterizes the country as an Islamic state, and designates the King as Commander of the Faithful.

Jewish and Christian communities openly practiced their faiths; however, the Government placed certain restrictions on Christian religious materials, proselytizing, and several small religious minorities were tolerated with varying degrees of official restrictions.

The Government did not license or approve religions or religious organizations. The Government provided tax benefits, land, and building grants, subsidies, and customs exemptions for imports necessary for the observance of the major religions.

The Government monitored the activities of mosques and placed other restrictions on Muslims and Islamic organizations whose activities were deemed to have exceeded the bounds of religious practice and become political in nature. The Ministry of Islamic Affairs monitored Friday mosque sermons and the Koranic schools to ensure the teaching of approved doctrine. At times the authorities suppressed the activities of Islamists, but generally tolerated activities limited to the propagation of Islam, education, and charity. Security forces sometimes closed mosques to the public shortly after Friday services to prevent the use of the premises for unauthorized political activity. The Government strictly controlled the construction of new mosques. Most mosques were constructed using private funds.

The Government barred the Islamic JCO as a political party and subjected prominent members to constant surveillance and at times refused to issue passports to them. The Government continued to block JCO web sites and publication of newspapers (see Sections 1.f., 2.a., 2.b., and 3).

The Government provided funds for the teaching of Islam in public schools. The annual budget also provided funds for religious instruction to the small parallel system of Jewish public schools.

The small foreign Christian community operated churches, orphanages, hospitals, and schools without any restriction or licensing requirement. Missionaries who conducted themselves in accordance with cultural norms were largely left unhindered. However, those who proselytized publicly faced expulsion. Islamic law and tradition called for strict punishment for any Muslim who converted to another faith. Any attempt to induce a Muslim to convert was illegal.

The Government permitted the display and sale of Bibles in French, English, and Spanish, but confiscated Arabic-language Bibles and refused licenses for their importation and sale, despite the absence of any law banning such books. Nevertheless, Arabic Bibles have been sold in local bookstores. During the year, there were reports of police questioning foreign missionaries because they were carrying Christian materials.

There are two sets of laws and courts—one for Muslims and one for Jews—pertaining to marriage, inheritance, and family matters. The family law courts are administered, depending on the law that applies, by rabbinical or Islamic authorities who are also court officials. Under the new Family Law Code for Muslims, judges will be retrained and new civil judges will be recruited. Rabbinical authorities will continue to administer family courts for Jews. The Government continued to encourage tolerance and respect among religions. In August, the King received the chief Sephardic Rabbi of Israel on a private visit to the country. In May 2002, the Shiite organization Al Ghadir asked for official status, the first time for a Shiite association. No response was received from the authorities by year's end.

Beginning in June, several preachers and religious counselors were accused of exploiting mosques for political purposes, such as promoting Islamist parties. The Ministry of Islamic Affairs and Endowments continued to call for permanent control and monitoring of mosques to avoid their exploitation for political propaganda, such as disturbing pamphlets and raising funds.

There were expressions of solidarity from Muslim citizens toward members of the Jewish community during the year. In September, Muslim religious leaders and government officials attended the funeral of a Jewish businessman killed in Casablanca.

For a more detailed discussion, see the 2003 International Religious Freedom report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement; however, the Government restricted this right in certain areas. In the Moroccan-administered Western Sahara, authorities restricted movement in areas regarded as militarily sensitive.

The Ministry of Interior restricted freedom to travel outside the country in certain circumstances. In addition, all civil servants and military personnel must obtain written permission from their ministries to leave the country. The OMDH and AMDH compiled lists of individuals who reportedly were denied passports or who had passports but were denied permission to travel. The OMDH contended that the Government, in resorting to arbitrary administrative delays, continued to harass former political prisoners who sought to resume normal lives.

In March, the authorities confiscated passports belonging to relatives of disappeared persons from the Western Sahara and prevented them from boarding an airline flight to Geneva to participate in a U.N. Commission on Human Rights conference.

The Government welcomed voluntary repatriation of Jews who had emigrated. Jewish emigres, including those with Israeli citizenship, freely visited the country. The Government also encouraged the return of Sahrawis who departed the country due to the conflict in the Western Sahara, provided that they recognized the Government's claim to the territory. The Government did not permit Western Saharan nationalists who have been released from prison to live in the disputed territory.

In November, the Government adopted the Law on Emigration and Immigration that provided for the rights of asylum seekers and the temporary residency of persons who do not qualify for refugee status or asylum. In practice, the Government provides protection against refoulement and has provided refugee status and asylum; however, there were reports that persons with possible claims to refugee status were turned away at the country's borders. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

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

The Constitution provides for periodic, free elections on the basis of universal suffrage; however, citizens did not have the full right to change their government. The King, as head of state, appoints the Prime Minister, who is the titular head of government. Constitutional changes in 1992, retained in the Constitution of 1996, authorize the Prime Minister to nominate all government ministers, but the King may nominate ministers himself and has the power to replace any minister at will. The parliament has the theoretical ability to change the system of government; however, the Constitution may not be changed without the King's approval. The Ministry of Interior appoints the provincial governors (walis) and local district administrative officials (caids). However, the King may nominate provincial governors. Municipal and regional councils are elected. The Government consists of 39 cabinet-level posts, including 5 sovereign ministerial posts traditionally appointed by the King himself (Interior, Foreign Affairs, Justice, Islamic Affairs, and Defense).

On September 12, there were elections in which approximately 122,000 candidates competed for posts on approximately 25,000 municipal councils. For the first time, 18-year olds voted due to lowering of the voting age in December 2002. Official turnout was listed at 54 percent. By most accounts the balloting was well organized; however, there were reports that the government limited the participation of the PJD. Women candidates won only 1.7 percent of municipal council seats while fielding 5 percent of the candidates. Following the elections, council members elected new mayors in all cities. There were allegations of corruption and vote buying in some of the races.

In September 2002, the first free and fair parliamentary elections in the country's history were held. According to observers, the absence of fraud and manipulation enhanced the credibility of reform efforts generally.

In preparing for the elections, parliament re-wrote the Electoral Code in its entirety. The new Code included a proportional list system, plus a national list of 30 seats reserved for women. By the time of elections, approximately 37 parties representing mainstream views were in existence, and 26 of them ran candidates. The Government conducted a massive voter education campaign. However, 61 percent of the electorate was illiterate, requiring the ballots to use symbols for all 26 parties. According to government statistics, fifty-two percent of those eligible voted.

The resulting parliament included the thirty women who gained seats reserved for women on the National List, plus 5 who won seats in their local districts. There were two women members of the lower chamber of the previous parliament. Several proposed parties were not allowed to form during the year. The JCO never has been granted legal status as a political party (see Section 2.b.).

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

The Government cooperated and was generally responsive to local human rights monitors operating within the accepted boundaries of political discourse in the country. Nationally organized and government-recognized nongovernmental human rights groups cooperating with the Government included: the OMDH, the Moroccan League for the Defense of Human Rights (LMDDH), and the Moroccan Association for Human Rights (AMDH). The AMDH did not cooperate officially with the Government, but usually shared information. The Government, at times, harassed and restricted the activities of the AMDH and OMDH; however, during the year, some former OMDH leaders occupied high-level posts in the Government. Since 2000, OMDH and LMDDH have had government subsidies in recognition of their serving the public interest.

Former AMDH members formed a fourth group, the Committee for the Defense of Human Rights (CDDH) in 1992. There were also numerous regional human rights organizations

Two additional prominent national human rights NGOs, the Forum for Truth and Justice (FVJ) and the Moroccan Prison Observatory (OPM), were formed in 1999. Created by victims of forced disappearance and surviving family members, the FVJ's principal goal was to encourage the Government to address openly the issue of past forced disappearances and arbitrary detention. The OPM's main purpose was improving the treatment and living conditions of prisoners. These groups maintained fairly regular contact with government authorities throughout the year. On June 18, a judicial decision in Laayoune dissolved the Sahara branch of the FVJ on the charge that the organization had undertaken illegal activities that were likely to disturb public order and undermine the territorial integrity of the country. AI suggested that the activities in question were the peaceful expression of views on the issue of self-determination and dissemination of views on human rights issues to international human rights organizations

The Government's attitude toward international human rights organizations depended on the sensitivity of the areas of the NGO's concern. The Government generally was cooperative on disappearances and abuses by security forces. Although government officials met in June 2002 with the International Council for the Rehabilitation of Victims of Torture (a Danish NGO), the Government did not agree to their recommendation that it permit the U.N. Committee Against Torture to make confidential investigations in the country and to consider individual complaints.

Human rights training based on an agreement between AI and the Government for a 10-year human rights education program continued. The Ministry of Human Rights and the Ministry of Education provided human rights education for teachers. Increased human rights training was provided to prison officials, including medical personnel. The CCDH counseled the Palace on human rights issues, and was charged by the King to resolve cases related to persons who had disappeared. December 2002 changes in its composition and activities increased the influence of the

CCDH. For example, the CCDH was mandated to produce an annual report on the human rights situation in the country and to furnish an annual account of its findings. In December 2002, the King also established a nonjudicial Ombudsman (Diwan Al Madhalim) whose aim is to consider citizen allegations of governmental injustices and thereby ensure respect for the rule of law and justice. Its annual report will be reviewed by the CCDH.

In October, the CCDH recommended that the King establish a Justice and Reconciliation Committee that would definitively settle serious violations of human rights that occurred prior to his accession to the throne in 1999. The CCDH recommended that the Committee make a final accounting of the fate of the abducted, hand over to victims' families the remains of the dead, pay compensation, and issue an official acknowledgment and apology for past violations of human rights. The King nominated Committee members in November.

In December, the Government signed an agreement with the International Commission of the Red Cross (ICRC) to integrate principles of international human rights law into school curricula.

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

The Constitution provides for the equality of all citizens; however, law and in traditional practice discriminated against women. Parliament had before it at year's end a new draft legislation governing personal status, after the Cabinet approved it without amendment on December 12. The draft law aims at making the country a more egalitarian society.

*Women.*—The law does not specifically prohibit domestic violence against women, but the general prohibitions of the Criminal Code address such violence. Spousal abuse was common, but there were no reliable statistics regarding its extent. Spousal abuse was more frequent in rural than urban areas and among less-educated persons. Although a battered wife had the right to file a complaint with the police, as a practical matter she would do so only if prepared to bring criminal charges. While physical abuse legally was grounds for divorce, a court would grant a divorce only if the woman were able to provide two witnesses to the abuse. Medical certificates were not sufficient. If the court found against the woman, she was returned to her husband's home. Thus, few women reported abuses to the authorities. However, there was substantial progress in making the public aware of problems concerning women, children, the handicapped and minorities.

The Criminal Code provides for severe punishment for men convicted of rape or sexual assault. The defendants in such cases bear the burden of proving their innocence. However, sexual assaults often go unreported because of the stigma attached to the loss of virginity. While not provided for by law, victim's families may offer rapists the opportunity to marry their victims in order to preserve the honor of the family. Spousal rape was not a crime.

The law is more lenient toward men with respect to crimes committed against their wives. Honor crimes, a euphemism that refers to violent assaults with intent to commit murder against a female for her perceived immodest or defiant behavior remained extremely rare.

The law prohibits prostitution and it was prevalent, especially in urban centers. The Government did not prosecute women who were coerced into providing sexual services. Trafficking in persons was a problem (see Section 6.c. and 6.f.).

In October, the King announced recommendations for the reform during his inaugural address to parliament. The legislation was before parliament at year's end, after the Cabinet approved it without amendment on December 12. The draft law would improve the rights of women in regard to marriage, divorce, property and inheritance, and guardianship of children; increase the marriage age from 15 to 18; and impose limitations on the practice of polygamy. According to the reforms, women will have more equal standing with their husbands on family issues. The reforms are predicated on the establishment of family courts and the creation of a family aid fund and rely much more heavily on the court system than the previous law.

Women were subjected to various forms of legal and cultural discrimination. The civil law status of women was governed by the Code of Personal Status (known as the Moudawana), based on the Malikite School of Islamic law, revised in 1993. Women's groups called attention to unequal treatment under the 1993 Code, particularly to the laws governing marriage, divorce, and inheritance. However, the courts generally rule in favor of the parent who did not file for the divorce. Citizenship passes through the father.

Under the Criminal Code, women generally are accorded the same treatment as men; however the Code of Personal Status governs family and estate law. Even, in cases in which the law provides for equal status, cultural norms often prevented a

woman from exercising those rights. For example, when a woman inherits property, male relatives may pressure her to relinquish her interest.

While many well-educated women pursue careers, few rise to the top echelons of their professions. Women constitute approximately 35 percent of the work force, with the majority in the industrial, service, and teaching sectors. In 1998 (the most recent available official data) the Government reported that the illiteracy rate for women was 67 percent (83 percent in rural areas), compared with 41 percent for men (50 percent in rural areas). Women in rural areas were most affected by inequality. Women who earned secondary school diplomas had equal access to university education.

Many NGOs worked to advance women's rights and to promote women's issues. Among these were the Democratic Association of Moroccan Women, the Union for Women's Action, and the Moroccan Association for Women's Rights, all of which advocated enhanced political and civil rights, as well as numerous NGOs that provided shelters for battered women, taught women basic hygiene, family planning, and child care, and promoted literacy.

In February 2002, an NGO released the results of a study in Casablanca. According to the study of 300 single mothers, 31 percent were child maids under the age of 15; 28 percent were factory workers; 18 percent were unemployed; and 13 percent were adult housekeepers.

*Children.*—The Government remained committed to the protection of children's welfare and attempted to do so within the limits of its budgetary resources. The law provides for compulsory education for children between the ages of 7 and 13; however, in practice, the Government did not enforce the law. A current government study reported that 800,000 school-age children under the age of 14 did not attend school.

Many children worked in the informal sector, due to economic difficulties with their families or elsewhere. The Government had difficulty addressing the problem of child labor, except in organized labor markets (see Section 6.c. and 6.d.). Families employed in agriculture 81 percent of the 600,000 underage (7 to 14 years old) workers. Despite legislation, young girls were exploited as domestic servants on a large scale (see Section 6.f.). NGO activists estimated that the numbers of teenage prostitutes in urban centers were in the thousands. The clientele consisted of both foreign tourists and citizens.

The practice of adoptive servitude, in which urban families employ young rural girls and use them as domestic servants in their homes, was widespread. Credible reports of physical and psychological abuse in such circumstances were widespread. Some orphanages have been charged as complicit in the practice. More often parents of rural girls contracted their daughters to wealthy urban families and collected the salaries for their work as maids. Adoptive servitude was accepted socially, was unregulated by the Government, and has only in recent years begun to attract public criticism. Since 2000, the National Observatory of Children's Rights (ONDE) has conducted a human rights awareness campaign regarding the plight of child maids, although the problem remained prevalent.

The number of children working illegally as domestic servants was high: 45 percent of household employees under the age of 18 were between the ages of 10 and 12, and 26 percent were under the age of 10, according to a 2001 joint study by the Moroccan League for the Protection of Children and UNICEF. The legal minimum age of employment is 15 years. The report denounced the poor treatment a number of the children received, such as being forced to work all day with no breaks. Many children worked either as domestic servants, artisan apprentices, or in some other capacity that kept them from attending school.

A problem that has drawn recent attention was the situation of unaccompanied repatriated children. Upon their return, generally from Spain, they were subject to material difficulties and abuse on the streets as well as by border officials. The Government had limited capacity to deal with this problem (see Section 6.f.). On December 28, the Government signed an accord with Spain to repatriate unaccompanied minors. As part of the accord, Spain committed itself to help the Government reunify children with their families or in halfway houses and to provide remedial education for the repatriated children.

Another problem facing abandoned children of both sexes was their lack of civil status. Civil status is necessary to obtain a birth certificate, passport, or marriage license. If a father did not register his child, the child was without civil status and the benefits of citizenship. It is possible for an individual to self-register, but the process is long and cumbersome. While any child, regardless of parentage, may be registered within a month of birth, a court order is required if registration does not take place in that time.

The new law provides that children born out of wedlock can carry the father's name; Islamists criticized the 2002 law. Single mothers were heavily stigmatized.

*Persons with Disabilities.*—There are no laws to assist persons with disabilities. A high incidence of disabling disease, especially polio, has resulted in a correspondingly high number of persons with disabilities. The latest statistics from the Government estimated the number of persons with disabilities at 2.2 million, or 7 percent of the population. However, other estimates were as high as 3 million. While the Ministry of Social Affairs attempted to integrate persons with disabilities into society, in practice, integration largely was left to private charities. The annual budget for the ministerial department in charge of affairs concerning persons with disabilities was only .01 percent of the overall annual budget. Nonprofit special-education programs were priced beyond the reach of most families. Typically, their families supported persons with disabilities; some survived by begging.

*National/Racial/Ethnic Minorities.*—The official language is Arabic; however, both French and Arabic were used in the news media and educational institutions. Science and technical courses were taught in French, thereby preventing the large, monolingual-Arabic-speaking population from participation in such programs. Educational reforms in the past decade have emphasized the use of Arabic in secondary schools. However, failure to transform the university system similarly has led to the disqualification of many students from higher education in lucrative fields. The poor lacked the means to provide additional instruction in French to supplement the few hours per week taught in public schools.

Approximately 60 percent of the population claim Berber heritage, including the Royal Family. Berber cultural groups contended that their traditions and language were being lost rapidly. A number of Berber associations claimed that the Government refused to register births for children with traditional Berber names, discouraged the public display of their language, limited the activities of their associations, and continued to Arabize the names of towns, villages, and geographic landmarks. Nevertheless, a full page of a major national newspaper was devoted on a monthly basis to articles and poems on Berber culture, which were printed in the Berber language. Official media broadcast in the Berber language for limited periods each day. In September, teaching of the Berber language began in 317 primary and secondary schools and plans call for the addition of other schools in the future.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits workers to establish and join trade unions of their own, although the laws reportedly have not been implemented in some areas, and the unions were not completely free from government interference. Approximately 600,000 of the country's 10 million workers were organized in 19 trade union federations. Five federations dominated the labor scene: The Union Marocaine du Travail (UMT), the Confederation Democratique du Travail (CDT); the Union Generale des Travailleurs du Maroc (UGTM); the Islamist-oriented Union Nationale du Travail au Maroc (UNTM); and a breakaway wing of the CDT, the Federation Democratique du Travail (FDT). Most were linked to political parties. The UMT dominates the private sector; the CDT and FDT, the public sector.

During the year the Government revived a dormant tripartite process and guided business and labor towards an April 30 accord which reaffirmed the unions' right to collective bargaining and, in a concession to management, an employee's right to work. Most major labor confederations chose to join with Government and business in drafting a new Labor Code, unanimously adopted by both houses of parliament on July 3, and a bill regulating the right to strike. The Code was published in the Official Bulletin on December 8 and will be effective 6 months after publication. The new statute prohibits sit-ins. Unions may not prevent non-strikers from going to work nor may they hold sit-ins and engage in sabotage. Any striking employee who prevents someone from getting to his job is subject to a 7-day suspension. A second offense within 1 year is punishable by a 15-day suspension.

Union officers were sometimes subject to government pressure. Union leadership did not always uphold the rights of members to select their own leaders. There was no case of the rank and file voting out its current leadership and replacing it with another; however, disaffected members of the CDT broke away in April to form their own labor federation, the FDT.

The new July 3 Code specifically prohibits antiunion discrimination and incorporates ILO Convention 87. In the past, under the ostensible justification of separation for cause, employers had dismissed workers for union activities that were regarded as threatening to employer interests. The new law expressly prohibits companies from dismissing workers for participating in legitimate union organizing activities. The new law also prescribes the Government's authority, under Section 288 of the Penal Code, to intervene in strikes. In a significant concession to labor, under

the new Code, employers are no longer able to initiate criminal prosecutions of workers for stopping work if they strike.

The courts have the authority to reinstate arbitrarily dismissed workers and are able to enforce rulings that compel employers to pay damages and back pay. Unions may sue to have labor laws enforced, and employers may sue unions when they believe that unions have overstepped their authority. The new Code forbids any form of industrial action, such as sit-ins, which interferes with a non-striking employee's right to work. Sabotage and other acts of destruction are also forbidden. Employers may not attempt to circumvent a work stoppage by hiring new temporary workers after a strike has begun.

Unions belonged to regional labor organizations and maintained ties with international trade union secretariats. The UMT was a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Constitutional provisions imply the right to organize and bargain collectively; however, with the passage of the new Code these rights are now statutorily mandated. Trade union federations competed among themselves to organize workers. Any group of eight workers may organize a union and a worker may change union affiliation easily. A work site may contain several independent locals or locals affiliated with more than one labor federation. However, only unions able to show that they have as members at least 35 percent of the workforce must be recognized as negotiating partners.

Collective bargaining has been a longstanding tradition in some parts of the economy, such as the industrial sector, and is becoming more prevalent in the service sector, including banking, health and the civil service. The wages and conditions of employment of unionized workers generally were set in discussions between employer and worker representatives. However, employers set wages for the vast majority of workers unilaterally. Labor disputes have arisen in some cases as the result of employers failing to implement collective bargaining agreements and withholding wages.

Article 14 of the Constitution guarantees the right to strike, but also prescribes that the conditions and ways of exercising such a right will be defined by subsequent law which, in fact, requires compulsory arbitration of disputes. Work stoppages normally were intended to advertise grievances and lasted 24 to 72 hours or less. Most strikes during the year were of short duration, usually 24 to 48 hours, involving the teachers' unions, Royal Air Maroc employees, bank officers, longshoremen, bus drivers, cabbies, and health care professionals. There was only one extended strike, carried out by independent truck drivers, lasting from June 26 to July 8. These self-employed operators of small (8-ton) trucks objected to government efforts to register and tax them. They blockaded numerous thoroughfares and threatened other truck drivers with physical violence if they failed to heed the strike.

The new Code also prescribes the government's authority, under Section 288 of the Penal Code, to intervene in strikes. Should strikers conduct a sit-in, damage property, and/or prevent non-striking employees from getting to their jobs, employers may seek criminal prosecution of workers under the Penal Code. The Government has the authority to break up demonstrations in public areas that do not have government authorization, and to prevent the unauthorized occupancy of private space such as a factory.

Employers wishing to dismiss workers are required by law to notify the provincial governor through the labor inspector's office. In cases in which the employer plans to replace dismissed workers, a government labor inspector provides replacements and mediates the cases of workers who protest their dismissal. Any worker who is dismissed for committing a serious infraction of work rules is entitled by law to a court hearing. This judicial hearing is a strictly enforced fundamental right.

According to figures released by the Labor Department, in the first half of the year, inspectors helped resolve labor disputes affecting 350 businesses and, by so doing, precluded 418 potential strikes. Labor Department officials maintain that they seek to protect workers' jobs while encouraging workers to stay on the job.

Rather than pursue a confrontational approach with jobseekers and the unions, the Government generally opted to promote social dialogue as the means to resolve industrial conflicts. End of the year government figures showed 149 strikes involving 13,911 employees with the number of workdays lost at 70,287. Ministry negotiators helped avert 721 potential strikes.

In general, the Government ensured the observance of labor laws in larger companies and in the public sector. In the informal economy, such as in the family workshops that dominated the handicrafts sector, employers routinely ignored labor laws and regulations, and government inspectors lacked the resources to monitor violations effectively.



Unions resorted increasingly to litigation to resolve labor disputes. The Ministry of Labor's 496 inspectors served as investigators and conciliators in labor disputes. According to the Ministry of Labor, its inspectors were able to help resolve some 713 potential strikes affecting 573 businesses during the first nine months of the year. It claimed that its staff, over the same period, helped to reinstate 3,039 employees.

Unresolved issues in the social dialogue remained concerning reforms to pension and retirement systems, regulating the right to strike, providing ample notice to management before a walkout, easing rules on dismissing or laying-off workers, and reducing management use of temporary workers to circumvent provisions of Code that apply only to permanent employees.

In the Tangier Free Trade Zone an export processing zone, the country's labor laws and practices fully apply to the 10,000 employees. The proportion of unionized workers in the export zone was comparable to the rest of the economy, approximately 6 percent.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however there were reports that such practices occurred (see Section 6.f.). In practice the Government lacked the resources to inspect the many small workshops and private homes where the vast majority of such employment would occur. Forced labor persisted in the practice of adoptive servitude in households.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In January 2002, the minimum employment age was increased from 12 to 15. The July 3 Labor Code amended the existing law on minimum age of employment to correspond to ILO Conventions 138 on the Minimum Age and 182 on the Worst Forms of Child Labor. The minimum age applies to all sectors and includes apprenticed children and those in family businesses. Various laws provide protective measures for children under 18 at work. The law prohibits children under 18 from being employed more than 10 hours per day, including a minimum of a 1-hour break or in hazardous work or night work. Under the new statute all employees are limited to a maximum 44-hour regularly scheduled workweek.

Noncompliance with child labor laws was common, particularly in agriculture where, according to a current Ministry of Labor survey, 81 percent of the country's 600,000 underage workers work on family farms. In practice, children often were apprenticed before age 12, particularly in small family-run workshops in the handicraft industry. Children, particularly rural girls, also were employed informally as domestic servants in urban areas and usually received little or no payment. Children work also in the informal sector in the textile, carpet and light manufacturing activities. Safety and health conditions, as well as wages in businesses that employ children often were substandard.

Ministry of Labor inspectors were responsible for enforcing child labor regulations, which generally were observed in the industrialized, unionized sector of the economy. However, before the passage of the new Code the inspectors were not authorized to monitor the conditions of domestic servants. Under both the new Code and amendments added to existing labor law in December, it is illegal for children under age 15 to be employed. The amendments empower labor inspectors and the police to bring charges against employers of under aged children and specify penalties. The Government maintained that the informal handicrafts sector was difficult to monitor.

The Government did not commit sufficient resources to enforce laws against child labor. There was also widespread acceptance of the desirability of contributing to family income, as well as the presumption that it was necessary to start working at a young age to properly learn traditional handicraft skills.

Along with UNICEF and several domestic NGOs, the ILO-IPEC had several small, ongoing programs to provide child maids and other working children, particularly young ostensibly apprentice artisans, rudimentary education, health care, and leisure activities.

*e. Acceptable Conditions of Work.*—Neither the minimum wage for the industrialized sector nor the wage for agricultural workers provided a decent standard of living for a worker and family, even with government subsidies for food, diesel fuel, and public transportation. In many cases, several family members combined their income to support the family. Most workers in the industrial sector earned more than the minimum wage. They generally were paid between 13 and 16 months' salary, including bonuses, each year.

In the April 30 accord, the Government agreed to raise the minimum wage for nonagricultural employees in the private sector by 5 percent increments in July and January 2004, although analogous increases will be delayed until January 2004 and

January 2005 for workers in the textile, tourism, leather and agro-food processing industries. With these two increments, minimum wage will be approximately \$225 (2,250 DH) per month in the industrialized sector. It is approximately \$9 (90 DH) per day for agricultural workers; however, businesses in the informal sector which accounts for 60 percent of the labor force often ignored the minimum wage requirements.

The minimum wage was not enforced effectively in the informal and handicraft sectors. However, the government pay scale exceeded the minimum wage for workers at the lowest civil service grades. To increase employment opportunities, the Government allowed firms to hire recent graduates for a limited period through a subsidized internship program at less than the minimum wage. However, due to economic conditions, most were not offered full-time employment at the conclusion of their internships. According to the Government, the overall unemployment rate during the year was 12 percent, but some union leaders contend that a more accurate figure, including underemployment, would be approximately 35 percent.

The new law provides for a 44-hour maximum workweek, with no more than 10 hours worked in any single day, premium pay for overtime, paid public and annual holidays, and minimum conditions for health and safety, including a prohibition on night work for women and minors. As with other labor regulations and laws, these were not observed universally and were not enforced effectively by the Government in all sectors.

Occupational health and safety standards were rudimentary, except for a prohibition on the employment of women in certain dangerous occupations. The labor inspectors attempted to monitor working conditions and investigate accidents, but lacked sufficient resources. While workers in principle had the right to remove themselves from work situations that endangered health and safety without jeopardizing their continued employment, there were no reports of workers attempting to exercise this right.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; under the Penal Code perpetrators were prosecuted either for fraud, kidnapping, corruption of minors, or as persons who forced others into prostitution. Trafficking in persons was a problem, but the Government fully complied with the minimum standards for the elimination of trafficking. The Immigration And Emigration Act became effective on November 20. Title II, Articles 50–56, of this act specifically prohibit trafficking in persons and levy stiff fines and prison terms against those, including government officials, involved in or failing to prevent trafficking in persons.

In March in response to concerns about the welfare of young migrant citizens, officers in embassies and consulates were instructed to provide increased services to young citizens outside the country. In September, the Government initiated public awareness campaigns designed to discourage parents from offering their children to traffickers. In December, the Government also concluded an agreement with Spain to repatriate minors.

Prostitution was prevalent, particularly in cities with large numbers of tourists, as well as near towns with large military installations (see Section 5). NGO activists estimated that there were thousands of teenage prostitutes in urban centers. Women and girls were sometimes forced into prostitution. Prostitution of minors was a problem in the village of El Hajeb near Meknes which attracted sex tourists from Europe and the Gulf.

Women also were trafficked abroad. Internal trafficking was also a problem, particularly of women for sexual exploitation or of young girls for domestic service.

The Government did not provide direct funding to NGOs offering services to victims of trafficking. However, the Government did provide in-kind support. The Government supported programs aimed at keeping children in school, improving education opportunities for rural girls, and expanding economic opportunities in high-risk areas.

The country was also a transit point for trafficking and alien smuggling to Europe. Hundreds of citizens and foreigners, most from sub-Saharan Africa, drown annually attempting to cross the Strait of Gibraltar.

#### WESTERN SAHARA

Morocco claims the Western Sahara and administers Moroccan law and regulation in the approximately 85 percent of the territory which it controls; however, sovereignty remains disputed between the Government of Morocco and the Polisario Front (Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro), an organization seeking independence for the region. The Moroccan Government sent troops and settlers into the northern two-thirds of the Western Sahara after

Spain withdrew in 1975, and extended its administration over the southern province of Oued Ed-Dahab after Mauritania renounced its claim in 1979. Since 1973, the Polisario has challenged the claims of Spain, Mauritania, and Morocco to the territory. Moroccan and Polisario forces fought intermittently from 1975 until the 1991 ceasefire and deployment to the area of a U.N. peacekeeping contingent, known by its French initials, MINURSO.

In 1975, the International Court of Justice advised that while some of the region's tribes had historical ties to Morocco, the ties were insufficient to establish "any tie of territorial sovereignty" between the Western Sahara and Morocco. The Court added that it had not found "legal ties" that might affect the applicable U.N. General Assembly resolution regarding the de-colonization of the territory, and, in particular, the principle of self-determination for its people. Sahrawis (as the persons native to the territory are called) live in the area controlled by Morocco, as refugees in Algeria near the border with Morocco, and to a lesser extent, in Mauritania. A Moroccan-constructed sand wall encloses most of the territory.

In 1988, Morocco and the Polisario accepted the U.N. plan for a referendum allowing the Sahrawis to decide between integration with Morocco or independence for the territory. However, disagreements over voter eligibility were not resolved, and a referendum has not yet taken place. In 1997, U.N. Secretary General Kofi Annan appointed former U.S. Secretary of State James Baker as his personal envoy to examine approaches for a peaceful settlement.

During the following years, former Secretary Baker has visited the region, consulted with the parties, and offered proposals to resolve the problem. In January, he presented a peace plan that called for a 4 to 5 year period of limited autonomy for an interim administration composed of elected members of a Western Sahara Authority, to be followed by a referendum to determine the status of the territory. Morocco rejected the plan, while the Polisario accepted it. Subsequently, an adjusted text to the Baker Plan added an additional ballot option in the referendum to include self-government or autonomy, in addition to the two previous options of independence or integration into Morocco. In July, the Security Council called on the parties to work towards its acceptance and implementation. Morocco voiced objections to that resolution, while the Polisario expressed support. The Security Council voted in October to extend the MINURSO mandate until January 31, 2004 to give the parties more time to work out their differences.

A sizeable Moroccan economic program subsidizes migration and development as part of its efforts to strengthen Moroccan claims to the territory. The population of the territory was an estimated 260,000. Incomes and standards of living in the market-based economy remained substantially below Moroccan levels, although fuel, power, water, and commodities such as flour, cooking oil, and sugar were subsidized.

Since 1977 the Saharan provinces of Laayoune, Smara, Awsard, and Boujdour (and Oued Ed-Dahab since 1983) have participated in elections organized and controlled by the Moroccan Government. In the September 2002 parliamentary elections, Sahrawis whose political views were aligned with the Moroccan Government filled all the seats allotted to the Western Sahara. On September 12, Moroccan municipal elections took place, including in the Western Sahara. No Sahrawis opposed to Moroccan sovereignty were candidates in the election. According to Moroccan government statistics, the national turnout was 54 percent, including 68 percent in the Western Sahara. There was no progress during the year on local elections to choose members to the proposed new Royal Advisory Council on the Western Sahara that the King had announced in 1999.

In July, three prisoners were convicted for the November 2002 death in custody of Mohamed Boucetta, imprisoned in Laayoune for drug charges. A prison guard was acquitted in the case.

As in past years, there were no new cases of disappearance in that part of the Western Sahara under Moroccan administration. The forced disappearance of individuals who opposed the Government of Morocco and its policies occurred over several decades; however, the Government in 1998 pledged to ensure that such activities would not recur, and to disclose as much information as possible on past cases. Those who disappeared were Sahrawis or Moroccans who challenged the Moroccan Government's claim to the Western Sahara or other government policies. Many of those who disappeared were held in secret detention camps. Although in 1991 the Moroccan Government released more than 300 such detainees, hundreds of Sahrawi and Moroccan families did not have any information at year's end regarding their missing relatives, many of whom disappeared over 20 years ago.

International human rights organizations continued to claim that disappearances of Sahrawis in the Western Sahara could number between 1,000 and 1,500, although conditions in the territory prevented confirmation of this figure.

2002

Through the Arbitration Commission of the Royal Advisory Council on Human Rights (CCDH), the Government in 2000 began distributing preliminary compensation payments to affected Sahrawis, and announced that more compensation could be distributed pending the results of a review of petitions by Sahrawi claimants. However, many still viewed the process as biased, slow, and flawed administratively.

On November 6, following a recommendation of the CCDH, the King approved the creation of the Justice and Reconciliation Committee, a nonjudicial body, to pursue out-of-court settlements of human rights abuses related to forced disappearances and arbitrary detention prior to his assumption of the throne in 1999 and to complete a fair and equitable rehabilitation of victims. Eight members of the Committee were members of the CCDH, and the eight others were well-known judicial, university and human rights figures. According to press reports, the Committee was expected to consider thousands of cases, a number of them dealing with the Western Sahara.

The 1998 U.N. settlement plan called for the release of all prisoners of war (POWs) after the voter identification process was completed. In 1999, MINURSO completed the voter identification process. The Moroccan Government continued to hold or withhold information on 150 Polisario combatants and supporters, according to Polisario claims. The Government of Morocco formally denied that any Sahrawi former combatants remained in detention.

The Polisario released 100 Moroccan POWs in February, 243 in September, and 300 in November. At year's end, the Polisario held 614 POWs, of whom more than half had been prisoners for over 20 years. There continued to be credible reports from international organizations, Moroccan NGOs, and the French NGO France Liberte that Moroccan POWs suffered serious physical and psychological health problems due to their prolonged detention, abuse and forced labor.

The Government of Morocco claims that the Polisario detained 48,000 Sahrawi refugees against their will in camps near Tindouf, in southwestern Algeria. The Polisario denies this charge. The UNHCR and the World Food Program in December appealed to donors for food aid for a population of 165,000 in the refugee camps. The UNHCR office in Laayoune temporarily suspended its operations at the end of the year due to lack of movement on confidence-building measures between the Moroccan Government and the Polisario, such as family visits between the camps and the communities from which the refugees originated, mail exchanges, and telephone communication.

Police arrested and detained Sahrawis who supported Saharan independence. In March, Salek Bazid, a member of the Moroccan human rights NGO Forum for Truth and Justice (FVJ), was tried and sentenced to 10 years in prison for participating in violent conflicts with police in Smara in November 2001. According to Amnesty International (AI), his conviction was based solely on confessions that he later withdrew in court alleging that they were extracted under duress. Dkhil Moussaoui, another FVJ member, was sentenced in June to 1 year in prison for allegedly participating in a demonstration that burned down a police station. In November 2002, the four-times postponed trial of Ahmed Nassiri, also a member of the FVJ, resulted in a sentence of 18 months for instigating violence in Smara in 2001. According to AI, police abused him while in detention for refusing to sign police statements that were the sole basis for his conviction. Moroccan human rights NGOs considered these cases to be ordinary criminal cases involving assault and property damage.

Ali Salem Tamek, an official of the Moroccan Democratic Confederation of Workers and an FVJ member, undertook several hunger strikes during the year to protest conditions of his detention and his transfer to Ait Melloul prison in Agadir.

Political rights for the residents of Western Sahara remained circumscribed. Freedom of expression and freedom of peaceful assembly and association remained very restricted in the Western Sahara. A demonstration of the FVJ was disrupted in Laayoune in February. Sahrawi activists claimed that they were unable to form political associations or politically oriented NGOs. In 2002, five unemployed Sahrawi university graduates received prison sentences for participation in a peaceful demonstration in Laayoune.

Due to continuing Moroccan control of the territory of Western Sahara, the laws and restrictions regarding religious organizations and religious freedom are the same as those found in the Kingdom of Morocco.

Freedom of movement within the Western Sahara was limited in militarily sensitive areas, both within the area controlled by the Government of Morocco and the area controlled by the Polisario. Both Moroccan and Polisario security forces at times subjected travelers to arbitrary questioning. The Polisario reportedly restricted freedom of expression, peaceful assembly, association, and movement in its camps near Tindouf.

2003

The civilian population living in the Western Sahara under Moroccan administration was subject to Moroccan law. Sahrawis had difficulty obtaining Moroccan passports. U.N. observers and foreign human rights groups maintained that the Moroccan Government monitored the political views of Sahrawis more closely than those of other groups, and that the police and paramilitary authorities reacted especially harshly against those suspected of supporting independence and the Polisario.

In March, former political prisoner Mohamed Daddach and 12 other human rights activists and relatives of disappeared persons had their passports taken away and were prevented by Moroccan authorities from leaving the country to attend a reunion of families of missing Sahrawis in Geneva. In April, Ministry of Interior officials detained Daddach and two colleagues 6 hours after they met with MINURSO representatives in Laayoune.

Moroccan authorities banned the Laayoune chapter of the FVJ in April. Moroccan authorities claimed that the Laayoune chapter was actively lobbying for the independence of the Western Sahara. Some members of the FVJ were forced to leave the Western Sahara, reportedly because of their support for Saharan independence.

The Moroccan Government limited access to and within the territory. An official from a foreign NGO concerned with refugees who visited the territory during the year claimed Moroccan authorities did not allow him to meet with returning refugees or others whom he wished to see.

Women were subjected to various forms of legal and cultural discrimination. Female illiteracy was very high, especially in rural areas.

There was little organized labor activity in the Western Sahara. The same labor laws that apply in Morocco were applied in the Moroccan-controlled areas of the Western Sahara. A new Moroccan Code of Labor will be effective in June 2004. Moroccan unions were present in the areas of Western Sahara controlled by Morocco, but were not active. The Polisario-sponsored labor union, the Sario Federation of Labor, was also not active in the Western Sahara, where the 15 percent of the territory outside Moroccan control did not contain any major population centers or economic activity apart from nomadic herding.

There were no strikes, other job actions, or collective bargaining agreements during the year. Most union members were employees of the Moroccan Government or state-owned organizations. They were paid 85 percent more than their counterparts in Morocco as an inducement to Moroccan citizens to relocate to the Western Sahara. Workers in the Western Sahara were exempt from income and value-added taxes.

Moroccan law prohibited forced or bonded labor, including by children and there were no reports that such practices occurred.

Regulations on the minimum age of employment were the same as in Morocco. Child labor did not appear to be a problem.

The minimum wage and maximum hours of work were identical to those in Morocco. However, in practice during peak periods, workers in some fish processing plants worked as many as 12 hours per day, 6 days per week, well beyond the 10-hour day, 44-hour week maximum stipulated in the Moroccan Code of Labor as revised in July. Occupational health and safety standards were the same as those enforced in Morocco. They were rudimentary, except for a prohibition on the employment of women in dangerous occupations.

Morocco adopted a new law in November to be effective in May 2004 that will impose stiff fines and prison terms against those, including government officials, involved in or failing to prevent penalties on trafficking in persons. Although Morocco was a country of origin and transit for trafficked persons, there were no reports that persons were specifically trafficked to, from, or within the Western Sahara.

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## OMAN

The Sultanate of Oman is a monarchy ruled by Sultan Qaboos Al Bu Sa'id, who acceded to the throne in 1970. It has no political parties; however, the Consultative Council (Majlis Al-Shura) is a representative institution whose members are elected directly by voters. Unlike in previous years in which the Government selected voters, members are elected directly by voters; however, the Consultative Council, which may recommend changes to new laws, has no binding legislative powers. The Sultan, along with various tribal leaders, retains firm control over all important policy issues and retains final authority over the election process. The October elections were generally free and fair and approximately 74 percent of registered voters (194,000 persons) voted to elect the 83 seats in the Consultative Council. The Sultan also appointed 57 members for the State Council (Majlis al Dawla), which, with the

Consultative Council, forms the bicameral body known as the Majlis Oman (Council of Oman). The Basic Charter provides for an independent judiciary; however, the Sultan had the right to overturn judicial decisions on appeal.

The Royal Office controls internal and external security and coordinates all intelligence and security policies. The Internal Security Service investigates all matters related to internal security. The Royal Oman Police (ROP), whose head also has cabinet status, performs regular police duties, provides security at airports, serves as the country's immigration agency, and maintains a small coast guard. The Government maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country had a population of approximately 2.3 million, including approximately 550,000 foreigners. Based on this year's national census, the rate of population growth was 1.9 percent. Oil revenues were used to improve public access to health care, education, and social services for citizens. The economy was mixed, with significant government participation in industry, transportation, and communications. The country's Basic Charter (or the Basic Law) provides for many basic human rights; however, while implementing legislation has not been enacted, the responsibilities delineated in the Charter became effective when it was enacted in 1996. In cases where there is no implementing legislation, judges render judgment according to the principles of the Basic Charter.

Although many problems remained, the Government's respect for human rights improved in a few areas. Citizens did not have the right to change their government. Police did not always follow procedures regarding arrest and detention, and in some instances police handling of arrest and detention constituted incommunicado detention. In the past, there were instances in which due process was denied to persons tried in state security courts. Citizens were required to obtain permission from the Government to marry foreigners from outside the countries of the Gulf Cooperation Council. The Government restricted freedom of expression and association. The Government must approve the establishment of all associations and prohibited human rights organizations. Despite legislated equality, gender discrimination remained a problem, largely due to social and cultural factors. A new labor law eased restrictions on worker rights. Foreign workers in private firms at times were placed in situations amounting to forced labor, and abuse of foreign domestic servants 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 Basic Charter prohibits such practices, and there were no reports of torture during the year.

Judges have the right to order investigations of allegations of mistreatment. The Basic Charter prohibits "physical or mental torture" and stipulates that all confessions obtained by such methods are to be considered null and void.

During the year, the police used physical force to control demonstrations, and detained some persons. In March, police used a flash-bang grenade to help disperse demonstrators protesting the war in Iraq; however there were no reports of excessive use of force (see Section 2.b.). Prison conditions generally appeared to meet international standards. The Government permitted the independent monitoring of prison conditions; however, there were no such visits during the year. The Government (or other group) continued to severely restrict access to some prisoners. There were some reports of occasional overcrowding in special facilities for deportees. There were separate facilities for men and women as well as separate facilities for juveniles and adults. There is no information whether conditions vary for women from those of men. Security prisoners were held separately and in different conditions from regular prisoners. Pretrial detainees also were held separately.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, the police are not required to obtain warrants prior to making an arrest. There were no reports of arbitrary detention. Within 24 hours of arrest, the authorities must obtain court orders to hold suspects in pretrial detention, and the police are required to file charges or request a magistrate judge to order continued detention; however, in practice the police did not always follow these procedures. Judges may order detentions for 14 days to allow investigation and may grant extensions if necessary. There was a functioning system of bail.

Police handling of arrests and detentions constituted incommunicado detention in some instances. The police did not always notify a detainee's family or, in the case of a foreign worker, the worker's sponsor of the detention. At times notification was made just prior to the detainee's release. The authorities posted the previous week's trial results (including the date of the trial, the name of the accused, the claim, and the sentence) near the magistrate court building. The police did not always permit attorneys and family members to visit detainees. Judges occasionally interceded to ensure that security officials allowed such visits.

The Basic Charter prohibits exile, and there were no reported cases during the year.

*e. Denial of Fair Public Trial.*—The Basic Charter provides for an independent judiciary; however, the various courts were subordinate to the Sultan and subject to his influence in practice. The Sultan appoints all judges, who serve at his discretion through Royal Decree. The Sultan can act as a court of final appeal and interceded in cases, such as those concerning national security. However, there were no reported instances in which the Sultan overturned a decision of the magistrate courts.

The court system is comprised of the Supreme Court, an appeals court, primary courts (one located in each region), and, within the primary courts, divisional courts. Within each of the courts, there are divisions to consider commercial, civil, penal, labor, taxation, general, and personal status cases (the latter under Shari'a). The General Prosecutor's Office operates independently within the Ministry of Justice. An Administrative Court under the authority of the Diwan or Royal Court reviews complaints against the misuse of governmental authority. During the year, the court ruled against the Government in several cases brought by private parties and was increasingly used as a check against governmental violations of the law.

The Ministry of Justice administered all courts. The judiciary comprised the magistrate courts, which adjudicated misdemeanors and criminal matters, and the Shari'a (Islamic law) courts, which adjudicated personal status cases such as divorce and inheritance. The Labor Welfare Board attempted to mediate disputes between employers and employees. If a settlement cannot be reached, the parties may seek recourse in the appropriate courts. The courts of general jurisdiction may hear cases involving rent disputes.

Criminal cases are heard by primary courts, appeals courts, and the Supreme Court. Regional courts of first instance handled misdemeanor cases, which were heard by individual judges. All felonies were adjudicated at the Central Magistrate Court by a panel made up of the President of the Magistrate Court and two judges. All rulings of the felony panel were final except for those in which the defendant was sentenced to death. The death penalty rarely was used, except in serious felonies such as murder, and the Sultan must approve death sentences. There were no reported executions during the year.

The Criminal Appeals Panel also was presided over by the President of the Magistrate Court and included the court's vice president and two judges. This panel heard appeals of rulings made by all courts of first instance. In the past, specially trained prosecutors from the Royal Oman Police (ROP), all of whom were trained as police officers as well as prosecutors, carried out the role of public prosecutor in criminal cases; however, prosecutors operate independently of the ROP.

A Royal Decree established criminal rules of procedure for criminal cases before the court, providing rules of evidence, procedures for entering cases into the criminal system, and detailing provisions for a public trial. In criminal cases, the police provided defendants with the written charges against them; defendants were presumed innocent and have the right to present evidence and confront witnesses. The prosecution and the defense direct questions to witnesses through the judge, who was usually the only person to question witnesses in court. The Basic Charter provides for the presumption of innocence and the right to counsel, ensuring for those financially unable the means to legal defense. Judges often pronounced the verdict and sentence within 1 day of the completion of a trial. Those convicted may appeal jail sentences longer than 3 months and fines over the equivalent of \$1,250 (480 rials) to a three-judge panel.

The State Security Court tries cases involving national security and criminal matters that the Government decides require expeditious or especially sensitive handling. While an institution such as the Security Court has functioned on an ad hoc basis in past years, two royal decrees during the year formalized the Court in law, providing details on its jurisdiction, composition, and procedures. The newly announced procedures mirror closely those applicable elsewhere in the criminal system. No case has yet been referred to the State Security Court, nor had its informal predecessor institution been used in recent years. The Sultan has exercised his powers of extending leniency, including in political cases.

The Ministry of Justice administers Shari'a courts and applies Shari'a law as interpreted under the Ibadhi school of Islamic jurisprudence. Courts of first instance were located in each of the 59 wilayats, or governorates, and a single judge presided over them. Appeals of the rulings of the courts of first instance involving prison sentences of 2 weeks or more or fines greater than \$260 (100 rials) must be brought within 1 month before the Shari'a Court of Appeals. Panels of three judges heard appeals cases. Court of Appeals rulings themselves may be appealed, within a 1-month period, to the Supreme Committee for Complaints, which was composed of four members, including the Minister of Justice and the Grand Mufti of the Sultanate. Shari'a courts handle all family law cases.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law prohibits such actions; however, the law does not require police to obtain search warrants. Police reportedly do obtain warrants; however, warrants are issued by a public prosecutor and not the court. In some cases, search and arrest warrants may be issued verbally, but must be followed up with a paper copy. There was a widely held view that the Government eavesdropped on both oral and written communications. Citizens were required to obtain permission from the Ministry of Interior to marry foreigners, except nationals of the GCC countries; however, permission was not granted automatically. Delays or denial of permission resulted in secret marriages within the country. Marriages in foreign countries may lead to denial of entry of the foreign spouse into the country and prevent a legitimate child from claiming citizenship rights.

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

*a. Freedom of Speech and Press.*—The Basic Charter provides for freedom of speech and of the press; however, the Government generally restricted these rights in practice. The law prohibits criticism of the Sultan in any form or medium. The authorities tolerated criticism of government officials and agencies, particularly on the Internet, but such criticism rarely received media coverage. In practice, during the period covered by this report, there appeared to be an increasing level of tolerance in the media. Journalists and writers generally exercised self-censorship to avoid government harassment.

The Press and Publication Law authorizes the Government to censor all domestic and imported publications. Ministry of Information censors may act against any material regarded as politically, culturally, or sexually offensive. Editorials generally were consistent with the Government's views, although the authorities tolerated some criticism regarding foreign affairs issues. The Government discouraged in-depth reporting on controversial domestic issues and sought to influence privately owned dailies and periodicals by subsidizing their operating costs. There were five daily newspapers, three in Arabic and two in English. Arabic language dailies "Al-Watan" and "Shabiba" as well as English daily "Times of Oman" were privately owned. There are 32 magazines published in the Sultanate, according to the Omani News Agency.

In October, journalists announced the creation of the "Gulf Press Freedom Organization" (GPFO) which attempts to promote and defend a free press and human rights, and aid journalistic professional development in the Gulf and Yemen.

Customs officials confiscated videocassette tapes and erased offensive material, despite the lack of published guidelines regarding what was considered offensive. Such tapes may or may not be returned to their owners. Government censorship decisions were changed periodically without stated reason. There was a general perception that the confiscation of books and tapes at the border from private individuals and restrictions on popular novels eased somewhat; however, it reportedly has become more difficult to obtain permission to distribute books in the local market that censors decide have factual errors regarding the country (including outdated maps).

The Government owned four local radio stations and two local television stations. In general, they did not air any politically controversial material, although twice during the period covered by this report state television was allowed to broadcast public question and answer sessions between ministers and the Majlis Al-Shura. The Government did not allow the establishment of privately owned radio and television companies. The availability of satellite dishes has made foreign broadcast information accessible to those with the financial resources to obtain access to the dishes.

The appropriate government authority, the police, or a relevant ministry must approve public cultural events, including plays, concerts, lectures, and seminars. Most organizations avoided controversial issues because of fears that the authorities may cancel their events.



The Government, through its national telecommunications company, made Internet access available for a charge to citizens and foreign residents. However, it blocked certain web sites that it considered pornographic or politically sensitive. As use of the Internet to express views normally not permitted in other media grew, the Government took additional measures to monitor and censor it. The Government placed warnings on web sites that criticism of the Sultan or personal criticism of government officials was likely to be censored and could lead to police questioning, which ultimately caused some to practice self-censorship.

The Government restricted academic freedom, particularly regarding publishing or discussing controversial matters, such as politics. Professors may be dismissed for going beyond acceptable boundaries.

*b. Freedom of Peaceful Assembly and Association.*—The Basic Charter provides for freedom of assembly; however, all public gatherings require government approval. The authorities, with rare exceptions, enforced this requirement. In March, public demonstrations against U.S. policies in the Middle East took place in Muscat. Most demonstrators were young men, and most demonstrations were peaceful. In at least one instance, police used a non-lethal flash-bang grenade and physical force to control demonstrations and detained some persons.

The Basic Charter provides for freedom of association; however, the Government limited it in practice. The law states that the Ministry of Social Development must approve the establishment of all organizations and their by-laws; however, some groups, such as certain social groups, were allowed to function without formal registration. The Government used licensing to control the political environment and did not license groups regarded as a threat to the predominant social and political views or the interests of the Sultanate. Formal registration of foreign associations was limited to a maximum of one association for any nationality.

The Basic Charter allows for the formation of nongovernmental organizations (NGOs) providing services to women, children, and the elderly. There are 10 NGOs currently registered (see Section 4). There are 38 government-approved women's associations, some of which received limited government funding or in-kind support, while others were self-funded through membership fees, tuition fees for pre-schools, donations, and product sales.

*c. Freedom of Religion.*—The Basic Law protects the freedom to practice religious rites, in accordance with tradition, provided that their practices do not breach public order, and the Government generally respected this right in practice; however, there were some restrictions. The Basic Charter also provides that Islam is the State religion and that Shari'a is the source of all legislation. The Government permits worship by non-Muslim residents; however, non-Muslim religious organizations must be registered with the Government, and the Government restricts some of their activities.

The Basic Charter prohibits discrimination against individuals on the basis of religion or religious group. During the period covered by this report, the Ministry of Religious Affairs and Awqaf launched a new periodical entitled "Tolerance." There were no laws prohibiting discrimination against religious minorities. Some Shi'a occupied prominent positions in both the private and public sectors, although much less so in the public sector. For example, the Ministers of National Economy (also de facto Minister of Finance), Commerce and Industry, and Health are Shi'a.

Most citizens are Ibadhi or Sunni Muslims, but there is also a minority of Shi'a Muslims. Non-Muslims were free to worship at churches and temples built on land donated by the Sultan. There were many Christian denominations, which utilized two plots of donated land, on which two Catholic and two Protestant churches were built. Hindu temples also existed on government-provided land. Land was made available to Catholic and Protestant missions to provide places of worship and ministry to resident Christians in Sohar and Salalah.

The Government prohibited non-Muslims from proselytizing. It also prohibited non-Muslim groups from publishing religious material, although religious material printed abroad could be brought into the country. Certain medical and educational activity by missionaries was permitted as long as missionaries did not proselytize. Members of all religions and religious groups were free to maintain links with coreligionists abroad and undertake foreign travel for religious purposes.

The Government expects all imams to preach sermons within the parameters of standardized texts distributed monthly by the Ministry of Awqaf and Religious Affairs. The Government monitors mosque sermons to ensure that imams did not discuss political topics or instigate religious hatreds or divisions and stay within the state approved orthodoxy of Islam. The Government also monitored sermons of non-Muslim clergy.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not provide for these rights, and the Government partially restricted these rights in practice. The Government did not restrict travel by citizens within the country except to military areas. The law does not restrict women from foreign travel.

The Basic Charter prohibits the extradition of political refugees, and there were no reports of the forced return of persons to a country where they feared persecution. The issue of the provision of temporary protection did not arise during the year. Tight control over the entry of foreigners into the country effectively limited refugees and prospective asylum seekers from entering. Illegal immigrants numbering in the hundreds or thousands, primarily from Iran, Pakistan and Afghanistan, are apprehended annually by the Royal Omani Police. The detainees are held in special detention centers until their deportation can be arranged. The Government seeks advice from U.N. High Commissioner for Refugees (UNHCR). The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provides protection against refoulement, but does not routinely grant refugee or asylum status.

*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 Sultan retains ultimate authority on all foreign and domestic issues.

The country's Basic Charter (or the Basic Law) provides for many basic human rights. Although it is considered to have immediate force of law, laws and regulations to implement some provisions have not been enacted. While family, judicial, administrative, and financial implementing legislation were enacted, others have yet to be promulgated. In cases where there is no implementing legislation, judges render judgment according to the principles of the Basic Charter. The responsibilities delineated in the Charter became effective when it was enacted in 1996.

The law does not provide for political parties or direct elections, except to the Consultative Council. Citizens had indirect access to senior officials through the traditional practice of petitioning their patrons, usually the local governor, for redress of grievances. The Sultan appointed the governors. Successful redress depended on the effectiveness of a patron's access to appropriate decision makers. The Sultan and his ministers made an annual 3-week tour of the country, to listen directly to his subjects' concerns.

Citizens 21 years or older may vote; however, government employees in the military and security services are not permitted to vote. During the year, over 800,000 citizens were eligible to register to vote, of which approximately 226,000 did so. A total of 506 candidates, including 15 women, competed for the 83 Council seats. In October Majlis al-Shura elections, approximately 74 percent of registered voters, or roughly 194,000 persons turned out. Of the 15 women candidates competing, two were elected. A royal decree October 19 also reappointed the incumbent President of the Majlis al-Shura, although the Majlis elected from within its membership two Vice Presidents. In 2000, the number of eligible female voters increased from 5,000 to 52,000. In August 2000, a royal decree abolished the prior procedure under which voters (or electors) had volunteered as candidates for Consultative Council seats, had their police records checked by the Government, and relied on government approval of their decision to run. Candidates were not subject to government scrutiny, and the Sultan no longer ratified winning candidates; however, the Sultan controlled the process.

The Consultative Council has no formal legislative powers, which remain concentrated in the Sultan's hands; however, it served as a conduit of information between the citizens and the government ministries. No serving government official was eligible to be a Consultative Council member. The Consultative Council may question government ministers in public or in private, review all draft laws on social and economic policy, and recommend legislative changes to the Sultan, who makes the final decision. The Consultative Council can recommend new laws or changes to existing ones, and has the authority to study the Five-year Development Plan and monitor its implementation. During the year, the membership of the Majlis Al-Dawla, or State Council, increased from 53 to 57 members, including 8 female members. The precise responsibilities of the State Council and its relationship to the existing Consultative Council have yet to be clarified. The State Council and the Consultative Council together form the Majlis Oman, or Council of Oman. On October

19, a Royal Decree extended the term of office for Members of the Council to four years.

Eight women serve in the 57-seat State Council. In March, a woman was appointed to a ministerial rank for the first time and on October 4 elections, two women were elected to the Majlis al-Shura or Consultative Council. Women held other senior government positions, including four undersecretaries and one ambassador. Three women serve on the 12-member Main Election Committee of the Consultative Council.

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

The Government prohibited the establishment of human rights NGOs, and there were no government-controlled or autonomous human rights entities in the country.

There were no visits to the country by U.N. or international human rights organizations.

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

The Basic Charter prohibits discrimination on the basis of sex, ethnic origin, race, language, sect, place of residence, and social class. Effective government enforcement was insufficient in some areas, and societal and cultural discrimination based on gender, race, social class, and disability existed.

While there were no reports of official discrimination against persons with HIV/AIDS, societal attitudes in Oman remained conservative and fearful towards persons with the disease. The Ministry of Health has declared AIDS awareness to be a top priority. A "Peer Education" pilot project was initiated in the Muscat area in 2002 to improve awareness and education on the disease among secondary and post-secondary students and other youth, and was expanded to three other regions during the year. The Ministry employs 72 male and female counselors throughout the country to educate the public and help ease the social stigma surrounding HIV/AIDS.

*Women.*—The law does not specifically address domestic violence against women; however, Shari'a prohibits all forms of physical abuse. There was no evidence of a pattern of spousal abuse, although observers claimed that allegations of such abuse in the Shari'a courts were not uncommon and conversations with local observers indicated that domestic violence was a real concern. Doctors did not have a legal responsibility to report either spousal or child abuse to the courts, but they can and do summon police in instances where they deem a crime likely to have been perpetrated. Battered women may file a complaint with the police but often sought family intervention to protect them from violent domestic situations. Likewise, families sought to intervene to keep such problems from public view. There were reports of employers and co-workers physically and sexually abusing domestic servants and harassing hospital nurses without being held accountable for such actions (see Section 6.d.). There were no government programs for abused women.

The law prohibits rape. Shari'a provides no punishment for spousal rape.

Prostitution was illegal, and due to strict cultural norms and immigration controls, was rare.

A few communities still practice female genital mutilation (FGM); however, experts believed that the number of such cases was small and declining annually. There is no law prohibiting FGM.

While progress has been made in changing laws and attitudes, women continued to face many forms of social discrimination. Illiteracy among older women hampered their ability to own property, participate in the modern sector of the economy, or inform themselves of their rights. Government officials frequently denied women land grants or housing loans and preferred to conduct business with a woman's husband or other male relative. Women may own property.

Some aspects of Islamic law and tradition as interpreted in the country also discriminated against women. Shari'a favors male heirs in adjudicating inheritance claims. Many women were reluctant to take an inheritance dispute to court for fear of alienating the family.

Women have equal opportunities for education. The UN reported that in 2000–2001, the ratio of female to male enrollment was equal in primary education, and at the tertiary level, female enrollment exceeded that of males. The Government spent approximately 13 percent of its total budget on education in 2002. According to Government statistics, as of March 2002, 48.5 percent of the total number of students attending public primary and secondary schools were girls. Women constituted 54 percent of entering students at Sultan Qaboos University in 2002. In 2002, 613 women and 581 men received bachelor's degrees as members of the 12th graduating class, while 47 women and 64 men received master's degrees. The uni-

versity had a quota system with the apparent goal of increasing the number of men studying certain specialties. For example, women reportedly were being limited to 50 percent of the seats in the medical department, and there were no female engineering graduates from Sultan Qaboos University in 2002. The quota system was expected to allow women to constitute a majority in some other departments.

Educated women have attained positions of authority in government, business, and the media. In 2002, approximately 33 percent of all citizen civil servants were women. In both the public and private sectors, women were entitled to maternity leave and equal pay for equal work. The Government, the country's largest employer of women, observed such regulations, as did many private sector employers. However, many educated women still faced job discrimination because prospective employers feared that they might resign to marry or raise families. Female employees have sought administrative redress for alleged denial of promotion in favor of less capable men. According to recently published statistics approximately 24 percent of students who study abroad under the sponsorship of the Ministry of Higher Education were women.

The Ministry of Social Development handles women's affairs. The Ministry provided support for women's affairs through funding of the Oman Women's Association (OWA) and local community development centers (LCDCs). The OWA consisted of 38 chapters, with an active membership of more than 3,000 women. Typical OWA activities included sponsoring health or sociological lectures, kindergarten services, and handicraft-training programs. The OWA also provided an informal counseling and support role for women with divorce-related difficulties, girls forced to marry against their will, and women and girls suffering from domestic abuse. The main purpose of the 50 LCDCs located throughout the country was to encourage women to improve the quality of life for their families and to improve their contributions to the community.

*Children.*—The Government has made the education, health, and general welfare of children a budgetary priority. Primary school education for children, including noncitizen children, was free and universal, but not compulsory. Most children attended school through secondary school, until age 18. The infant mortality rate continued to decline, and comprehensive immunization rates rose. The Government provided free health care for children to age six. There was no pattern of familial or other child abuse, but government officials have publicly called for greater awareness and prevention of child abuse. The Government formed a National Committee on the Rights of the Child to monitor the country's compliance with the U.N. Convention on the Rights of the Child, to which it acceded in 2002.

Child prostitution was not known to occur.

FGM was rare; it was performed mainly on young girls (see Section 5, women).

*Persons with Disabilities.*—There is no legislated or otherwise mandated provision requiring access for persons with disabilities; however, the Government has mandated parking spaces and some ramps for wheelchair access in private and government office buildings and shopping centers. Compliance was voluntary, and is increasingly observed. Students in wheelchairs had easy access to Sultan Qaboos University. Persons with disabilities nevertheless suffered from lack of easy access to some facilities and transportation, hampering economic and social opportunities. The new labor law stipulates that enterprises employing more than 50 persons should have at least 2 percent of the jobs earmarked for disabled persons, however, this regulation was also not widely employed or enforced. There was one government-sponsored rehabilitation center in the capital area and 17 private rehabilitation centers throughout the country. Persons with disabilities, including blind persons, worked in government offices, though in low numbers. While the Government could charge a small fee to citizens seeking government health care, persons with disabilities generally were not charged for physical therapy and prosthetics.

*National/Racial/Ethnic Minorities.*—The Basic Charter prohibits discrimination based on racial or ethnic characteristics. Citizens of African origin claimed that they frequently faced job discrimination in both the public and private sectors, though these allegations have diminished in recent years. Royal Decree 87/2002 ratified the country's accession to the International Convention on the Elimination of All Forms of Racial Discrimination. In 2002, the Ministry of Social Development authorized the formation of social development committees at the local and regional level. UNICEF described the role of the committees, in part, as enhancing awareness of social issues such as disability.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers did not have the right to form or to join unions. On April 26, a long awaited Labor Law went into effect. According to the

ILO, the country is benefiting from a study for comparative analysis of national laws and practices in light of ILO core conventions currently being undertaken in GCC states. Provisions under the Labor Law permitted workers to form a representational committee that could take care of their interests, represent them in local and international conferences, and defend their rights under the law.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law does not address strikes; however, the April decree details procedures for dispute resolution and removes a 1973 prohibition on strikes. Labor unrest was rare. The law does not provide for the right to collective bargaining; however, it required that employers of more than 50 workers form a joint labor-management committee as a communication forum between the two groups. The implementation of this provision was uneven, and the effectiveness of the committees was questionable. In general the committees discussed such matters as the living conditions at company-provided housing. They were not authorized to discuss wages, hours, or conditions of employment. Such issues were specified in the work contracts signed individually by workers and employers and had to be consistent with the guidelines of the Ministry of Manpower.

The law defines conditions of employment for some citizens and foreign workers. It does not cover domestic servants, temporary workers, or those with work contracts that expire within 3 months.

Work rules must be approved by the Ministry of Manpower and posted conspicuously in the workplace by employers of 15 or more workers; government inspectors occasionally perform random inspections to enforce implementation of these regulations. Similarly any employer with 50 or more workers must establish a grievance procedure. Employees, including foreign workers, may file a grievance with the Labor Welfare Board, which functions as a mediator between employee and employer. Should mediation fail, cases may be referred to court. In some cases, worker representatives filed collective grievances, but individual workers filed most grievances. Lower-paid workers used the procedure regularly. Legal counsel may represent plaintiffs and defendants in such cases.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred. The Government did not investigate or enforce the law effectively. Foreign workers at times were placed in situations amounting to forced labor. Employers have withheld documents that release workers from employment contracts and allow them to change employers. Without such a letter, a foreign worker must continue to work for his current employer or become technically unemployed, which was sufficient grounds for deportation. Many foreign workers were not aware of their right to take such disputes before the Labor Welfare Board. Others were reluctant to file complaints for fear of retribution from unscrupulous employers. In most cases brought before it, the Board released the worker from service without deportation and awarded compensation for time worked under compulsion; however, employers faced no penalty other than to reimburse the worker's back wages. Oman has ratified just two of the ILO's eight Fundamental Conventions on worker rights, No. 29 on Forced Labor and No. 182 on the Most Dangerous Forms of Child Labor; it has yet to ratify a second convention on Forced Labor, two on Freedom of Association, two on Discrimination, and another on Child Labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In April, the Government raised the minimum age for children to work from 13 to 15. Children between 15 and 18 years of age may be employed, but cannot work at night, on weekends or holidays. The Ministry of Manpower generally enforced the law; however, in practice, enforcement often did not extend to some small family businesses that employ underage children, particularly in the agricultural and fisheries sectors. Child labor did not exist in any industry.

The law specifically prohibits forced or bonded labor by children, and it was not known to occur.

*e. Acceptable Conditions of Work.*—The Ministry of Manpower issues minimum wage guidelines for various categories of workers. The minimum wage for most citizens is approximately \$260 (100 rials) per month, plus \$52 (20 rials) for transportation and housing. Minimum wage guidelines did not apply to a variety of occupational categories, including small businesses that employed fewer than five persons, the self-employed, domestic servants, dependent family members working for a family firm, and some categories of manual labor. Many foreigners worked in occupations that were exempt from the minimum wage law, and the Government was lax in enforcing minimum wage guidelines, where applicable, for foreign workers employed in menial jobs. However, highly skilled foreign workers were well paid.

The minimum wage was sufficient to provide a decent standard of living for a worker and family. The compensation for foreign manual laborers and clerks was sufficient to cover living expenses and to permit savings to be sent home. The country is setting mandatory targets for "Omanization" (i.e., nationalization of the workforce) in many sectors of the economy. In addition, programs such as the Sanad Fund offer low-interest loans for young Omani entrepreneurs to start their own businesses.

The private sector workweek was 40 to 45 hours and included a rest period from Thursday afternoon through Friday. Government workers have a 35-hour workweek. While the law does not designate the number of days in a workweek, it requires at least one 24-hour rest period per week and mandates overtime pay for hours in excess of 48 per week. Government regulations regarding hours of employment were not always enforced. Employees who worked extra hours without compensation could file a complaint before the Labor Welfare Board, but the Board's rulings were not binding.

Every worker has the right to 15 days of annual leave during the first year of continual employment and 30 days per year thereafter. Employers provide many foreign nationals, including domestic servants, with annual or biannual round-trip tickets to their countries of origin.

The law states that employers must not place their employees in situations involving dangerous work; however, the law does not specifically grant a worker the right to remove himself from dangerous work without jeopardy to his continued employment. All employers were required by law to provide first aid facilities. Work sites with more than 100 employees were required to have a nurse. Employees covered under the Labor Law could recover compensation for injury or illness sustained on the job through employer-provided medical insurance. Inspectors from the Department of Health and Safety of the Directorate of Labor enforced the health and safety standard codes. As required by law, they made regular onsite inspections.

Foreign workers constituted at least 50 percent of the work force and as much as 80 percent of the private sector work force. In the past, there were reports that employers or male coworkers sexually harassed and abused foreign females employed in such positions as domestic servants and hospital nurses. Foreign women employed as domestic servants and garment workers have claimed that their employers withheld their salaries and that government officials were unresponsive to their grievances, due to investigative procedures that disadvantaged the victim. There were reports of employers physically and sexually abusing foreign domestic servants, and employers were not always held accountable for such actions. Foreign women at times had to ask their Governments' embassies for shelter to escape abuse (see Section 5).

Foreign workers at times found themselves in situations amounting to forced labor (see Section 6.c.).

*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.

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## QATAR

Qatar is a monarchy governed by the ruling Al Thani family through its head, the Amir Sheikh Hamad bin Khalifa Al Thani, who with the support of other leading families, took power from his father in 1995. The Amir holds power, the exercise of which is influenced by religious law, consultation with leading citizens, rule by consensus, and the right of any citizen to gain access to the Amir to appeal government decisions. The Amir generally legislates after consultation with leading citizens, an arrangement institutionalized in an appointed advisory council that assists the Amir in formulating policy. In April, approximately 96 percent of voters approved a draft Constitution by referendum. The Constitution provides for hereditary rule by the Amir's branch of the Al Thani family. The Constitution provides legislative authority to a new Advisory Council, consisting of 30 elected and 15 appointed members. In April, citizens participated in the country's second free and fair elections for the Central Municipal Council. The Constitution provides for an independent judiciary; however, approximately 50 percent of the judges are foreign nationals and all judges hold their positions at the Government's discretion.

The civilian security force, controlled by the Interior Ministry, consists of the police and the General Administration of Public Security. There is one civilian intelligence service, Qatari State Security, which was established in June through a merger of the former General Intelligence Service (mukhabarat) and the Investiga-

tion and State Security Service (mubahith). Like its predecessors, Qatari State Security reports directly to the Amiri Diwan and performs internal security investigations, gathers intelligence, and has primary responsibility for sedition and espionage cases. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The country has a mixed economy. The population is approximately 600,000 of whom 150,000 are believed to be citizens. The Government owns most basic industries and services, but the retail and construction industries are privately owned. Oil is the principal natural resource exploited for revenue, but the country's extensive natural gas resources are increasingly important. Foreign workers, mostly South Asian and Arab, represent approximately 85 percent of the workforce. Many government jobs are offered generally only to citizens and private sector businesses are encouraged to recruit citizens as well.

Although there were problems in some areas, the Government's overall human rights records improved in some areas during the year. The country has taken significant steps toward democratic governance; however, citizens did not have the right to peacefully change their government. The Government severely limited the rights of assembly and association. The Government restricted freedom of religion, although it continued to take some steps to ease restrictions on the practice of non-Muslim religions. The law and social customs restricted women's rights. The Government severely restricted workers' rights. At times, some domestic servants were mistreated and abused. Noncitizens, who make up more than 75 percent of local residents, faced discrimination in the workplace. The country also was a destination for trafficked persons.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture, and there were no reports that government officials employed it. However, the Government administered most corporal punishment prescribed by Islamic law but did not allow amputation. Punishments were not administered publicly.

Prison conditions generally met international standards. Women were held separately from men, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners. The Government permitted the independent monitoring of prison conditions; however, 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 observed these prohibitions. The authorities generally charged suspects within 48 hours, and had 4 days to present suspects before a judge, who may order the suspect released, remanded to custody to await trial, held in pretrial detention pending investigation, or released on bail. Lengthy pretrial detention was not known to occur. The accused is entitled to legal representation throughout the process. There were no provisions for state funded legal counsel for indigents. Suspects who were detained in security cases generally were afforded access to counsel; however, they may be detained indefinitely while under investigation. During the year, there were no cases of incommunicado detention.

The Ministry of the Interior controls the police forces which include the Coast Guard and Border Police, Fire Department, and Immigration Authorities. They generally were effective and corruption and abuse of power were minimal. During the year, the Ministry of the Interior established an Office of Human Rights in its Legal Department.

The Constitution prohibits forced exile of citizens, and there were no reported cases during the year.

*e. Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, most judges were foreign nationals holding residence permits granted by the civil authorities. All judges held their positions at the Government's discretion. Approximately 50 percent of the judges are citizens. The Amir appoints all judges for renewable 3-year terms.

During the year a new law united the Adlea (Civil Law) courts and Shari'a (Islamic law) courts under a Supreme Judiciary Council. Prosecutors remained under the authority of the Ministry of Interior.

The Adlea courts have jurisdiction in commercial, national security, trafficking, and criminal matters. The Shari'a courts have jurisdiction in family, inheritance, deportation, wrongful injury, and most other civil cases. The law provides for the establishment of ad hoc state security courts, although there have been no cases before these courts since the Amir assumed power. Defendants tried by all courts have the right to appeal. The Appeals Court is the highest in the country.

The Shari'a courts applied most principles contained in the draft Family Status Law, which covered marriage, inheritance, and juvenile matters, to cases under adjudication. Shari'a trials usually were brief. Shari'a family law trials often were held without counsel; however, an increasing number of litigants, especially women, used lawyers to present their cases.

Criminal cases normally were tried within 2 to 3 months after suspects were detained. Suspects were entitled to bail, except in cases of violent crime. Foreigners who were charged with minor crimes could be released to a citizen sponsor, although they were prohibited from departing the country until the case was resolved. Defendants in the civil courts had the right to be represented by defense attorneys.

Both Muslim and non-Muslim litigants may request the Shari'a courts to assume jurisdiction in family, commercial, and civil cases. Trials in both the Adlea and the Shari'a courts were public, but the presiding judge can close the courtroom to the public if the case is deemed sensitive. Lawyers prepare litigants and speak for them during the hearing. Non-Arabic speakers were provided with interpreters. Defendants were entitled to legal representation throughout the trial and pretrial process.

Foreign residents were disadvantaged in cases involving the performance of labor contracts.

Defendants appeared before a judge for a preliminary hearing within 4 days of their arrest. Judges may extend pretrial detention for 1 week at a time to allow the authorities to conduct investigations. Lengthy pretrial detention was not known to occur.

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. Traditional attitudes of respect for the sanctity of the home and the privacy of women provided protection against arbitrary intrusion for both citizens and noncitizens. Judicial authorities must grant warrants before police may search a residence or business, except in cases involving national security or emergencies. There were no reports of unauthorized searches of homes during the year. The police and security forces were believed to monitor the telephone calls of suspected criminals, of those considered to be security risks, and of selected foreigners.

Citizens must obtain government permission to marry foreigners and to apply for residence permits or citizenship for their spouses; such permission generally was granted.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government imposed some restrictions on these rights in practice. Journalists continued to practice self-censorship due to social and political pressures when reporting on government policies, the ruling family, and relations with neighboring states.

Citizens expressed many of their views freely and in public, though they avoided discussing sensitive political and religious issues. The larger noncitizen population did not express itself as freely or as publicly. The Government did not prosecute anyone for the expression of views considered offensive.

Three Arabic and two English daily newspapers are not state-owned; however, the owners or board members generally are either high-level government officials or have ties to government officials. Copies of foreign newspapers and magazines were censored for explicit sexual content.

Although personal criticism of government officials was rare, the performance of ministries was the subject of extensive reporting. During the year, the Ministry of Municipal Affairs and Agriculture was publicly criticized for its decision to make insurance mandatory for small business owners, and its failure to provide adequate facilities for slaughtering animals.

The Censorship Office in the Qatar Radio and Television Corporation reviewed materials for pornography and material deemed hostile to Islam. There were no reports of political censorship of foreign print or broadcast news media or foreign programs.

Customs officials screened imported print media, videocassettes, and similar items for pornography, but no longer blocked the personal importation of non-Islamic religious items (see Section 2.c.). The law provides for criminal penalties and jail sen-



tences for libel. All cases involving the media fall under the jurisdiction of the criminal courts.

State-owned television and radio reflected government views, but the private satellite television network, Al-Jazeera Satellite Channel (JSC), provided an internationally oriented perspective that JSC and the Government both claimed to be free of government influence. Although it is privately owned, since its inception, the Government has paid some of JSC's operating costs. JSC programs generally did not cover local news. Callers to a popular morning show on the state-owned radio frequently discussed topics such as government inefficiency and the lack of responsiveness by various ministries to citizens' needs, such as poor schools, failure to deliver adequate water and sewage services, and problems with the health care system.

More than 80,000 residents access the Internet, which was provided through the privatized telecommunications monopoly. The Government censored the Internet for political, religious, and pornographic content through a proxy server, which blocked websites containing certain key words and phrases. A user who believes that a site was censored mistakenly could submit the Web address to have the site reviewed for suitability.

The Constitution provides for freedom of opinion and scientific research; however, there was no tradition of academic freedom, and instructors at the University exercised self-censorship.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government severely limited this right in practice. The Government generally did not allow political demonstrations.

The Constitution provides for freedom of association; however, the Government severely limited this right in practice. The Government did not allow political parties or international professional organizations critical of the Government or of any other Arab government. Private social, sport, trade, professional, and cultural societies must be registered with the Government and registration of such groups routinely was granted. Security forces monitored the activities of such groups.

*c. Freedom of Religion.*—The Constitution provides for freedom of worship, in accordance with the law and the requirements of protecting the public system and public behavior; however, the Government continued to prohibit proselytization of Muslims by non-Muslims and placed some restrictions on public worship.

The state religion is Islam, as interpreted by the conservative Wahhabi order of the Sunni branch. While Shi'a Muslims practiced most aspects of Islam freely, they did not organize traditional Shi'a ceremonies or perform rites such as self-flagellation in public.

The Government and ruling family are linked inextricably to Islam. The Ministry of Islamic Affairs administers the construction of mosques, clerical affairs, and Islamic education for adults and new converts. The Ministry of Education administers Islamic Education in the public schools. The Amir participated in public prayers during both Eid holiday periods, and personally financed the Hajj journeys of poor pilgrims.

Shi'a Muslims were well represented in the bureaucracy and business community, but there were no Shi'as employed in senior national security positions.

The Government has given legal status to Catholic, Anglican, Orthodox, Coptic, and many Asian Christian denominations; other Christian congregations may request recognition. However, the Government does not allow the building of new non-Muslim places of worship without permission. In May, it provided congregations with registration numbers that allows them to open bank accounts and sponsor clergy for visas. During the year, Christian officials continued to seek authorization to construct churches on government-reserved land; however, the Government had not issued building permits by year's end.

Non-Muslims may not proselytize, and the Government places some restrictions on public worship by non-Muslims. Converting from Islam is considered apostasy, and is technically a capital offense; however, since 1971, there have been no records of prosecution for such a crime.

The Government did not permit Hindus, Buddhists, Bahai's or members of other religions to operate as freely as Christian congregations. However, there was no official effort to prevent adherents of these faiths from practicing privately.

The Government formally prohibited the publication, importation, and distribution of non-Islamic religious literature; however, in practice individuals generally were not prevented from importing Bibles and other religious items for personal use. Religious materials for use at Christmas and Easter were available readily in local shops. However, Bibles were not available in Arabic.

Islamic instruction was compulsory in public schools. While there were no restrictions on non-Muslims providing private religious instruction for children, most foreign children attended secular private schools.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice; however, there were some notable exceptions. There were no restrictions on internal travel, except around sensitive military and oil installations. In general, women did not require permission from male guardians to travel; however, men may prevent female relatives and children from leaving the country by providing their names to immigration officers at ports of departure. Technically women employed by the Government must obtain official permission to travel abroad when requesting leave, but the extent to which this regulation was enforced was not known. The Government did not allow noncitizen parents, even if they have custody of their children, to take them out of the country without the permission of the citizen parent. Citizens critical of the Government sometimes faced restrictions on their right to travel abroad.

The Constitution provides that citizens have the right to return. Foreigners were subject to restrictions on entry and exit designed to control the size of the local labor force (see Sections 6.c. and 6.d.). Foreign women who are married to citizens were granted residence permits and may apply for citizenship; however, they were expected to relinquish their foreign citizenship.

The Government has not formulated a formal policy to provide refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. Those attempting to enter the country illegally, including persons seeking asylum from nearby countries, were refused entry. Asylum seekers who were able to obtain local sponsorship or employment were allowed to enter and may remain as long as they are employed.

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 country has taken significant steps toward democratic governance; however, citizens do not have the right to peacefully change their government. The Constitution provides for a democratic political system and hereditary rule by the Amir's branch of the Al Thani family. Legislative authority is vested in an Advisory Council with a majority of elected members. The influence of Bedouin tribal traditions is still strong, and the Government did not permit political parties or organized opposition groups.

The Amir exercises most executive powers, including appointment of cabinet members. The Constitution provides for a new Advisory Council consisting of both elected and appointed officials to draft legislation; however, its members were not elected or appointed during the year. During the year, citizens elected new members for a 29-member Central Municipal Council. Both male and female citizens 18 and older voted and ran as candidates. The Council is a nonpartisan body that addressed local issues such as street repair, green space, trash collection, and public works projects. Its role is to advise the Minister of Municipal Affairs and Agriculture. The Council does not have the authority to change policy.

Lack of political experience and the influence of traditional attitudes and roles continued to limit women's participation in politics; however, in April, citizens elected 1 woman official to the 29-member Central Municipal Council. The Amir appointed 1 woman as Minister of Education in a 16-member Cabinet. The newly appointed President of the University of Qatar was also a woman. The Amir's sister is Vice President of the Supreme Council of Family Affairs and also has the title of Minister.

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

The Government does not permit independent human rights groups to exist and none were known to exist. No international human rights organizations were known to have requested to investigate conditions in the country during the year.

During the year, members of both government ministries and civil society comprised a new National Committee for Human Rights, which was charged with investigating and improving local human rights conditions.

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

The law prohibits discrimination in the workplace; however, institutional, cultural, and legal discrimination based on gender, race, and social status existed.

*Women.*—Shari'a prohibits all forms of physical abuse. According to a local quasi-governmental organization on family issues, domestic violence against women occurred, but was not widespread. During the year, there were no publicized arrests or convictions for domestic violence. The maximum penalty for rape is death. Shari'a provides no punishment for spousal rape.

Some employers mistreated foreign domestic servants, especially those from South Asia and the Philippines (see Section 6.e.). Foreign embassies provided shelter for maids who left their employers as a result of abuse or disputes. Abused domestic servants usually did not press charges for fear of losing their jobs.

The legal system allows leniency for a man found guilty of committing a "crime of honor," or a violent assault against a woman for perceived immodesty or defiant behavior; however, such honor killings are rare and never received public attention during the year.

Tradition and law restricted the activities of women. The Government adhered to locally practiced Shari'a in matters of inheritance and child custody. Muslims have the automatic right to inherit from their Muslim spouses; however non-Muslim spouses (invariably wives, since Muslim women cannot legally marry non-Muslims) do not inherit unless their spouse formally wills them a portion (up to one third of the total) of their estates. A Muslim husband does not automatically inherit the property of a non-Muslim wife. Muslim wives have the right to inherit from their husbands; however, they inherit only one-half as much as male relatives. In cases of divorce, young children usually remain with the mother, regardless of her religion.

Women may attend court proceedings but generally are represented by a male relative; however, women may represent themselves if they wish. The testimony of two women equals that of one man, but the courts routinely interpret this on a case-by-case basis. A non-Muslim woman is not required to convert to Islam upon marriage to a Muslim; however, many make a personal decision to do so. A noncitizen woman is not required to become a citizen upon marriage to a citizen. Children born to a Muslim father are considered to be Muslim.

Many women serve as senior professionals in government service, education, health, and private business. Women made up 14 percent of the overall workforce, and 26 percent of the local national workforce, including as university professors, public school teachers, and police. Women appeared to receive equal pay for equal work; however, they often did not receive equal allowances which generally covered transportation and housing costs.

Although women legally were able to travel abroad alone (see Section 2.d.), tradition and social pressures caused most to travel with male escorts.

The Government prohibits independent women's rights organizations; however, the Supreme Council for Family Affairs sought to improve the status of women and the family under both civil and Islamic law. The council established projects such as Early Childhood Education and Development Centers, The National Library for Children, Orphanages, and the Centers for Family Counseling. It has also prepared or contributed to a number of national and international conferences, studies and reports on the status of women in the country.

*Children.*—The Government is committed to the welfare of children. The Government provided for a well-funded, free public education system (elementary through university) and a complete medical protection program. Education was compulsory for citizens (both boys and girls) through the age of 18. Education through primary school (the equivalent of ninth grade) was compulsory and free for all noncitizen resident children. Medical coverage for noncitizen children was limited.

There was no societal pattern of abuse of children, apart from the trafficked, juvenile camel jockeys (see Section 6.f.).

The Supreme Council for Family Affairs maintained a children's hotline called the Friendly Line for use by children. The system allowed both citizen and noncitizen children to call in with questions and concerns ranging from school, health, and psychological problems to concerns about sexual harassment.

*Persons with Disabilities.*—The law does not address the question of discrimination against persons with disabilities, and the Government did mandate provision of accessibility for persons with disabilities, who also face societal discrimination. The Government maintained a hospital and schools that provide high-quality, free services to persons, including noncitizens, with mental and physical disabilities.

*National/Racial/Ethnic Minorities.*—The Government discriminated based on nationality in the areas of employment, education, housing, and health services. Non-

citizens did not receive the same benefits as citizens. They were required to pay for health care, electricity, water, and education (services that were provided free of charge to citizens) and are not permitted to own property. The largest nationality groups among noncitizens were Indian, Pakistani, and Iranian nationals, and Arab nationals of other countries. In the private sector, many citizens of Iranian origin occupied some of the highest positions.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law prohibits all workers from forming labor unions. The law provides for the establishment of joint consultative committees composed of representatives of the employer and workers. The right of association was limited strictly. The committees did not discuss wages but considered issues such as organization, productivity, conditions of employment, training of workers, and safety measures and their implementation. The International Labor Organization (ILO) was represented at a Gulf Cooperation Council Labor Ministers' meeting in Doha in November. It signed a protocol with GCC countries on cooperation to assist with upgrading training facilities and developing methods to address employment related problems.

Since 1995 the country has been suspended from the U.S. Overseas Private Investment Corporation insurance programs because of the Government's lack of compliance with internationally recognized worker rights standards.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was prohibited. Employers set wages unilaterally without government involvement. Local courts handled disputes between workers and employers; however, foreign workers avoided drawing attention to problems with their employers for fear of employer repatriation.

The law provides most workers with the right to strike, but only after their particular grievance has been ruled on by the Labor Department of the Ministry of Civil Service. Employers may close a place of work or dismiss employees once the Department has heard a complaint. The Department widely was perceived to be objective, within a narrow mandate dealing with the nonpayment of wages and poor living conditions. It did not consider wage levels in the absence of labor unions.

Although it was government policy to assist laborers seeking payment of late salaries due (usually through the Labor Department), small groups of laborers resorted to illegal work stoppages to force payment of arrears. Groups of as many as 1,500 workers struck after Labor Department intervention failed to produce payment of back wages. In June, 500 workers employed by 2 construction firms were arrested and later released for disrupting traffic on their way to stage a sit-in protesting unpaid salary arrears.

Government employees, domestic servants, or employee family members do not have the right to strike. No worker in a public utility, health, or security service may strike if it would harm the public or lead to property damage.

Strikes remained frequent during the year. In May, 350 technicians employed by an engineering firm struck over 5-months of unpaid wages. In July, they held 4 company officials hostage for over 12 hours because salaries had still not been paid. Also in July, 250 Asian workers for a company that was part of a troubled construction group staged a sit-in on company premises to protest repeated failures of management to fulfill its promises to settle back pay. The Labor Department claimed that it resolved the vast majority of worker complaints amicably, with a very small percentage referred to the courts for judgment.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, foreign workers in some cases were employed under circumstances that constituted forced labor. Three-quarters of the workforce were foreign workers who, dependent on a single employer for residency rights, were vulnerable to abuse. For example, employers must give consent before exit permits are issued to any foreign employee seeking to leave the country. Some employers temporarily withheld this consent to force foreign employees to work for longer periods than they wished. Unskilled workers and domestic servants were particularly vulnerable to nonpayment or late payment of wages.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law provides that minors between the ages of 15 and 18 may be employed with parental or guardian permission, and some children worked in small, family-owned businesses; however, child labor occurred. Minors may not work more than 6 hours a day or more than 36 hours a week. Employers must provide the Labor Department with the names and occupations of their minor employees and obtain permission from the Ministry of Education to hire a minor. The Department may prohibit the

employment of minors in jobs that are judged dangerous to the health, safety, or morals of minors. Very young children, usually of African or South Asian background, were employed as jockeys in camel races (see Section 6.f.).

The law prohibits forced and bonded labor by children, and the Government generally enforced this prohibition with respect to citizen, but not noncitizen, children (see Section 6.c.).

*e. Acceptable Conditions of Work.*—Although the law provides the Amir with authority to set one, there was no minimum wage. The average wage provided a decent standard of living for a worker and family. According to Planning Council statistics, the average monthly wage in 2001 was \$795 (2,902 riyals). The law prescribes a 48-hour workweek with a 24-hour rest period, although most government offices followed a 36-hour-per-week work schedule. Employees who worked more than 48-hours-per-week, or 36-hours-per-week during the Muslim month of Ramadan, were entitled to overtime pay. Government offices and major private sector companies adhered to this law; however, it was not observed with respect to unskilled laborers and domestic and personal employees, the majority of whom were foreigners. Many such workers frequently worked 7 days per week, and more than 12 hours per day with few or no holidays, no overtime pay, and no effective way to redress grievances.

The Government has enacted regulations regarding worker safety, but enforcement, which is the Ministry of Energy and Industry's responsibility, was lax due to insufficient training and lack of personnel. The Department of Public Safety oversaw safety training and conditions, and the state-run petroleum company had its own safety standards and procedures. The regulations listed partial and permanent disabilities for which compensation may be awarded, some connected with handling chemicals and petroleum products or construction injuries. The law does not specifically set rates of payment and compensation. The Government provided free medical treatment to workers who suffered work-related sickness or injuries. The law does not provide workers specifically the right to remove themselves from hazardous work conditions, and workers often hesitated to do so for fear of dismissal. The law provides any worker with the right to seek legal relief from onerous work conditions; however, domestic servants generally did not pursue such relief in order to avoid repatriation.

Foreign workers may enter the country on a visitor's visa, but a sponsor is needed to convert a visitor's visa to a work visa, and the worker must have a sponsor's permission to depart the country. The Government has also penalized citizen employers who severely violated residence and sponsorship laws by prohibiting them from importing labor until they rectified the situation. Employers mistreated some foreign domestic servants. Such mistreatment generally involved the nonpayment or late payment of wages; in some cases, it involved rape and physical abuse.

*f. Trafficking in Persons.*—The law prohibits prostitution and trafficking in persons; however, men and women have been trafficked into situations of coerced labor and children have been trafficked to the country to serve as jockeys in the camel races.

Children aged 4 to 15, mostly of African, Pakistani, and Bangladeshi origin, were used as jockeys in camel races. Guardians and handlers, who often claimed to be parents, brought the children into the country and supervised their training. They lived in difficult conditions and trained on a daily basis to become riders.

The country also was a destination for women and girls who traveled to the country to work as domestic servants. Some have reported being forced into domestic servitude and sexual exploitation.

The Government actively investigates and prosecutes traffickers. In 2002, 474 foreign laborers filed cases with the labor courts, generally for non-payment of wages; 197 were judged in favor of the plaintiffs; 141 adjourned; and 127 pending or transferred to other courts at year's end. During the year, 579 expatriate laborers filed similar cases with the labor courts. In April, the Government established an interministerial committee to fight trafficking in persons, and the Cabinet adopted an anti-trafficking plan in the Fall. It sponsored training for judges and their deputies on prosecution of trafficking-related offenses. It monitored immigration patterns for evidence of trafficking. The Government provides assistance to domestics who have suffered from abuse and provides shelter for them in deportation centers. It ran a 24-hour hotline to advise women and children in abusive situations.

In 2001, the Government introduced safety measures for camel jockeys including the use of helmets and safety belts, and opened a school and health center for the riders. In 2002, the Camel Racing Association established a minimum weight for jockeys.

2020

## SAUDI ARABIA

Saudi Arabia is a monarchy without elected representative institutions or political parties. It is ruled by King Fahd bin Abd Al-Aziz Al Saud; however, Crown Prince Abdullah has been the de facto ruler since King Fahd suffered a stroke in 1995. The Basic Law sets out the system of government, rights of citizens, and powers and duties of the State. The Basic Law provides that the Islamic holy book the Koran and the Sunna (tradition) of the Prophet Muhammad are the country's Constitution. As custodian of Islam's two holiest sites in Mecca and Medina, the Government bases its legitimacy on governance according to Islamic law. Neither the Government nor the society in general accepts the concept of separation of religion and state. The Majlis al-Shura, an appointed consultative body, debates, rejects and amends government-proposed legislation, holds oversight hearings over government ministries, and has the power to initiate legislation. The Basic Law provides for an independent judiciary; however, high-ranking members of the royal family, who are not required to appear before the courts, and their associates occasionally influenced judges.

The Government maintained effective control of the various security forces. Police and border forces under the Ministry of Interior are responsible for internal security. Also subordinate to the Ministry of Interior are the Mabathith, or internal security force, and the elite special forces. The Committee to Prevent Vice and Promote Virtue, whose agents commonly are known as Mutawwa'in, or religious police, was a semiautonomous agency that enforced adherence to Sunni-Wahhabi Islamic norms by monitoring public behavior. The Crown Prince controls the National Guard. The Deputy Prime Minister and Minister of Defense and Aviation, Prince Sultan, is responsible for all the military forces. Members of the security forces committed human rights abuses.

The population was approximately 24 million. The oil industry was the basis of the transformation of the country from a pastoral, agricultural, and trading society to a rapidly urbanizing one, and the labor market had a large percentage of foreign workers. Oil and gas revenues accounted for approximately 35 to 40 percent of the gross domestic product (GDP) and 75 percent of government income. Agriculture accounted for approximately 6 percent of GDP. Government spending accounted for 37 percent of GDP. Approximately 40 percent of the economy was nominally private. As part of its Saudiization policy, since 1995 the Government has required employers to increase the number of citizens in the public and private work forces.

The Government's human rights record remained poor; although there were positive improvements in a few areas, serious problems remained. Citizens did not have the right to change their government. There were credible reports that security forces continued to torture and abuse detainees and prisoners, arbitrarily arrest and detain persons, and hold them in incommunicado detention. There were cases in which Mutawwa'in continued to intimidate, abuse, and detain citizens and foreigners. There was no evidence that violators were held accountable for abuses. Most trials were closed, and defendants usually appeared before judges without legal counsel. There were reports that the Government infringed on individuals' privacy rights. The Government continued to restrict freedom of speech and press, although there has been an increase in press freedom over a series of years. The Government restricted freedom of assembly, association, religion, and movement. Violence and discrimination against women, violence against children, discrimination against ethnic and religious minorities, and strict limitations on worker rights continued.

The Government announced in October that it would hold the first municipal elections within 1 year. The Government met with organized groups of reform advocates, and in public statements, committed to political, economic and social reforms. The Government established a National Dialogue Center to address differences between different Muslim traditions in the country. There was an increase in press freedom, with open discussion of previously taboo subjects such as women's rights, political reform, economic reform, Mutawwa'in abuses, government corruption and religious issues. Numerous foreign journalists were issued visas, and permitted to travel and report freely within the country. However, journalists were also sanctioned for criticizing the religious police and for questioning certain religious dogma. After the terrorist bombings in Riyadh on May 12, the Government instituted a program to train Mutawwa'in and there was a decline in reported instances of abuse after that date. During the year, the Government permitted the first visit of an international human rights organization, Human Rights Watch (HRW), and held its first human rights conference.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, the Government executed persons for criminal offenses after closed trials making it impossible to assess whether legal protections were applied (see Section 1.e.). In cases involving stoning, amputation or death, sentences must be reviewed by the country's highest court, the Supreme Judicial Council, and can only be enforced pursuant to a Royal Decree issued by the King.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Criminal Procedure law prohibits torture and Shar'ia (Islamic law) prohibits any judge from accepting a confession obtained under duress; however, there were credible reports that the authorities abused detainees, both citizens and foreigners. Ministry of Interior officials were responsible for most incidents of abuse of prisoners, including beatings, whippings, and sleep deprivation. In addition, there were allegations of torture, including allegations of beatings with sticks and suspension from bars by handcuffs. There were reports that torture and abuse were used to obtain confessions from prisoners (see Section 1.e.). Canadian and British prisoners that were released during the year reported that they had been tortured during their detention.

The Government continued to refuse to recognize the mandate of the U.N. Committee Against Torture to investigate alleged abuses. A government committee established in 2000 to investigate allegations of torture still had not begun functioning at year's end.

During the year, there were cases in which Mutawwa'in harassed, abused, and detained citizens and foreigners of both sexes. They also brought citizens to police for detention. These incidents were most common in the central region, including the capital, Riyadh, and less frequent in the eastern and western regions of the country. During the year, Mutawwa'in abuses attracted greater public attention than in the past, including in the local press. After the May 12 terrorist attacks, reports of Mutawwa'in abuses declined considerably (see Sections 1.d. and 1.f.).

Unlike in previous years, the Government publicly acknowledged human rights abuses by security forces and began a training program for Mutawwa'in in personal relations. In January and May, the President of the Committee to Promote Virtue and Prevent Vice acknowledged publicly that mistakes had been made and that Mutawwa'in who overstep their authority would be held accountable; however, at year's end, the Government had not charged any security forces with alleged abuses.

The Government punished criminals according to its interpretation of Shari'a. Punishments included imprisonment, flogging, amputation, and execution by beheading. At year's end authorities acknowledged 32 executions, lower than the 43 in the previous year. Executions were for killings, narcotics-related offenses, rape, and armed robbery. The authorities punished repeated thievery and other repeated offenses by amputation of the right hand and left foot. Persons convicted of less serious offenses, such as alcohol-related offenses or being alone in the company of an unrelated person of the opposite sex, sometimes were punished by caning.

Following protests in October, the Government sentenced most of the hundreds of demonstrators arrested throughout the country to varying sentences, many of which included sentences of flogging; however, at year's end, there were no reports that floggings actually occurred (see Sections 1.d., 2.b., and 3.).

Prison and jail conditions varied. Prisons reportedly generally met internationally accepted standards and provided air conditioned cells, good nutrition, regular exercise, and careful patrolling by prison guards. The Government did not permit NGO human rights monitors to visit prisons or jails; however, in October, the Government received the U.N. Special Rapporteur on the independence of judges and lawyers and allowed him access to prisons. Some police stations, deportation centers, and jails, nonetheless, were overcrowded, unsanitary, and not air conditioned. Authorities generally allowed family members access to detainees, but in some cases only after holding detainees for a significant period of time. The Government maintained separate detention facilities for men, women and juveniles.

At year's end, the Committee for Collection of Donations for Impoverished Prisoners announced that 95 prisoners had been released due to the actions of the Committee. The Committee raised over \$1.44 million (5.4 million riyals) in order to pay fines resulting from traffic accidents and civil cases. The prisoners were to remain in custody until the fines were paid, regardless of length of sentence.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, the authorities at times arrested and detained persons without

following explicit legal guidelines. The Mutawwa'in intimidated and brought to police stations persons whom they accused of committing "crimes of vice" based on their own religious interpretations. There were few existing formal procedures to safeguard against abuse, although the Government claimed that it punished individual security officers who violate regulations. There have been few publicized cases of citizens successfully obtaining judicial redress for abuse of the Government's power of arrest and detention. In January, the President of the Committee to Promote Virtue and Prevent Vice said that individual Mutawwa'in were disciplined for infractions. However, the Government did not publicize any cases in which security officials were disciplined for abuses. In June, the press reported a case in which a citizen received a prison sentence and lashes for assaulting a Mutawwa, although he claimed to have been attacked first. On September 30, 2 men in Yanbu were sentenced to 3 years and 3,000 lashes for assaulting Mutawwa'in who allegedly were beating a woman they suspected of being in the presence of a male who was not her relative.

The law provides that authorities may not detain suspects for more than 3 days without charging them. However, in practice persons were held weeks or months and sometimes longer. The regulations also provides for bail for less serious crimes, although authorities at times released detainees on the recognizance of a patron or sponsoring employer without the payment of bail. If they were not released, authorities typically detained accused persons for an average of 2 months before sending the case to trial or, in the case of some foreigners, summarily deporting them. There were no established procedures providing detainees the right to inform their family of their arrest.

On March 24, the Government released Islamist dissident Shaykh Sa'eed bin Za'er after more than 8 years in prison. Shaykh Za'er was originally arrested in 1995 after publicly condemning former Grand Mufti Shakh Abd al-Aziz bin Baz's fatwa permitting peace with Israel. On October 28, the press reported that the Government released over 100 prisoners in honor of Ramadan, with approximately 100 juvenile delinquents and first time offenders also pardoned.

The Mutawwa'in have the authority to detain persons for no more than 24 hours for violations of the strict standards of proper dress and behavior. In the past, they sometimes exceeded this limit before delivering detainees to the police (see Section 1.f.). Procedures required a police officer to accompany the Mutawwa'in at the time of an arrest. Mutawwa'in generally complied with this requirement. During the year, in the more conservative Riyadh district, reports continued of Mutawwa'in accosting, abusing, arresting, and detaining persons alleged to have violated dress and behavior standards. Reported incidents of harassment by the Mutawwa'in declined following the May 12 terrorist bombings in Riyadh.

The Mutawwa'in reportedly detained young men for offenses that included eating in restaurants with young women, making lewd remarks to women in the shopping malls, or walking in groups through family-only sections of shopping centers. Women of many nationalities were detained for actions such as riding in a taxi with a man who was not their relative, appearing with their heads uncovered in shopping malls, and eating in restaurants with males who were not their relatives. Many such prisoners were held for days, sometimes weeks, without officials notifying their families or, in the case of foreigners, their embassies.

There were cases in which the Government arrested and detained Christians, at times for holding services and at times apparently arbitrarily (see Section 2.c.).

In 2002, the Government arrested six leaders of the Ismaili Shi'ite sect in Najran. They continued to be detained along with a reported 93 others held since the protests there.

Political detainees who are arrested by the General Directorate of Investigation (GDI), the Ministry of Interior's security service (Mabahith), have been held incommunicado in special prisons during the initial phase of an investigation, which may last weeks or months. The GDI allowed the detainees only limited contact with their families or lawyers.

The authorities may detain without charge persons who publicly criticize the Government, or may charge them with attempting to destabilize the Government (see Sections 2.a. and 3). In May, King Fahd ordered that a large number of prisoners, both citizens and foreigners, be released who had been convicted of minor crimes including intoxication, assault, and theft, but who had no previous criminal records. Following the October 14 and October 23 demonstrations in a number of cities, authorities arrested and detained hundreds of political protesters for weeks prior to charging them (see Sections 1.c., 2.a. and 3).

The Government continued to commit abuses against members of the Shi'a Muslim minority. Government security forces reportedly arrested Shi'a based on the smallest suspicion, held them in custody for lengthy periods, and then released



them without explanation. At year's end, an unknown number of Shi'a remained in prison.

The Public Security Department in Jeddah discourages abuse by security forces through hotlines (including telephone and fax numbers and an e-mail address) for use by the general public. These hotlines allowed the public to complain about any breach of law by security personnel and to report abuse by police officers. During the year, the department established a special task force to act on complaints and proposals from the public. There was no reliable information about the total number of political detainees.

The Government did not use forced exile; however, it previously revoked the citizenship of opponents of the Government who reside outside the country (see Section 3).

*e. Denial of Fair Public Trial.*—The independence of the judiciary is prescribed by law and was generally respected in practice; however, high-ranking members of the royal family who were not required to appear before the courts, and their associates, occasionally influenced judges. Judges are appointed by the Justice Ministry and confirmed by the Royal Diwan (Royal Court). The Ministry exercised judicial, financial, and administrative control of the courts. The Supreme Judicial Council, whose members appointed by the King, may discipline or remove judges.

The legal system is based on Shari'a. Shari'a courts exercise jurisdiction over common criminal cases and civil suits regarding marriage, divorce, child custody, and inheritance. Such jurisdiction extends to non-Muslims for crimes committed in the country. Shari'a courts base judgments largely on their interpretation of the Koran and the Sunna. Cases involving relatively small penalties were tried in Shari'a summary courts. More serious crimes were adjudicated in Shari'a courts of common pleas. Appeals from Shari'a courts were made to the courts of appeal.

Other civil proceedings, including those involving claims against the Government and enforcement of foreign judgments, were held before specialized administrative tribunals, such as the Commission for the Settlement of Labor Disputes and the Board of Grievances.

The Government permitted Shi'a Muslims to use their own legal tradition to adjudicate cases involving domestic issues, inheritance, and Islamic endowments. However, there were only two judges, which was insufficient to handle the large Shi'a population in the Eastern Province. There was no comparable right for non-Muslims or foreigners, whose cases were handled in regular Shari'a courts.

The military justice system has jurisdiction over uniformed personnel and civil servants that are charged with violations of military regulations. The Minister of Defense and Aviation and the King review the decisions of courts-martial.

The Supreme Judicial Council is not a court and may not reverse decisions made by a court of appeals. However, the Council may review lower court decisions and refer them back to the lower court for reconsideration.

The Council of Senior Religious Scholars is an autonomous body of 20 senior religious jurists, including the Minister of Justice. It establishes the legal principles to guide lower-court judges in deciding cases. In 2002, the Criminal Procedural Law went into effect. Reported by the press as a bill of rights, the 225-article law reportedly was part of a plan to restructure court procedures. The approval of the bill followed the Government's decision to allow persons under investigation the right to a lawyer and to permit lawyers to present arguments in criminal courts. In 2002, following the announcement of the new law's implementation, the Justice Minister issued a public statement announcing his instructions to courts and judges to inform convicts of their right to appeal rulings. It was not clear whether this law was being consistently implemented.

There were reports during the year that the authorities tortured detainees and pressured them to confess by isolation and blindfolding over a period of weeks (see Section 1.c.).

A woman's testimony does not carry the same weight as that of a man. In a Shari'a court, the testimony of one man equals that of two women. Under the Hanbali interpretation of Shari'a law, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to the correct doctrine. Legal sources reported that testimony by Shi'a is often ignored in courts of law or is deemed to have less weight than testimony by Sunnis. Sentencing under the legal system was not uniform. Laws and regulations state that defendants should be treated equally; however, under Shari'a as interpreted and applied in the country, crimes against Muslims may result in harsher penalties than those against non-Muslims.

Female parties to court proceedings such as divorce and family law cases generally must deputize male relatives to speak on their behalf. In the absence of two witnesses, or four witnesses in the case of adultery, confessions before a judge al-

most always were required for criminal conviction—a situation that has led prosecuting authorities to coerce confessions from suspects by threats and abuse (see Section 1.c.).

Laws and regulations state that defendants should be treated equally; however, crimes against Muslims received harsher penalties than those against non-Muslims. Sentencing was not uniform. In the case of wrongful death, the amount of indemnity or “blood money” (compensation) awarded to relatives varied with the nationality, religion, age, and sex of the victim. A sentence may be changed at any stage of review, except for punishments stipulated by the Koran. In November, six prisoners who had admitted to murder agreed to pay “blood money” to victims’ families in order to avoid the death penalty.

Hindus are considered polytheists by Islamic law, which is used as a justification for greater discrimination in calculating accidental death or injury compensation. According to the country’s “Hanbali” interpretation of Sharia (Islamic law), once fault is determined by a court, a Muslim male receives 100 percent of the amount of compensation determined, a male Jew or Christian received 50 percent, and all others (including Hindus) received 1/16 of the amount a male Muslim receives. Women receive 50 percent of what males receive in each of these categories.

Provincial governors (almost all of whom are members of the royal family) have the authority to exercise leniency and reduce a judge’s sentence. In general, members of the royal family and other powerful families were not subject to the same rule of law as ordinary citizens.

The King and his advisors reviewed cases involving capital punishment. The King has the authority to commute death sentences and grant pardons, except for capital crimes committed against individuals. In such cases, he may request the victim’s next of kin to pardon the killer—usually in return for compensation from the family or the King.

There was insufficient information to determine the number of political prisoners. The Government did not provide information regarding such persons or respond to inquiries about them. It did not allow access to political prisoners by international humanitarian organizations. Moreover, the Government conducted closed trials for persons who may have been political prisoners and in other cases has detained persons incommunicado for long periods while under investigation.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Basic Law guarantees the inviolability of homes and the privacy of correspondence. The Criminal Procedure Law requires authorities to obtain a warrant prior to searching a residence, or a court order prior to perusing personal correspondence or documents. The Government generally respected this inviolability in practice; however, there were cases in which the Government infringed on these rights. Royal decrees include provisions calling for the Government to defend the home from unlawful intrusions, while laws and regulations prohibit officials from intercepting mail and electronic communication except when necessary during criminal investigations.

The police generally must demonstrate reasonable cause and obtain permission from the provincial governor before searching a private home; warrants are required by law in most cases.

Customs officials routinely opened mail and shipments to search for contraband, including material deemed pornographic and non-Sunni Muslim religious material. Customs officials confiscated or censored materials considered offensive, including Christian Bibles and religious videotapes (see Section 2.c.). The authorities also opened mail and used informants and wiretaps in internal security and criminal matters. Security forces used wiretaps against foreigners suspected of alcohol-related offenses. Informants and an informal system of ward bosses in some districts reported “seditious ideas,” antigovernment activity, or behavior contrary to Islam in their neighborhoods to the Ministry of the Interior.

The Government enforced most social and Islamic religious norms, the Government’s interpretations of which are matters of law (see Section 5). Women may not marry noncitizens without government permission; men must obtain government permission to marry noncitizen women outside the six states of the Gulf Cooperation Council. In accordance with Shari’a, women are prohibited from marrying non-Muslims; men may marry Christians and Jews, as well as Muslims. Marriages between Sunni and Shi’a citizens were discouraged, and any such marriages generally were made formal through ceremonies in Bahrain.

The Government imposes restrictions on the right of certain Government employees to marry foreigners. The Government bars top civil servants and security officials from marrying foreigners without permission from the King. The list of positions subject to this restriction included ministers, judges, employees in the Royal Court and Cabinet, Majlis al-Shura members, diplomats and administrative staff in the Foreign Ministry, civil servants posted overseas, chairmen of boards of private

companies, staff of the Defense Ministry, National Guard, internal security, intelligence service, public prosecution and customs. The marital restrictions also applied to citizens studying overseas on government scholarships. Violators risked disciplinary action; however, this policy was rarely violated and there were no reports of sanctions being imposed.

Mutawwa'in practices and incidents of abuse varied widely in different regions of the country, but they were most numerous in the central Nejd region. In certain areas, both the Mutawwa'in and religious vigilantes acting on their own harassed, abused, arrested, and detained citizens and foreigners (see Section 1.d.). The Government requires the Mutawwa'in to follow established procedures and to offer instruction in a polite manner; however, Mutawwa'in did not always comply with the requirements. During the year, the President of the Committee to Promote Virtue and Prevent Vice publicly acknowledged abuses by individual Mutawwa'in and said violators were subject to discipline. The Government began a training program for Mutawwa'in. Incidents of abuses by Mutawwa'in declined following the May 12 terrorist attacks.

Mutawwa'in enforcement of strict standards of social behavior included the closing of commercial establishments during the five daily prayer observances, insisting upon compliance with strict norms of public dress, and dispersing gatherings of women in public places designated for men, as well as preventing men from entering public places designated for families. Mutawwa'in frequently reproached citizen and foreign women for failure to observe strict dress codes and arrested men and women found together who were not married or closely related.

Incidents with Mutawwa'in usually increased during Ramadan because many feel they have added license to assert their authority during the holy month.

Some professors believed that informers monitor comments made in university classrooms and reported them to government authorities.

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

*a. Freedom of Speech and Press.*—The Basic Law states that the media's role is to educate the masses and boost national unity and that it can be banned if it gives rise to mischief and discord, compromises the security of the State and its public image, or offends man's dignity and rights and the Government continued to restrict freedom of speech and press although there has been an increase in press freedom over a series of years. The Government sanctioned several journalists for articles and commentaries critical of the religious authorities and conservative Muslim theology, particularly after the May 12 terrorist attacks. Journalists also practiced some self-censorship, refraining from direct criticism of Government officials. There were no reports of journalists being imprisoned.

Newspapers reported on previously taboo subjects including political, economic and educational reform, women's rights, corruption, and religion. Newspapers carried stories about elections in neighboring Gulf countries, and reported on reform discussions within the country.

The press has some freedom to criticize governmental bodies and social policies through editorial comments and cartoons. During the year, both Arabic and English newspapers reported on domestic problems, such as abuse of women, servants, and children, previously not addressed by the media (see Section 5).

During the year, the Grand Mutfi issued a fatwa (religious ruling) denouncing incitement to violence and disparagement of other religions and in some instances, the Government has banned imams from speaking on political issues (see Section 2.c.).

The print media were privately owned but publicly subsidized. A media policy statement and a national security law prohibit the dissemination of criticism of the Government. The media policy statement urged journalists to uphold Islam, oppose atheism, promote Arab interests, and preserve cultural heritage. The Ministry of Information appointed, and may remove, all editors in chief. During the year, the Government removed the editor of Al Watan newspaper following a series of articles and cartoons criticizing religious authorities and questioning elements of conservative Islam. This editor was provided another position and later allowed to resume writing for the newspaper. The Government also provided guidelines to newspapers regarding controversial issues. The Government owned the Saudi Press Agency (SPA), which expressed official government views.

In February, the Government granted a charter to a professional journalists' association. The association began registering members, opening membership to all journalists in the country or abroad who have worked in the profession for three years or longer. Both men and women are members, and non-citizen journalists working in the country are eligible to join as non voting members. The association's stated goal will be to organize the journalists, coordinate relations with employers, support the development of job-related skills, and encourage innovation.

In the past, newspapers typically published news on sensitive subjects only after the information was released by the SPA or when a senior government official had authorized it; however, this was less common during the year. Newspapers routinely investigated and published stories on crime and terrorism without senior government prior authorization. Two Saudi-owned, London-based dailies, *Al-Sharq Al-Awsat* and *Al-Hayat*, were distributed widely and read in the country. Both newspapers practiced some degree of self-censorship in order to comply with government guidelines on sensitive issues.

The Government owned and operated the television and radio companies. Government censors removed any reference to politics, religions other than Islam, pork or pigs, alcohol, and sex from foreign programs and songs. There were several million satellite-receiving dishes in the country, which provided citizens with foreign broadcasts.

The Government was more open to media coverage than in the past. In March, the *Majlis al-Shura* allowed partial television coverage of its proceedings and allowed journalists to attend sessions. There was frequent coverage in the press of *Majlis* proceedings and votes. The Ministry of Foreign Affairs began regular press conferences for journalists. In February, in an unprecedented development, the government-owned Saudi television station was the first news source to break the story of the terrorist shooting of a British expatriate by a citizen. And following the May 12 terrorist attacks, the Saudi press carried timely and accurate coverage of the attacks and the subsequent government campaign against terrorism in the country. In several cases, government security agencies permitted journalists to film anti-terrorist operations in progress, which were broadcast on Saudi television.

Unlike in previous years, the Government permitted domestic newspapers to release stories about the country that were based on stories in the foreign press. Access by citizens to outside sources of information, such as Arabic and Western satellite television channels and the Internet, was widespread.

In the past, the Government restricted the entry of foreign journalists. However, during the year, it granted visas to a large number of international media professionals. The Government allowed foreign journalists and photographers, both male and female, to travel freely and to interview. In one case, police detained and confiscated the film of a reporter photographer for the English-language newspaper *Arab News*, who was covering an incident in which a dozen pilgrims were killed during the Hajj. The newspaper subsequently published an article criticizing the actions of the police.

During the year, newspapers published stories, editorials, and letters on education reform, both in support and opposition. In October, the *Saudi Gazette* published an article in which schoolteachers were interviewed who criticized the Government for revisions to the new school textbooks, including the removal of passages on dealing with Muslims and non-Muslims.

The Government banned all books, magazines, and other materials that it considered sexual or pornographic in nature. The Ministry of Information compiled and updated a list of publications that were prohibited from being sold in the country.

The Government censored most forms of public artistic expression and prohibited cinemas and public musical or theatrical performances, except those that are considered folkloric.

Access to the Internet was available legally only through local servers, which the Government monitored closely. There were as many as one million Internet subscribers. Some citizens attempted to circumvent this control by accessing the Internet through servers in other countries. The Government attempted to block Web sites that it deemed sexual, pornographic, politically offensive, or "un-Islamic." However, such web sites were accessible from within the country.

There was a report that a university professor was banned from teaching and traveling for criticizing the Government's discriminatory policies against Shi'a.

Academic freedom was restricted. The Government prohibited the study of evolution, Freud, Marx, Western music, and Western philosophy. Informers monitored their classroom comments and reported to government and religious authorities.

*b. Freedom of Peaceful Assembly and Association.*—The Basic Law does not address freedom of association or assembly, and the Government strictly limited it in practice and prohibited public demonstrations as a means of political expression. In October, several hundred persons demonstrated in Riyadh and other cities in a protest organized by the London-based Movement for Islamic Reform. Police broke up the protest and arrested most of the demonstrators (see Sections 1.c., 1.d. and 3). In March, during the Shi'a Ashura observance in Qatif, the Government permitted approximately 10,000 people to gather for a sermon. Public meetings were segregated by sex. Unless sponsored by diplomatic missions or approved by the appropriate governor, foreign residents who seek to hold unsegregated meetings risked ar-

rest and deportation. The authorities monitored any large gatherings of persons, particularly women. The Mutawwa'in dispersed groups of women found in public places, such as restaurants. Government policy permits women to attend cultural and social events if accompanied by a father, brother or husband; however, the policy was not consistently enforced.

The Government prohibited the establishment of political parties or any type of opposition group (see Section 3). However, groups of reform supporters organized several petitions that they presented to the Government, and the group met with the Crown Prince. The Government licensed a journalists' association, approved the establishment of an independent non-governmental human rights organization, and announced plans to form a bar association (see Section 4). The Government licensed a large number of humanitarian organizations and tribal and professional societies, such as the Saudi Chemists Society and the Saudi Pharmacists Society.

*c. Freedom of Religion.*—The Government does not provide legal protection for freedom of religion and such protection did not exist in practice. Freedom of religion did not exist. Islam is the official religion, and the law provides that all citizens must be Muslims.

The Government prohibited non-Islamic public worship. The Government informally recognized the right of non-Muslims to worship in private; however, it did not always respect this right in practice. In general, non-Muslims were able to worship privately, but must exercise great discretion to avoid attracting attention. Conversion by a Muslim to another religion was considered apostasy. Public apostasy is a crime under Shari'a and, according to the Government's interpretation, is punishable by death. There were no executions for apostasy during the year, and no reports of any such executions for the past several years.

During the year, the Government initiated an effort to encourage moderation and greater respect for religious diversity. In addition to statements by the Crown Prince, Grand Mufti, and other leaders throughout the year, in June the Government initiated a National Dialogue that brought together leaders from different Muslim traditions in the country. The conference issued a statement acknowledging that theological diversity within Islam is "natural." Following the meeting, the Government established a permanent center for national dialogue.

Islamic practice generally was limited to strict adherence of the so-called "Wahhabi" interpretation of the Hanbali school of the Sunni branch of Islam as promulgated by Muhammad Ibn Al Wahab, a puritanical 18th century religious reformer. The spreading of Muslim teachings not in conformity with the officially accepted interpretation of Islam was prohibited. However, there were significant numbers of Sufis in the western province who engaged in technically illegal practices, such as celebrating the Mawlid, or Prophet's birthday without government interference. The practice of other schools of Sunni Islam was discouraged, and adherents of the Shi'a branch of Islam faced institutionalized discrimination, including restrictions on religious practice and on the building of mosques and community centers. The Ministry of Islamic Affairs directly supervised, and was a major source of funds for the construction and maintenance of most mosques in the country. The Ministry paid the salaries of imams (prayer leaders) and others who worked in the mosques. On occasion, the Government provided direction to mosque orators and imams regarding the content of their messages; in some instances, imams were banned from speaking. A governmental committee was responsible for defining the qualifications of imams. The Mutawwa'in received their funding from the Government and were government employees. The General President of the Mutawwa'in held the rank of cabinet minister.

Foreign imams were barred from leading worship during the most heavily attended prayer times and prohibited from delivering sermons during Friday congregational prayers. The Government stated that its actions were part of its "Saudiization" plan to replace foreign workers with citizens. Writers and other individuals who publicly criticized this interpretation, including both those who advocated a stricter interpretation and those who favored a more moderate interpretation than the Government's, risked sanctions. Several journalists who wrote critically about the religious leadership or who questioned theological dogma were temporarily banned from writing or traveling abroad.

The Shi'a Muslim minority (approximately 2 million of approximately 17 million citizens) lived mostly in the Eastern Province, although a significant number also resided in Medina in the western province. Its members were the objects of officially sanctioned political, social, and economic discrimination (see Section 5).

The authorities permitted the celebration of the Shi'a holiday of Ashura in the eastern province city of Qatif, including a public sermon by a leading Shi'ite cleric before 10,000 worshipers. The police monitored the celebrations. No other public Ashura celebrations were permitted in the country, and many Shi'a traveled to Qatif

or to Bahrain to participate in Ashura celebrations. The Government continued to enforce other restrictions on the Shi'a community, such as banning Shi'a books.

Unlike in previous years, the Government issued permits to construct Shia mosques and a new mosque was constructed in Qatif. The Shi'a have declined government offers to build state-supported mosques because the Government would prohibit the incorporation and display of Shi'a motifs in any such mosques.

Magic was widely believed in and sometimes practiced; however, under the Government's interpretation of Shari'a the practice of magic was regarded as the worst form of polytheism, an offense for which no repentance was accepted, and which was punishable by death. There were an unknown number of detainees held in prison on the charge of "sorcery," or the practice of "black magic" or "witchcraft." The press reported several cases in which police arrested persons accused of sorcery. There was no information available on prison time or punishment.

The Government prohibited public non-Muslim religious activities. Non-Muslim worshippers risked arrest, lashing, and deportation for engaging in overt religious activity that attracts official attention. The Government has stated publicly, including before the U.N. Commission on Human Rights, that its policy is to protect the right of non-Muslims to worship privately. During the year, senior officials in the Government publicly re-affirmed this right, while also asserting that no church would be allowed to be built in the country. However, the Government did not provide explicit guidelines—such as the number of persons permitted to attend and acceptable locations—for determining what constitutes private worship, which made distinctions between public and private worship unclear. Such lack of clarity, as well as instances of arbitrary enforcement by the authorities, forced most non-Muslims to worship in such a manner as to avoid discovery by the Government or others. Authorities deported those detained for non-Muslim worship almost always after sometimes-lengthy periods of arrest.

At year's end, there were no reports that Christians detained for practicing their religion remained in prisons. During the year, there were a few raids, arrests, and detentions of Christians throughout the country, although fewer than in the past. The Mutawwa'in arrested four expatriate Protestants and imprisoned them without charge for three weeks prior to turning them over to the Ministry of the Interior. All were subsequently released and deported. In September, the Mutawwa'in arrested 16 expatriate workers in al-Jouf for practicing Sufism. On October 25, two Egyptian Christians were arrested and jailed. Both were released on November 13. Several other expatriate Protestants were arrested in Riyadh in October by regular police and released the same day without charge.

The Government did not permit non-Muslim clergy to enter the country for the purpose of conducting religious services, although some came under other auspices. Such restrictions made it very difficult for most non-Muslims to maintain contact with clergymen and attend services. Catholics and Orthodox Christians, who require a priest on a regular basis to receive the sacraments required by their faith, particularly were affected. However, since May, there have been few reports of non-Muslim worshippers being harassed by the Mutawwa'in.

Proselytizing by non-Muslims, including the distribution of non-Muslim religious materials such as Bibles, was illegal. There were no reports during the year of arrests for proselytizing. Muslims or non-Muslims wearing religious symbols of any kind in public risked confrontation with the Mutawwa'in. Under the auspices of the Ministry of Islamic Affairs, approximately 50 so-called "Call and Guidance" centers employing approximately 500 citizens to convert foreigners to Islam. Some non-Muslim foreigners converted to Islam during their stay in the country. The press often carried articles about such conversions, including testimonials.

Under the Hanbali interpretation of Shari'a law, judges may discount the testimony of persons who are not practicing Muslims or who do not adhere to the correct doctrine.

Islamic religious education was mandatory in public schools at all levels. All children received religious instruction, which generally was limited to that of the Hanbali school of Islam. In accordance with the religious establishment's interpretation of Shari'a, women were prohibited from marrying non-Muslims, but men were permitted to marry Christians and Jews, as well as Muslims.

The Government required noncitizens to carry Iqamas, or legal resident identity cards, which contained a religious designation for "Muslim" or "non-Muslim." There were reports that individual Mutawwa'in pressured Saudi sponsors not to renew Iqamas, which had been issued for employment, of individuals for religious reasons.

Shi'a citizens were discriminated against in government and employment, especially in national security jobs. Shi'a were subjected to employment restrictions in the oil and petrochemical industries and some Shi'a who were suspected of subver-

sion have been subjected periodically to surveillance and limitations on travel abroad.

Unlike in previous years, there were no new cases reported in which children of citizen fathers were coerced to conform to their father's interpretation of Islam. The press reported in December that the Committee for the Promotion of Virtue and the Prevention of Vice warned shopkeepers in the Eastern Province not to sell New Year's or Christmas gifts or decorations. The warning also reminded employers not to allow their staff to celebrate either holiday openly.

In December, the press reported on a trial of a citizen schoolteacher charged with apostasy.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizen men have the freedom to travel within the country and abroad; however, the Government restricted these rights for women based on its interpretation of Islamic Law. All women in the country were prohibited from driving and were dependent upon males for any transportation. Likewise, they must obtain written permission from a male relative or guardian before the authorities allowed them to travel abroad (see Section 5). The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens or to the minor and single adult daughters of Saudi fathers. Since 2001, women have been able to obtain their own identity cards; however, the Government requires that they obtain permission to receive a card from a male relative or guardian (see Section 5). The restrictions on travel also applied to American citizen children of citizen fathers. In cases where there were custody disputes between American women and their citizen husbands, the husband was able to prevent the travel of the children to the United States even when there was a valid U.S. custody order. These restrictions on travel can continue even after female children reach adulthood, although the Government has worked with U.S. consular officials to overcome a father or husband's refusal to permit the travel of adult American citizen female relatives. During the year, senior officials considered, on a case-by-case basis, allowing adult American citizen women to travel despite objections by their husband, father, or other male relative or guardian. Foreigners typically were allowed to reside or work in the country only under the sponsorship of a citizen or business. By law, the sponsors or employers of foreign residents must hold their passports until they are prepared to depart the country. The Government required foreign residents to carry identification cards. It did not permit foreigners to change their workplace without their sponsor's permission.

Over 100,000 native residents live in the country without possessing citizenship of any nation. They are collectively known as "bidoons," ("without" in Arabic). These are native born residents who lack citizenship due to an ancestor's failure to obtain Saudi nationality, including descendants of nomadic tribes such as the Anaiza and Shammar, whose ancestors were not counted among the native tribes during the reign of King Abd al Aziz; descendants of foreign-born fathers who emigrated to the country before citizenship was institutionalized; and rural migrants whose parents failed to register their births. Because of their lack of citizenship, they are denied employment and educational opportunities, and have a limited ability to travel. Bidoons are among the poorest residents of the country, and reside at the margins of society.

The Law prohibits employers from retaining foreign workers' passports. However, some sponsors often retained possession of foreign workers' passports, although some classes of foreign workers were allowed to keep their passports. Foreign workers must obtain permission from their sponsors to travel abroad. If sponsors were involved in a commercial or labor dispute with foreign employees, they may ask the authorities to prohibit the employees from departing the country until the dispute is resolved. Some sponsors used this as a pressure tactic to resolve disputes in their favor or to have foreign employees deported. There were reports of the Government prohibiting foreign employees involved in labor disputes from departing the country until the dispute was resolved (see Sections 5 and 6.c.).

The Government seized the passports of all potential suspects and witnesses in criminal cases and suspended the issuance of exit visas to them until the case was concluded. As a result, some foreign nationals were forced to remain in the country for lengthy periods against their will. The authorities sometimes confiscated the passports of suspected oppositionists and their families.

Citizens may emigrate. The Government prohibited dual citizenship; however, children who hold other citizenship by virtue of birth abroad increasingly were permitted to leave the country using non-Saudi passports. Apart from marriage to a citizen, there were no provisions for foreign residents to acquire citizenship. Chil-

dren born to a citizen father acquired Saudi citizenship. However, a citizen mother may not convey citizenship to her children. Foreigners were granted citizenship in rare cases, generally through the advocacy of an influential patron.

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Basic Law provides that "the state will grant political asylum, if so required by the public interest."

Of the 33,000 Iraqi civilians and former prisoners of war allowed refuge in the country at the end of the Gulf War, none were granted permanent asylum. The Government has underwritten the entire cost of providing safe haven to the Iraqi refugees and continued to provide logistical and administrative support to the UNHCR and other resettlement agencies. At the beginning of the year, approximately 5,200 remaining refugees were restricted to the Rafha Refugee Camp. The UNHCR has monitored more than 3,000 persons voluntarily returning to Iraq from Rafha since December 1991 and found no evidence of forcible repatriation (see Section 1.c.).

Following the Coalition-led war with Iraq, the Government, in cooperation with the U.N. High Commissioner for Refugees (UNHCR), the U.S. Embassy, and the Coalition Provisional Authority in Iraq, began to repatriate Iraqi refugees from the Rafha refugee camp, which housed former Iraqi prisoners of war and civilians who fled Iraq following the Gulf War. Prior to the repatriation, UNHCR officials reported that there was no systematic abuse of refugees by camp guards. When isolated instances of abuse surfaced in the past, the authorities were responsive and willing to investigate allegations and reprimand or remove offending guards. The camp received a high level of material assistance and was generally comfortable and well run. At year's end, 4,562 refugees had been returned to Iraq. Virtually all refugees have registered with UNHCR for repatriation.

The Government has allowed some foreigners to remain temporarily in the country in cases in which their safety would be jeopardized if they were deported to their home countries.

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

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

Citizens do not have the right to change their Government. The Basic Law states that the Government is established on the principal of "Shura" or consultation, and requires the King and Crown Prince to hold open Majlises. The Basic Law states that all individuals have the right to communicate with public authorities on any issue. There were no formal democratic institutions, and only a few members of the ruling family had a voice in the choice of leaders or in changing the political system. The King ruled on civil and religious matters within limitations established by the Basic Law, religious law, tradition, and the need to maintain consensus among the ruling family and religious leaders.

The King is also the Prime Minister, and the Crown Prince served as Deputy Prime Minister. The King appointed all other ministers, who in turn appointed subordinate officials with cabinet concurrence.

During the year, the Government announced a restructuring of the country into 14 municipal regions, and that the council seats will be 50 percent elected and 50 percent appointed. In January, Crown Prince Abdullah called for political, economic and social reform in the Arab world, including increased participation by citizens in government. In January, April, and September, organized groups of citizens submitted petitions to the Government calling for detailed reforms, including democratic elections. The Government met with these groups, and in May, a speech was delivered on behalf of the King to the Majlis al-Shura committing the Government to a program of reforms, including citizen participation in government and expanded rights for women.

The Majlis al-Shura, or consultative council, consists of 120 appointed members and is divided into 11 committees. It was created in 1992 by King Fahd, and in the past year has taken on an increasing important political role. The Majlis reviews and votes on legislation, and often suggest amendments to the Government. The Government generally accepts amendments made by the Majlis. In January, the Majlis voted to reject a Government proposed income tax on foreigners; and this decision was not overturned by the Government. The Majlis held hearings with Government officials to review the performance of their ministries, and has the power to subpoena documents. In April, the Majlis was admitted as a member of the International Parliamentary Union (IPU), upon a unanimous vote by the IPU. In October, newspapers reported that the Government would conduct elections for one-third the seats on the Majlis al-Shura within 3 years.



The Council of Senior Islamic Scholars (ulema) is another advisory body to the King and the Cabinet. It reviews the Government's public policies for compliance with Shari'a. The Government viewed the Council as an important source of religious legitimacy and takes the Council's opinions into account when promulgating legislation.

Communication between citizens and the Government traditionally has been expressed through client-patron relationships and by affinity groups such as tribes, families, and professional hierarchies. In theory, any male citizen or foreign national may express an opinion or a grievance at a majlis, an open-door meeting held by the King, a prince, or an important national or local official. During the year, Crown Prince Abdullah held a variety of meetings with citizens throughout the country. Ministers and district governors can be approached for discussion at a majlis.

In April, a group of Shi'a submitted a petition to the Crown Prince calling for similar reforms, and drawing attention to the discrimination against the country's Shi'a minority. In December, a group of citizen intellectuals and citizen women sent two separate petitions to the Crown Prince in response to the pace of reform efforts. One petition called for a constitutional monarchy, and the petition submitted by over 300 women called for greater rights for women in the country, and greater recognition of their contributions to society.

The extremist Committee for the Defense of Legitimate Rights (CDLR), established in 1993, and its rival faction, the Movement for Islamic Reform, established in 1996, continued to criticize the Government, using computers and fax transmissions to send newsletters from London to the country. Both were repressed by the Government and have no officially recognized existence. Following an October 14 demonstration in Riyadh, hundreds of citizens gathered October 23 in Riyadh, Jeddah, Dammam and Ha'il. The Government arrested most of the demonstrators, detained many of them for a period of time without sentencing, then sentenced most to varying sentences ranging from imprisonment to flogging (see Sections 1.c., 1.d. and 2.b.).

Women played no formal role in government and politics. Participation by women in a majlis was restricted, although some women sought redress through female members of the royal family. On several occasions, women have been called to advise members of the Majlis al-Shura in private, closed-door sessions. During the year, in several governorates, womens' councils have been formed to advise local governors on issues concerning women. There were no women or religious minorities in the Cabinet, and there were only 2 Shi'a in the Majlis al-Shura out of 120 members.

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

The Government disagreed with internationally accepted definitions of human rights and viewed its interpretation of Islamic law as the only necessary guide to protect human rights. In January, a team from HRW visited the country, the first ever visit by an independent human rights group. The visit received wide publicity in the national press, and the team met with senior Government officials.

In January, a citizen formerly imprisoned for his political views announced at a press conference in Riyadh the establishment of a human rights NGO called Human Rights First—the Society for Protecting and Defending Human Rights in the Kingdom of Saudi Arabia. The citizen did this in spite of his failure to receive a response from the Government to his request for recognition as an NGO.

In May, the Government announced that it had approved the creation of the first independent human rights monitoring organization.

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

There was legal and systemic discrimination based on gender. The law prohibits discrimination based on race, but not nationality, although such discrimination occurs. The Government and private organizations cooperated in providing services for persons with disabilities; however, there is no legislation mandating public access. The Shi'a minority suffered social, legal, economic, and political discrimination (see Section 2.c.). Unlike in previous years, there were no reports that religious police arrested or punished men for engaging in homosexual activity.

The press reported that approximately 1,500 citizens are infected with HIV/AIDS (approximately 23 percent are women). The press reported that the most common form of contracting the disease is through sexual intercourse; however, the article mentions the transfer through needle sharing and the treatment of "Hijwah." "Hijwah" is a superstitious medical practice in society that withdraws "bad blood" that may contain illnesses. The article also focused on the social stigma surrounding AIDS and the lack of public education on the issue. At year's end, the Ministry of

Health began producing brochures on the illness and started group therapy and awareness programs.

*Women.*—In May, the King's speech to the Majlis al-Shura called for expanding the role of women in society, and in June, the National Dialogue conference endorsed the principle that there should be an expansion of women's role, in addition to reexamining restrictions imposed by custom or tradition rather than Islam. In December, the National Dialogue held its second session and 10 women participated for the first time.

There were several developments related to women's participation in business, including the opening by the Saudi Arabian General Investment Authority (SAGIA) of an all-female investment center in Riyadh to facilitate investment in local businesses by citizen and foreign women. For the first time, the Jeddah Economic Forum devoted an entire day to discussing the role of women in domestic and international business.

During the year, there was increased attention in the press to women's issues, including questions such as gender discrimination health, rising divorce rates, employment, driving, and legal problems women face doing business. With the Government's announcement that they plan to hold municipal elections, there has been intense speculation over the extent to which women would be allowed to participate. Following terrorist attacks in November, a female citizen drove a number of injured males to a nearby hospital for emergency medical treatment, prompting a national debate on the rights of women to drive.

Shari'a prohibits abuse and violence against all innocent persons, including women; although the Government did not keep statistics on spousal abuse or other forms of violence against women, based on the information available regarding physical spousal abuse and violence against women, such violence and abuse appeared to be common problems. Hospital workers reported that many women were admitted for treatment of injuries that apparently resulted from spousal violence; hospitals now are required to report any suspicious injuries to authorities. A citizen may prevent his wife and any child or unmarried adult daughter from obtaining an exit visa to depart the country, regardless of nationality (see Section 2.d.).

Foreign embassies continued to receive many reports that employers abused foreign women working as domestic servants. Some embassies of countries with large domestic servant populations maintained safehouses to which their citizens may flee to escape work situations that included forced confinement, withholding of food, beating and other physical abuse, and rape. Often the reported abuse is at the hands of female citizens. During the year, the media reported more frequently on cases involving domestic abuse of women, servants, and children. However, in general the Government considered such cases to be family matters and did not intervene unless charges of abuse were brought to its attention. It was almost impossible for foreign women to obtain redress in the courts due to the courts' strict evidentiary rules and the women and servants' own fears of reprisals. During the year, there were increasing reports of employers being punished for abuse of domestic servants.

By religious law and social custom, women have the right to own property and are entitled to financial support from their husbands or male relatives. However, women have few political or social rights and are not treated as equal members of society. There were no active women's rights groups. Women may not legally drive motor vehicles and are restricted in their use of public facilities when men are present. Women must enter city buses by separate rear entrances and sit in specially designated sections. Women risked arrest by the Mutawwa'in for riding in a vehicle driven by a male who was not an employee or a close male relative. The law provides that women may not be admitted to a hospital for medical treatment without the consent of a male relative; however this was not generally enforced. By law and custom, women may not undertake domestic or foreign travel alone (see Section 2.d.). During the year, the Government began again to issue national identity cards to females, despite a national campaign by some religious conservatives against it. In public, a woman was expected to wear an abaya (a black garment that covers the entire body) and also to cover her head and hair. The Mutawwa'in generally expected Muslim women to cover their faces, and women from other countries in Asia and Africa to comply more fully with local customs of dress than they do non-Muslim Western women; nonetheless, in recent years they have instructed Western women to wear the abaya and cover their hair. During the year, Mutawwa'in continued to admonish and harass women to wear their abayas and cover their hair. In one case, a Mutawwa sexually assaulted a female expatriate, and there was no evidence that he received any punishment.

There were some restrictions placed on accredited female diplomats that did not apply to their male counterparts. For example, single females must receive excep-

tion letters from their respective embassies in order to stay at a hotel, and some social functions were restricted to male or female participants only.

Women also were subject to discrimination under Shari'a as interpreted in the country, which stipulates that daughters receive half the inheritance awarded to their brothers. While Shari'a provides women with a basis to own and dispose of property independently, women often are constrained from asserting such rights because of various legal and societal barriers, especially regarding employment and freedom of movement. In a Shari'a court, the testimony of one man equals that of two women (see Section 1.e.). Although Islamic law permits polygyny, with up to four wives, it is becoming less common due to demographic and economic changes. Islamic law enjoins a man to treat each wife equally. In practice such equality is left to the discretion of the husband. Some women participated in Al-Mesyar (or "short daytime visit") marriages, or what are described as "weekend marriages," in which the women relinquished their legal rights to financial support and nighttime cohabitation. Additionally, the husband was not required to inform his other wives of the marriage, and any children resulting from such a marriage have no inheritance rights. The Government placed greater restrictions on women than on men regarding marriage to noncitizens and non-Muslims (see Section 1.f.).

Women must demonstrate legally specified grounds for divorce, but men may divorce without giving cause. In doing so, men were required to pay immediately an amount of money agreed upon at the time of the marriage, which serves as a one-time alimony payment. Women who demonstrate legal grounds for divorce still were entitled to this alimony. If divorced or widowed, a Muslim woman normally may keep her children until they attain a specified age: 7 years for boys; and 9 years for girls. Children over these ages are awarded to the divorced husband or the deceased husband's family. Numerous divorced foreign women continued to be prevented by their former husbands from visiting their children after divorce.

Women had access to free but segregated education through the university level. They constituted more than 58 percent of all university students, but were excluded from studying such subjects as engineering, journalism, and architecture. Men may study overseas; the law provides that women may do so only if accompanied by a spouse or an immediate male relative. However, this restriction was not enforced in practice.

Women made up approximately 14.6 percent of the formal citizen work force. Unemployment among women was approximately 15.8 percent. Citizen women reportedly owned approximately 20 percent of the businesses, although they must deputize a male relative to represent them in financial transactions. Most employment opportunities for women were in education and health care. Despite limited educational opportunities in many professional fields, some female citizens were able to study abroad and return to work in professions such as architecture, law and journalism. Many foreign women worked as domestic servants and nurses.

Women who wished to enter nontraditional fields were subject to discrimination. Women may not accept jobs in rural areas if there are no adult male kin present with whom they may reside and who agree to take responsibility for them. Most workplaces in which women were present are segregated by gender. Frequently, contact with male supervisors or clients was allowed only by telephone or fax machine. However, the degree of segregation varies by region, with the central region having the most restrictions, and the eastern and western regions being more relaxed. According to the Ministry of Commerce, women were not eligible to be issued business licenses for work in fields that might require them to supervise foreign workers, interact with male clients, or deal on a regular basis with government officials. However, in hospital settings and in the energy industry, women and men worked together, and, in some instances, women supervised male employees. Some women and men continued to seek opportunities for women and to break down gender segregation.

Prostitution is illegal. Some women were trafficked to Saudi Arabia for the purpose of prostitution; however, the problem is not widespread.

*Children.*—The Ministry of Education has implemented a program to teach children their rights under the UN Convention on the Rights of Children. They have given teachers large posters describing the rights that have been placed in classes, and have begun to distribute booklets to the students on the Convention.

The Government provided all children with free education and medical care. Children were not subject to the strict social segregation faced by women although they were segregated by sex in schools, beginning at the age of 7; however, schools were integrated through the fourth grade in some areas. By age 9, most children were segregated by sex in school. In more general social situations, boys were segregated at the age of 12 and girls at the onset of puberty. According to the United Nations

Development Programme (UNDP), in 2000–01, net primary enrollment was 58 percent and in 1999–2000, 94 percent of enrolled children reached grade 5.

Abuse of children was a problem, although it was difficult to gauge the prevalence of child abuse, since the Government keeps no national statistics on such cases. Although in general the culture greatly prizes children, studies by citizen female doctors indicated that severe abuse and neglect of children appeared to be more widespread than previously reported. The press has also played an important role in beginning to raise national consciousness about the widespread problem.

In December, the Ministry of Interior's Center for Crime Prevention and Research reported that 21 percent of male children suffered from some form of abuse in the county. The report stated that of the abused, 33.6 percent suffered from some sort of psychological abuse and 25.3 percent suffered physical abuse. The figures excluded female children and accusations of sexual abuse, as the Ministry stated that the issues were too sensitive for public discussion.

Trafficking in children for forced begging persisted (see Sections 6.c. and 6.f.).

*Persons with Disabilities.*—The law provides hiring quotas for persons with disabilities. There is no legislation that mandates public accessibility; however, newer commercial buildings often include such access, as do some newer government buildings. The provision of government social services increasingly has brought persons with disabilities into the public mainstream. The Government and private charitable organizations cooperated in education, employment, and other services for persons with disabilities.

During the year the Government took a variety of steps promoting more rights and elimination of discrimination against persons with disabilities. A 2002 study found that there were 493,605 persons with disabilities in the country. Of that number, representing 4 percent of the population, 34 percent have some form of body disabilities and 30 percent have sight disabilities. The Government established an endowment committee for children with disabilities, and a supreme council to deal with the affairs of the disabled with the Crown Prince as chairman. Foreign criminal rings reportedly bought and imported children with disabilities for the purpose of forced begging (see Sections 6.c. and 6.f.).

Police generally transported persons with mental disabilities found wandering alone in public to their families or a hospital. Police claimed that according to Islam, family members should be taking care of such individuals.

On December 13, the Crown Prince inaugurated a Festival for the Handicapped. The Government stated that the 86,000 disabled citizens in the country receive a total of \$80 million (300 million Riyals) from the Government.

*National/Racial/Ethnic Minorities.*—Although racial discrimination is illegal, there was substantial societal prejudice based on ethnic or national origin. Foreign workers from Africa and Asia were subject to various forms of formal and informal discrimination and have the most difficulty in obtaining justice for their grievances. For example, pay scales for identical or similar labor or professional services were set by nationality such that two similarly qualified and experienced foreign nationals performing the same employment duties receive varied compensation based on their nationalities.

In late 2002, Crown Prince Abdullah called for a national strategy to eliminate poverty, and the Ministry of Labor and Social Affairs established an Anti-Poverty Fund. The Press continued to highlight this problem, including the publication of a Government study showing that it will take 30 years to reduce poverty to 2.5 percent in the country if the Government spends a little over \$53 million (200 million Riyal) on human services.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law does not address freedom of association. The Government prohibited the establishment of labor unions; however, since 2001 the Government has permitted the establishment of labor committees for citizens in local companies, including factories, having more than 100 employees. The aim is to facilitate communication between employees and employers and the improvement of work standards in the workplace. The labor committees consist of 3 to 9 members who would serve 3-year terms. The committee members are chosen by the workers and approved by the Ministry. The committee may make recommendations to company management to improve work conditions, increase productivity, improve health and safety, and recommend training programs. The Ministry of Labor and Social Affairs may send a representative to attend committee meetings. A committee must provide a written report of its meetings to company management, which also will be transmitted to the Ministry. The Ministry may dissolve a labor committee if it violates regulations or threatens public security. No committees existed by year's

end. Foreign workers may not serve on the committee; however, committee regulations provide that the committee should represent their views.

*b. The Right to Organize and Bargain Collectively.*—The Law does not provide for collective bargaining. Collective bargaining was prohibited. Foreign workers comprised approximately two-thirds of the work force. There was no minimum wage; wages were set by employers and varied according to the type of work performed and the nationality of the worker (see Section 5).

Strikes were prohibited; however, there were several cases in which factory workers in Jeddah staged strikes to protest unpaid wages. The press reported in September that over 500 foreign workers had not been paid for 18 months, nor had they had their residents permits renewed. In 1995, the U.S. Overseas Private Investment Corporation suspended coverage because of the Government's lack of compliance with internationally recognized worker rights standards.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor. Ratification of the International Labor Organization (ILO) Conventions 29 and 105, which prohibit forced labor, gives them the force of law. However, employers had significant control over the movements of foreign employees, which gave rise to situations that sometimes involved forced labor, especially in remote areas where workers were unable to leave their place of work.

The law does not prohibit specifically forced or bonded labor by children, but it was not a problem, with the rare exception of forced child begging rings, and possibly family businesses.

In 2002 the Ministry of Interior reported that the government system of sponsorship of expatriate workers has come under national scrutiny. However, the Minister said the Government is not yet ready to abrogate the current system of sponsorship until it has been fully studied and a better system for controlling the expatriate labor force had been presented and accepted.

Some sponsors prevented foreign workers from obtaining exit visas to pressure them to sign a new work contract or to drop claims against their employers for unpaid salary (see Section 2.d.). Additionally, some sponsors refused to provide foreign workers with a "letter of no objection" that would allow them to be employed by another sponsor.

There were many reports of workers whose employers refused to pay several months, or even years, of accumulated salary or other promised benefits. More foreign workers than in the past are going to labor courts, which regularly rule in favor of the workers. However, this is a long and difficult process and it is difficult to enforce judgments. The labor system was conducive to the exploitation of foreign workers because enforcement of work contracts was difficult and generally favors employers. Labor courts, while generally fair, may take many months to reach a final appellate ruling, during which time the employer may prevent the foreign laborer from leaving the country. An employer also may delay a case until a worker's funds are exhausted, and the worker is forced to return to his home country.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 13 years, which may be waived by the Ministry of Labor with the consent of the juvenile's guardian. There is no minimum age for workers employed in family-oriented businesses or in other areas that are construed as extensions of the household, such as farming, herding, and domestic service.

Children under the age of 18 may not be employed in hazardous or harmful industries, such as mining or industries employing power-operated machinery. While there is no formal government entity responsible for enforcing the minimum age for employment of children, the Ministry of Justice has jurisdiction and has acted as plaintiff in the few cases that have arisen against alleged violators. However, in general children played a minimal role in the work force.

The majority of child beggars are citizens, many of them girls with disabilities, according to an ILO study reported in 2002. The Ministry has maintains special offices in both Mecca and Medina to combat the growing problem of child beggars.

The law does not prohibit specifically forced or bonded labor by children, but it was not a problem, with the rare exception of forced child begging rings, and possibly family businesses (see Section 6.c.). The Government implemented a regulation requiring that all camel jockeys be at least 18 years of age, and there are indications that this is in force.

*e. Acceptable Conditions of Work.*—There is no legal minimum wage. Labor regulations establish a 48-hour workweek at regular pay and allow employers to require up to 12 additional hours of overtime at time-and-a-half pay. Labor law provides for a 24-hour rest period, normally on Fridays, although the employer may grant it on another day. The average wage generally provides a decent standard of living for

a worker and family. Official unemployment numbers vary; however, the Riyadh Chamber of Commerce and Industry announced that as of October, unemployment among 15–29 year olds was 17 percent of men and 30 percent of women. They also stated that unemployment within the citizen population is expected to reach 30 percent within 3 years if current trends hold.

The ILO has stated that the Government did not formulate legislation implementing the ILO Convention 100 on Equal Remuneration and that regulations that segregated work places by sex or limit vocational programs for women violated ILO Convention 111 on Discrimination in Employment and Occupation.

In 2002, the Government passed a law prohibiting employers from holding their employees' passports without the employee's consent. However, this law is not widely known throughout the country.

Workers risked losing employment if they remove themselves from hazardous work conditions.

Labor regulations require employers to protect most workers from job-related hazards and disease. However, foreign nationals reported frequent failures to enforce health and safety standards. Farmers, herdsman, domestic servants, and workers in family-operated businesses were not covered by these regulations.

Some foreign nationals who have been recruited abroad have claimed that after their arrival in the country, they were presented with work contracts that specified lower wages and fewer benefits than originally promised. Other foreign workers reportedly have signed contracts in their home countries and later were pressured to sign less favorable contracts upon arrival. Some employees reported that at the end of their contract service, their employers refused to grant permission to allow them to return home. Foreign employees involved in disputes with their employers may find their freedom of movement restricted (see Section 2.d.). The labor laws, including those designed to limit working hours and regulate working conditions, do not apply to foreign domestic servants, and such domestic servants may not seek the protection of the labor courts. There were credible reports that female domestic servants sometimes were forced to work 16 to 20 hours per day, 7 days per week. There were numerous confirmed reports of maids fleeing employers and seeking refuge in their embassies or consulates (see Section 5). Foreign embassies continued to receive reports of employers abusing domestic servants. Such abuse included withholding of food, beatings and other physical abuse, and rape (see Section 5). During the year, the media continued to report stories of maids who had fled their place of employment.

The Government has instituted welfare shelters to house female domestic servants who flee their place of work. The Government offers arbitration between the worker and employer and investigates allegations of abuse. If no agreement can be reached, the maid is deported to her home country. In at least two publicized cases during the year, citizen employers were jailed for extreme abuse of domestic servants. During the year, the Grand Mufti warned citizens that Islam does not permit the oppression of workers regardless of their religion.

The ongoing campaign to remove illegal immigrants from the country has done little to Saudiize the economy because illegal immigrants largely worked in low-income positions, which most citizens considered unsuitable. The Government carried out the campaign by widely publicizing its enforcement of existing laws against illegal immigrants and citizens employing or sponsoring illegal immigrants.

The effect of the expeditious repatriation during the year of some illegal immigrants and the legalization of others has been to improve overall working conditions for legally employed foreigners. Illegal immigrants generally were willing to accept lower salaries and fewer benefits than legally employed immigrants. The departure or legalization of illegal workers reduced the competition for certain jobs and thereby reduced the incentive for legal immigrants to accept lower wages and fewer benefits as a means of competing with illegal immigrants. Furthermore, their departure or legalization removed a large portion of the class of workers most vulnerable to abuse and exploitation because of their illegal status.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, the law prohibits slavery and the smuggling of persons into the country and there were unconfirmed reports that women were trafficked into the country to work as prostitutes. In 2002, the Government approved two international protocols on trafficking in persons, one that combats the smuggling of immigrants by land, sea, or air and the other that seeks to prevent trade in persons, especially women and children.

Among the millions of foreign workers in the country, some persons, particularly domestic workers, were defrauded by employment agencies or exploited by employers; some workers overstay their contracts and are exploited as they have few legal protections. Many foreign domestic servants fled work situations that included

forced confinement, beating and other physical abuse, withholding of food, and rape. Police academies have a course for new officers on how to handle labor issues as part of their standard curriculum.

During the year, the Government acknowledged trafficking problems in terms of abuse of domestic servants, especially female expatriate workers. The press carried a number of stories on the abuse of maids and other domestic workers, including the prosecution and punishment of citizen employers who abused domestic employees. The media campaign appeared to be an effort to begin raising national awareness about the problem. During the year, the Ministry of Labor formed an internal committee that was preparing an educational program to advise foreign domestic workers of their rights for recourse to authorities if they experience abuse or non-payment of wages.

In 2002, the Government ordered that all private recruitment offices must adopt a standard commitment contract in their private dealings with foreign recruiters sending labor to the country. The purpose of the contract, which was implemented during the year, is to prevent false promises and abuses by recruitment offices. It was not yet clear whether this contract is achieving its intended results. During the year, the Government granted the Ministry of Labor and Social Affairs full responsibility for the issuance of work visas to expatriates in an effort to eliminate abuse of visa procedures by sponsors.

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## SYRIA

Syria is a republic under a military regime with virtually absolute authority in the hands of the President. The President, with counsel from his ministers, senior members of the ruling Ba'th Party, and a small circle of security advisers, makes key decisions regarding foreign policy, national security, internal politics, and the economy. Ba'th Party leaders, whose primacy in state institutions and the Parliament is mandated by the Constitution, influence all three branches of government. The Parliament, elected in March, may not initiate laws but only assess and, at times, modify those proposed by the executive branch. The Constitution provides for an independent judiciary; however, security courts were subject to political influence. Political connections and bribery sometimes influenced verdicts in regular courts.

The powerful role of the security services, which extends beyond strictly security matters, is due to the state of emergency, which has been in place since 1963. The Government justifies ongoing martial law because of its state of war with Israel and past threats against the state from terrorist groups. Syrian Military Intelligence and Air Force Intelligence are military agencies; the Ministry of Interior controls general security, state security, and political security. The branches of the security services operated independently of each other and outside the legal system. The Government maintained effective control of the security forces. Members of the security forces committed numerous, serious human rights abuses.

The population of the country was approximately 17 million. The economy was based on commerce, agriculture, oil production, and government services. The dominant state role in the economy, a complex bureaucracy, security concerns, corruption, currency restrictions, a lack of modern financial services and communications, and a weak legal system hampered economic growth, which was last estimated at 2 percent in 2001.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens did not have the right to change their government. The Government prevented any organized political opposition, and there have been very few anti-government manifestations. Continuing serious abuses included the use of torture in detention; poor prison conditions; arbitrary arrest and detention; prolonged detention without trial; fundamentally unfair trials in the security courts; and infringement on privacy rights. The Government significantly restricted freedom of speech and of the press. Freedom of assembly does not exist under the law, and the Government restricted freedom of association. The Government did not officially allow independent domestic human rights groups to exist; however, it permitted periodic meetings of unlicensed civil society forums throughout the year. The Government placed some limits on freedom of religion and freedom of movement. Proselytizing by groups it considered Zionist was not tolerated. Violence and societal discrimination against women were problems. The Government discriminated against the stateless Kurdish minority, suppressed worker rights, and tolerated child labor in some instances.

## 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 political killings; however, the London-based Syrian Human Rights Committee (SHRC) reported that, on August 10, a Syrian Kurd died after being tortured while in the custody of Syrian Military Intelligence. The Government had not investigated previous deaths in detention.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances. Many persons who disappeared in past years were believed to be in long-term detention or to have died in detention.

The Government continued to withhold new information on the welfare and whereabouts of persons who have been held incommunicado for years or about whom little is known other than the approximate date of their detention. Despite the Government's claim that it has released all Palestinians and Jordanian and Lebanese citizens reportedly abducted from Lebanon during and after its civil war, various nongovernmental organizations (NGOs) and family members of those who allegedly remain in prison continued to dispute the Government's claim (see Section 1.d.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Penal Code provides punishment for abusers; however, there was credible evidence that security forces continued to use torture.

During the year, the SHRC reported numerous cases of torture in custody, including the case of two Kurdish leaders, Marwan Uthman and Hasan Saleh, who were arrested in December 2002 for organizing a demonstration (see Section 2.b.). Former prisoners and detainees, as well as the SHRC, reported that torture methods included administering electrical shocks; pulling out fingernails; forcing objects into the rectum; beating, sometimes while the victim is suspended from the ceiling; hyperextending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a chair that bends backwards to asphyxiate the victim or fracture the victim's spine. Torture was most likely to occur while detainees were being held at one of the many detention centers run by the various security services throughout the country, particularly while the authorities were attempting to extract a confession or information.

A foreign citizen (with dual Syrian nationality) detained in February reported that he was tortured while in prison. Diplomatic representatives reported seeing bruises on the prisoner's body after his release from prison. During the year, at least nine Kurds were jailed and reportedly tortured in prison.

Past victims of torture have identified the officials who tortured them, up to the level of brigadier general. If allegations of excessive force or physical abuse were to be made in court, the plaintiff was required to initiate his own civil suit against the alleged abuser. However, no action was taken against the accused. There were no examples of such allegations during the year. Courts did not order medical examinations for defendants who claimed that they were tortured (see Section 1.e.).

At year's end, Raed Hijazi remained in custody while awaiting an appeals decision for the death sentence handed down by Jordanian authorities in 2002.

Prison conditions generally were poor and did not meet international standards for health and sanitation. At some prisons, security officials demanded bribes from family members. Overcrowding and the denial of food remained problems at several prisons. According to Human Rights Watch (HRW), prisoners and detainees were held without adequate medical care, and some prisoners with significant health problems reportedly were denied medical treatment. Some former detainees reported that the Government prohibited reading materials, even the Koran, for political prisoners.

There were separate facilities for men, women, and children. Pretrial detainees, particularly those held for political or security reasons, were usually held separately from convicted prisoners. Facilities for political or national security prisoners generally were worse than those for common criminals.

There were reports of death in prison due to torture (see Section 1.a.).

The Government did not permit independent monitoring of prison or detention center conditions; however, diplomatic or consular officials were granted access in some cases.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, these remained significant problems. The Ministry of Interior controlled the police force, which many observers considered corrupt. The 1963 Emergency Law authorizes the Government to conduct preventive arrests and



overrides Constitutional and Penal Code provisions against arbitrary arrest and detention, including the need to obtain warrants. In cases involving political or national security offenses, arrests often were carried out in secret. Suspects could be detained incommunicado for prolonged periods without charge or trial and denied the right to a judicial determination regarding pretrial detention. Additionally, those suspected of political or national security offenses could be arrested and prosecuted under ambiguous and broad articles of the Penal Code and subsequently tried in either the criminal or security courts.

Defendants in civil and criminal trials have the right to bail hearings and possible release from detention on their own recognizance. Bail was not allowed for those accused of state security offenses. Unlike defendants in regular criminal and civil cases, security detainees did not have access to lawyers prior to or during questioning.

Detainees have no legal redress for false arrest. Many persons who have disappeared in past years were believed to be in long-term detention without charge or possibly to have died in detention. Many detainees brought to trial have been held incommunicado for years, and their trials often were unfair (see Section 1.e.). There were reliable reports that the Government did not notify foreign governments when their citizens were arrested or detained or did so only after the prisoner was released. Many criminal suspects were held in pretrial detention for months and may have had their trials extended for additional months. Lengthy pretrial detention and drawn-out court proceedings were caused by a shortage of available courts and the absence of legal provisions for a speedy trial or plea-bargaining (see Section 1.e.).

During the year, the security forces conducted mass arrests of suspected Islamists: 24 persons in Zabdani; 35 in Aleppo; and 20 in Damascus. The suspects remained in detention at year's end.

The Government continued threatening or detaining the relatives of detainees or of fugitives to obtain confessions, minimize outside interference, or prompt the fugitive's surrender (see Section 1.f.). There were reports that security personnel forced prisoners to watch relatives being tortured in order to extract confessions. According to Amnesty International (AI) and the SHRC, security forces also detained family members of suspected oppositionists (see Section 1.f.).

The Government, through its security services, also threatened families or friends of detainees to ensure their silence, to force them to disavow publicly their relatives, or to force detainees into compliance. For example, the family of a human rights activist received calls from security service personnel alleging misconduct and inappropriate social behavior by the activist.

The number of remaining political detainees was unknown. AI's 2003 report states that 800 political detainees were held in Sednaya prison and that hundreds of others were held in other prisons. There also were Jordanian, Lebanese, and Palestinian political detainees. Estimates of detainees were difficult to confirm because the Government did not verify publicly the number of detentions without charge, the release of detainees or amnestied prisoners, or whether detainees subsequently are sentenced to prison (see Section 1.e.).

Former prisoners were subject to a so-called "rights ban," which begins from the day of sentencing and lasts until 7 years after the expiration of the sentence, in the case of felony convictions. Persons subject to this ban were not allowed to vote, run for office, or work in the public sector; they often also were denied passports. In practice, restrictions may continue beyond that period.

The Constitution prohibits forced exile, and, unlike in previous years, there were no reports of forced exile during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the two courts dealing with cases of alleged national security violations were not independent of executive branch control. Political connections and bribery sometimes influenced verdicts in regular courts.

The judicial system is composed of the civil and criminal courts, military courts, security courts, and religious courts, which adjudicate matters of personal status such as divorce and inheritance (see Section 5). The Court of Cassation is the highest court of appeal. The Supreme Constitutional Court rules on the constitutionality of laws and decrees; however, it does not hear appeals.

Civil and criminal courts are organized under the Ministry of Justice. Defendants before these courts were entitled to the legal representation of their choice; the courts appoint lawyers for indigents. Defendants were presumed innocent; they were allowed to present evidence and to confront their accusers. Trials were public, except for those involving juveniles or sex offenses. Defendants could appeal their verdicts to a provincial appeals court and ultimately to the Court of Cassation. Such appeals were often difficult to win because the courts do not provide verbatim tran-

scripts of cases—only summaries prepared by the presiding judges. There are no juries.

Military courts have the authority to try civilians as well as military personnel. A military prosecutor decides the venue for a civilian defendant. There have been reports that the Government operated military field courts in locations outside established courtrooms. Such courts reportedly observed fewer of the formal procedures of regular military courts. During the year, there were no reports of military field courts being used.

On July 15, a military court dropped all charges against lawyer and SHRC Chairman Haytham al-Maleh, who had been charged with spreading false news, belonging to an international political association, and publishing material which caused sectarian friction. The court accepted that a July 9 presidential amnesty for misdemeanors and nonviolent crimes covered al-Maleh's charges.

The two security courts are the Supreme State Security Court (SSSC), which tried political and national security cases, and the Economic Security Court (ESC), which tried cases involving financial crimes. Both courts operated under the state of emergency and did not observe constitutional provisions safeguarding defendants' rights.

Charges against defendants in the SSSC were vague. Defendants appeared to be tried for exercising normal political rights, such as free speech. For example, the Emergency Law authorizes the prosecution of anyone "opposing the goals of the revolution," "shaking the confidence of the masses in the aims of the revolution," or attempting to "change the economic or social structure of the State." The Government stated that the SSSC tries only persons who have sought to use violence against the State.

Under SSSC procedures, defendants were not present during the preliminary or investigative phase of the trial, during which the prosecutor presents evidence. Trials usually were closed to the public. Lawyers were not ensured access to their clients before the trial and were excluded from the court during their client's initial interrogation by the prosecutor. Lawyers submitted written defense pleas rather than oral presentations.

During the year, there were several cases in which lawyers representing defendants in national security cases had their licenses to practice law suspended. The State's case often was based on confessions, and defendants were not allowed to argue in court that their confessions were coerced. The SSSC has reportedly acquitted some defendants, but the Government did not provide any statistics regarding the conviction rate. Defendants did not have the right to appeal verdicts, but the Minister of Interior, who may ratify, nullify, or alter them, reviews sentences. The President also may intervene in the review process.

Accurate information regarding the number of cases heard by the SSSC was difficult to obtain, although hundreds of cases were believed to pass through the court annually. Many reportedly involved charges relating to membership in various banned political groups, including the Party of Communist Action and the pro-Iraqi wing of the Ba'th Party. Sentences as long as 15 years have been imposed in the past. Human rights NGOs were not permitted to visit the SSSC (see Section 4).

The ESC tried persons for alleged violations of foreign exchange laws and other economic crimes. The prosecution of economic crimes was not applied uniformly. Like the SSSC, the ESC did not ensure due process for defendants. Defendants were not provided adequate access to lawyers to prepare their defenses, and the State's case usually was based on confessions. High-ranking government officials may influence verdicts. Those convicted of the most serious economic crimes did not have the right of appeal, but those convicted of lesser crimes could appeal to the Court of Cassation. The Economic Penal Code allowed defendants in economic courts to be released on bail; however, bail is not allowed for those accused of forgery, counterfeiting, or auto theft.

At least two persons arrested when the late President Asad took power in 1970 may remain in prison, despite the expiration of one of the prisoners' sentences.

The Emergency Law and the Penal Code are so broad and vague, and the Government's power so sweeping, that many persons were convicted and may remain in prison for the mere expression of political opposition to the Government.

The exact number of political prisoners was unknown. In 2001, a domestic human rights organization estimated the number to be nearly 800, including approximately 130 belonging to the Islamic Liberation Party, 250 members and activists associated with the Muslim Brotherhood, 150 members of the pro-Iraq wing of the Ba'th Party, and 14 Communists. In 2002, the SHRC estimated that there were approximately 4,000 political prisoners still in detention. The Government did not permit regular access to political prisoners by international humanitarian organizations.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law prohibits such actions; however, the Emergency Law authorizes the security services

to enter homes and conduct searches without warrants if broadly defined security matters are involved. The security services selectively monitored telephone conversations and fax transmissions. The Government opened mail destined for both citizens and foreign residents. It also prevented the delivery of human rights materials (see Section 2.a.). The Government routinely monitored Internet communications, including e-mail, and blocked access to some Internet sites.

The Government detained relatives of detainees or of fugitives to obtain confessions or the fugitive's surrender (see Section 1.d.).

In the past, the Government and the Ba'ath Party monitored and attempted to restrict some citizens' visits to foreign embassies and cultural centers.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government significantly restricted these rights in practice. The Government strictly controlled the dissemination of information and prohibited written or oral criticism of the Government. The Government also prohibited sectarian issues to be raised. Detention and beatings for individual expressions of opinion that violated these unwritten rules occurred. The Government also threatened activists in an attempt to control behavior. Journalists and writers practiced self-censorship.

The National Progressive Front's (NPF) Communist Party newspaper, *The People's Voice*; the NPF's Union Socialist Party's private newspaper, *The Unionist*; a private satirical weekly newspaper, *The Lamplighter*, which criticized politically nonsensitive instances of government waste and corruption; and *The Economist*, which was critical of government performance, were published during the year. In August, the Ministry of Information revoked *The Lamplighter's* license, claiming that it had failed to comply with the Publications Law. *The Lamplighter* believed it was closed because its editor, Ali Ferzat, published cartoons critical of Saddam Hussein in a Kuwaiti newspaper in February.

The print and electronic media at times were critical of the Ba'ath Party and government performance and reported openly on a range of social and economic issues. Some Damascus-based correspondents for regional Arab media were able to file reports on internal political issues, such as rumored governmental changes, new political discussion groups, and the possible introduction of new parties to the NPF.

The media continued to broaden their reporting on regional developments, including the Middle East peace process. The media covered some peace process events factually, but others were reported selectively to support official views. The government-controlled press increased its coverage of official corruption and governmental inefficiency. A few privately-owned newspapers published during the year; foreign-owned, foreign-published newspapers continued to circulate relatively freely.

The Government or the Ba'ath Party owned and operated the radio and television companies and most of the newspaper publishing houses. The Ministry of Information closely monitored radio and television news programs to ensure adherence to the government policies. The Government did not interfere with broadcasts from abroad. Satellite dishes were widely used and available.

The Emergency Law and Penal Code articles dealing with crimes against state security allowed the Government broad discretion in determining what constitutes illegal expression. The Emergency Law prohibits the publication of "false information" which opposes "the goals of the revolution" (see Section 1.e.). Penal Code articles prohibit acts or speech inciting confessionism.

The 2001 Publications Law permits the reestablishment of publications that were circulated prior to 1963 and establishes a framework in which the National Front Parties, as well as other approved private individuals and organizations, would be permitted to publish their own newspapers. However, the law also stipulates imprisonment and stiff financial penalties as part of broad, vague provisions prohibiting the publication of "inaccurate" information, particularly if it "causes public unrest, disturbs international relations, violates the dignity of the state or national unity, affects the morale of the armed forces, or inflicts harm on the national economy and the safety of the monetary system." Persons found guilty of publishing such information were subject to prison terms ranging from 1 to 3 years and fines ranging from \$10,000 to \$20,000 (500,000 to 1 million pounds). The amendments also impose strict punishments on reporters who do not reveal their government sources in response to government requests.

The Government imprisoned journalists for failing to observe press restrictions. Official media reported that in December 2002, the Government arrested journalist Ibrahim Hamidi on charges of "publishing unfounded news" in violation of the Publications Law. It was believed to be an article in the London-based *al-Hayat* discussing the Government's contingency planning for possible hostilities in Iraq.

Hamidi was released on bail on May 25 and the charges against him were pending at year's end.

In May 2002, the Government arrested Aziza Sbanni, Damascus Bureau Chief for the Lebanese newspaper *The Editor*, and her sister Shairen. The sisters were imprisoned until May when they were released without trial.

The Ministry of Information and the Ministry of Culture and National Guidance censored domestic and imported foreign press. Publication or distribution of any material deemed threatening or embarrassing by the security services to high levels of the Government was prohibited. Censorship usually was stricter for materials in Arabic. Commonly censored subjects included: The Government's human rights record; Islamic fundamentalism; allegations of official involvement in drug trafficking; aspects of the Government's role in Lebanon; graphic descriptions of sexual activity; material critical of Arab parties in the Middle East conflict; and material offensive to any of the country's religious groups.

The Ministry of Culture and National Guidance censored fiction and nonfiction works, including films. It also approved which films could or could not be shown at the cultural centers operated by foreign embassies. The Government prohibited the publication of books and other materials in Kurdish; however, there were credible reports that Kurdish language materials were available in the country (see Section 5).

Internet access and access to e-mail was limited but growing. The Government blocked access to selected Internet sites that contained information deemed politically sensitive or pornographic in nature and consistently blocked citizens' access to servers that provided free e-mail services. The Government has disrupted telephone services to the offices and residences of several foreign diplomats, allegedly because the lines were used to access Internet providers outside the country.

The Government restricted academic freedom. Public school teachers were not permitted to express ideas contrary to government policy; however, authorities permitted somewhat greater freedom of expression at the university level.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government generally did not respect this right in practice. Citizens could hold demonstrations if the Ministry of Interior granted permission; however, the Government or the Ba'th Party organized most public demonstrations. The Government selectively permitted some demonstrations, usually for political reasons. The Government applied the restrictions on public assembly in Palestinian refugee camps, where controlled demonstrations were allowed.

The Government required political forums and discussion groups to obtain prior approval to hold lectures and seminars and to submit lists of all attendees. Despite these restrictions several domestic human rights and civil society groups held meetings without registering with the Government or obtaining prior approval for the meetings. However, in August, the Government arrested and later released 21 persons in Aleppo for attempting to attend an unapproved lecture marking the 40th anniversary of the declaration of the Emergency Law. Fourteen were subsequently charged with belonging to a clandestine organization and undertaking acts of incitement. They were scheduled to be tried by a military court in January 2004.

There were numerous demonstrations during the year, most of which were permitted or organized by the Government.

In June, the security forces forcibly broke up a demonstration by Syrian Kurdish school children and arrested eight of the adults accompanying them. In December 2002, the Government permitted a demonstration by a Kurdish political party, but 2 days later it arrested two of the organizers of the demonstration. At year's end, all remained in prison, and reportedly were tortured (see Section 1. c.). All were scheduled to be tried in the SSSC in January 2004.

The Constitution permits private associations but also grants the Government the right to limit their activities. In practice, the Government restricted freedom of association. Private associations were required to register with authorities. In the past, requests for registration have been denied, presumably on political grounds. The Government usually granted registration to groups not engaged in political or other activities deemed sensitive.

The Government did not permit the establishment of independent political parties (see Section 3).

In 2002, the Government sentenced 10 human rights activists, who had called for the expansion of civil liberties and organized public dialogue, to lengthy prison stays for committing crimes against state security (see Sections 1.d. and 2.a.).

The executive boards of professional associations were not independent. Members of the Ba'th Party generally led the associations; however, nonparty members could serve on their executive boards.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, it imposed restrictions in some areas. The Constitution requires that the President be a Muslim. There is no official state religion; Sunni Muslims constituted the majority of the population.

All religions and religious orders must register with the Government, which monitored fund raising and required permits for all meetings by religious groups, except for worship. There was a strict separation of religious institutions and the State. Religious groups tended to avoid any involvement in internal political affairs. The Government, in turn, generally refrained from involvement in strictly religious issues. The Government approves all textbooks, which present religion as a way to foster national unity and tolerance.

The Government considered militant Islam a threat and followed closely the practice of its adherents. The Government allowed many new mosques to be built; however, sermons were monitored and controlled, and mosques were closed between prayers.

The SHRC reported three large-scale arrests of suspected Islamists during the year (see Section 1.d.).

All schools are government-run and nonsectarian; however, Christian and Druze minorities run some schools. There was mandatory religious instruction in schools, with government-approved teachers and curriculums. Religion courses were divided into separate classes for Muslim, Druze, and Christian students. Although Arabic is the official language in public schools, the Government permitted the teaching of Armenian, Hebrew, Syriac (Aramaic), and Chaldean in some schools on the basis that these are “liturgical languages.”

Muslims and Christians are subject to their respective religious laws on marriage, divorce, child custody, and inheritance (see Section 5).

Although the law does not prohibit proselytizing, in practice, the Government discouraged such activity, particularly when it was deemed a threat to the relations among religious groups. Foreign missionaries were present, but operated discreetly.

In 1964, the Government banned Jehovah’s Witnesses as a “politically motivated Zionist organization;” however, members of Jehovah’s Witnesses have continued to practice their faith privately despite the official ban.

The Constitution prohibits sectarianism although it does specify that the President be a Muslim; however, in the case of Alawis, religious affiliation facilitated access to influential and sensitive posts. For example, members of the President’s Alawi sect, estimated at 12 percent, held a predominant position in the security services and military, well out of proportion to their percentage of the population (see Section 3).

For primarily political rather than religious reasons, the fewer than 100 Jews remaining in the country generally remained barred from government employment and had no military service obligations. Jews remained the only religious minority group whose passports and identity cards note their religion.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement “within the territories of the state unless restricted by a judicial decision or by the implementation of laws;” however, in practice, the Government limited freedom of movement. The Government restricted travel near the Golan Heights and travel to Israel is illegal. Individuals such as human rights activists and leaders of opposition groups were denied permission to travel abroad on presumably political grounds, although government officials continued to deny that this practice occurred. The authorities could prosecute any person found attempting to emigrate or to travel abroad illegally, or who was deported from another country, or who was suspected of having visited Israel. Women over the age of 18 have the legal right to travel without the permission of male relatives; however, a husband or a father could file a request with the Ministry of Interior to prohibit his wife or daughter’s departure from the country (see Section 5). The Government maintained security checkpoints, primarily in military and other restricted areas. There were few police checkpoints on main roads or in populated areas. The security services used checkpoints to search, without warrants, for smuggled goods, weapons, narcotics, and subversive literature.

The Government has refused to recognize the citizenship of or to grant identity documents to some persons of Kurdish descent. Their lack of citizenship or identity documents restricted their travel to and from the country (see Section 5). Emigres who did not complete mandatory military service could pay a fee to avoid being conscripted while visiting the country. During the year, some persons were imprisoned for refusing to pay the fee.

Citizens of Arab League countries, other than Iraq, were able to enter the country without a visa for a stay of up to 3 months, a period that is renewable on application to government authorities. Residency permits required proof of employment and a fixed address in the country.

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated on a case-by-case basis with the office of the U. N. High Commissioner for Refugees (UNHCR). The Government continued to provide temporary permission to stay to asylum seekers/refugees under UNHCR protection but remained selective about extending protection to refugees. During the year, 1,705 persons sought asylum. In September, there were 2,666 non-Palestinian refugees in the country, all of whom were receiving assistance from the UNHCR, including 1,527 refugees of Iraqi origin. Although the Government denied that it forcibly repatriated persons with a valid claim to refugee status, it apparently did so in the past, and the UNHCR reported that some Iraqis were deported from UNHCR camps during the year.

As of June, 409,662 Palestinian refugees were registered with the U.N. Relief and Works Agency (UNRWA) in the country. Unlike in previous years, in general, Palestinian refugees with Syria travel documents no longer reported unusual difficulties traveling in and out of the country. The Government restricted entry by Palestinians who were not resident in the country.

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

The Constitution requires that the President be elected by referendum; however, the Parliament selects candidates at the discretion of the regional Ba'th party leadership. Although citizens vote for the President and Members of Parliament (M.P.s), they did not have the right to change their government. In 2000, President Bashar Al-Asad was confirmed by an unopposed referendum. The Government is headed by a Cabinet, which the President has the discretion to change. Political opposition to the President was vigorously suppressed. The President and his senior aides, particularly those in the military and security services, made most political and economic decisions, with a very limited degree of public accountability. The Constitution provides that the Ba'th Party is the ruling party and is ensured a majority in all government and popular associations, such as workers' and women's groups. The Ba'th Party and seven small political parties comprise the NPF. The NPF represented the only framework for legal political party participation for citizens; however, it remains dominated by the Ba'th Party and does not change the essentially one-party character of the political system. Non-Ba'th Party members of the NPF existed as political parties largely in name only and conformed strictly to Ba'th Party and government policies. During the year, the Arab Democratic Union joined the NPF, making it a seven party organization.

The Ba'th Party dominated the Parliament (the People's Council). Parliamentarians could criticize policies and modify draft laws; however, the executive branch retained ultimate control over the legislative process. The Government allowed independent non-NPF candidates to run for a limited allotment of seats in the 250 member People's Council. The allotment of non-NPF deputies was 83, ensuring a permanent absolute majority for the Ba'th Party dominated NPF. Elections for the 250 seats in the People's Council last took place in March. The election could not be characterized as free and fair because the majority of the seats in the People's Council were reserved for members of the ruling National Progressive Front, and the government approved all candidates.

In 2002, the Government sentenced independent M.P.s Ma'mun Humsi and Riad Seif to 5-year prison terms for attempting to illegally change the Constitution.

Women and minorities, with the exception of the Jewish population and stateless Kurds (see Section 5), participated in the political system without restriction. There were 2 female cabinet ministers, and 30 of the 250 M.P.s were women. No figures of the percentage of women and minorities who voted were available; however, citizens are required by law to vote.

The Government did not provide figures on the ethnic or religious composition of Parliament or the Cabinet; however, there were some Kurd, Christian, Shi'a and Druze representatives in the Parliament.

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

The Government did not allow domestic human rights groups to exist legally. In the past, human rights groups operated legally but ultimately were banned by the Government. However, an independent, unlicensed domestic human rights group,

the Syrian Human Rights Association, continued to operate in a limited capacity. The Government's sentencing of 10 civil society leaders in 2002 to lengthy prison sentences stifled the activities of human rights activists and organizations.

The Government has met only twice with international human rights organizations: HRW in 1995 and AI in 1997. As a matter of policy, the Government in its dealings with international groups denied that it commits human rights abuses. The Government stated that it responds in writing to all inquiries from NGOs regarding human rights issues, including the cases of individual detainees and prisoners, through an interagency governmental committee established for that purpose. The Government usually responded to queries from human rights organizations and foreign embassies regarding specific cases by claiming that the prisoner in question violated national security laws.

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

The Constitution provides for equal rights and equal opportunity for all citizens; however, membership in the Ba'th Party or close familial relations with a prominent party member or powerful government official can help economic, social, or educational advancement. Party or government connections paved the way for entrance into better elementary and secondary schools, access to lucrative employment, and greater power within the Government, the military, and the security services. Certain prominent positions, such as that of provincial governor, were reserved solely for Ba'th Party members. There was some discrimination against Jews and stateless Kurds and varying degrees of societal discrimination in each of these areas.

*Women.*—Violence against women occurred, but there were no reliable statistics regarding the prevalence of domestic violence or sexual assault. The vast majority of cases likely were unreported, and victims generally were reluctant to seek assistance outside the family. Battered women have the legal right to seek redress in court, but few did so because of the social stigma attached to such action. The Syrian Women's Federation offered counseling services to battered wives to remedy individual family problems. The Syrian Family Planning Association also provided counseling in an effort to address this problem. Some private groups, including the Family Planning Association, organized seminars on violence against women, which were reported by government press. There were a few private, nonofficial, specifically designated shelters or safe havens for battered women who fled or sought to flee their husbands.

Rape is a felony; however, there are no laws against spousal rape.

The law specifically provides for reduced sentences in "honor" crimes (violent assaults with intent to kill against a female by a male for alleged sexual misconduct). Instances of honor crimes were rare and occurred primarily in rural areas in which Bedouin customs prevail. The law prohibits prostitution, and it was not a widespread problem.

The law prohibits sexual harassment and specifies different punishments depending on whether the victim is a minor or an adult. Sexual harassment was rarely reported.

The Constitution provides for equality between men and women and equal pay for equal work. Moreover, the Government has sought to overcome traditional discriminatory attitudes toward women and encouraged women's education by ensuring equal access to educational institutions, including universities. However, the Government did not change personal status, retirement, or social security laws that discriminate against women. In addition, some secular laws discriminate against women. For example, under criminal law, the punishment for adultery for a woman is twice that as for the same crime committed by a man.

Christians, Muslims, and other religious groups are subject to their respective religious laws on marriage, divorce, and inheritance. For Muslims, personal status law on divorce is based on Shari'a (Islamic law), and some of its provisions discriminate against women. For example, husbands may claim adultery as grounds for divorce, but wives faced more difficulty in presenting the same argument. If a woman requests a divorce from her husband, she may not be entitled to child support in some instances. In addition, under the law, a woman loses the right to custody of boys when they reach age 9 and girls at age 12.

Inheritance for Muslims also is based on Shari'a. Accordingly, Muslim women usually were granted half of the inheritance share of male heirs. However, Shari'a mandates that male heirs provide financial support to the female relatives who inherit less. If they do not, females have the right to sue.

Polygyny is legal but were practiced only by a small minority of Muslim men.

A husband may request that his wife's travel abroad be prohibited (see Section 2.d.). Women generally were barred from traveling abroad with their children unless

they were able to prove that the father had granted permission for the children to travel.

Women participated actively in public life and were represented in most professions, including the military. Women were not impeded from owning or managing land or other real property. Women constituted approximately 7 percent of judges, 10 percent of lawyers, 57 percent of teachers below university level, and 20 percent of university professors.

*Children.*—The law emphasizes the need to protect children, and the Government organized seminars regarding the subject of child welfare. During the year, some of these seminars were organized in cooperation with the UNICEF office in the country. There was no legal discrimination between boys and girls in education or in health care. The Government provided free, public education from primary school through university. Education is compulsory for all children, male or female, between the ages of 6 and 12. According to the Syrian Women's Union, approximately 46 percent of the total number of students through the secondary level were female. Nevertheless, societal pressure for early marriage and childbearing interfered with girls' educational progress, particularly in rural areas where the dropout rates for female students remained high. The Government provides medical care for children until the age of 18.

The law provides for severe penalties for those found guilty of the most serious abuses against children. Although there were cases of child abuse, there was no societal pattern of abuse against children.

Child prostitution and trafficking in children were rare; incidents that arose mainly involved destitute orphans.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and seeks to integrate them into the public sector work force; however, implementation remained inconsistent. Regulations reserving 4 percent of government and public sector jobs for persons with disabilities were not implemented rigorously. Persons with disabilities could not legally challenge alleged instances of discrimination. There are no laws that mandate access to public buildings for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Government generally permitted national and ethnic minorities to conduct traditional, religious, and cultural activities; however, the Government's attitude toward the Kurdish minority remained a significant exception. Although the Government contended that there was no discrimination against the Kurdish population, it placed limits on the use and teaching of the Kurdish language. It also restricted the publication of books and other materials written in Kurdish (see Section 2.a.), Kurdish cultural expression, and, at times, the celebration of Kurdish festivals. The Government tacitly accepted the importation and distribution of Kurdish language materials, particularly in the northeast region where most of the Kurds in the country resided. The Supreme Security Court tried some members of the Kurdish community for expressing support for greater Kurdish autonomy or independence. Although the Government stopped the practice of stripping Kurds of their Syrian nationality (some 120,000 lost Syrian nationality under this program in the 1960s), it never restored the nationality to those who lost it earlier. As a result, those who lost their nationality, and their children, remained unable to obtain passports, or even identification cards and birth certificates. Without Syrian nationality, these stateless Kurds, who according to UNHCR estimates number approximately 200,000, were unable to own land, were not permitted to practice as doctors or engineers or be employed by the Government, were ineligible for admission to public hospitals, had no right to vote, and could not travel to and from the country. They also encountered difficulties in enrolling their children in school, and in some cases, in registering their marriages.

In 2002, President Asad became the first president in 40 years to visit a predominantly Kurdish province in the northeast and to acknowledge their importance to the local cultural heritage. Despite his stated willingness to discuss citizenship problems, there was no progress by year's end.

*Incitement to Acts of Discrimination.*—The Government tightly controlled the press, which frequently published anti-Israeli articles. Some articles could be construed as anti-Semitic, as in the case of a review of David Duke's book "The Awakening" published during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association; however, in practice, workers were not free to establish unions independent of the Government. All unions must belong to the General Federation of Trade Unions (GFTU), which was dominated by the Ba'th Party and was a part of the State's bu-



reaucratic structure. The GFTU is an information channel between political decision-makers and workers. The GFTU transmitted instructions downward to the unions and workers but also conveyed information to decision-makers about worker conditions and needs. The GFTU advised the Government on legislation, organized workers, and formulated rules for various member unions. The GFTU president is a senior member of the Ba'ath Party. He and his deputy may attend cabinet meetings on economic affairs. The GFTU controlled nearly all aspects of union activity.

There were no reports of anti-union discrimination. Since the unions were part of the Government's bureaucratic structure, the law protects them from anti-union discrimination. The GFTU is affiliated with the Damascus-based International Confederation of Arab Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to form unions and collective bargaining; however, these rights did not exist in practice. Government representatives were part of the bargaining process in the public sector. In the public sector, unions did not normally bargain collectively on wage issues, but there was some evidence that union representatives participated with representatives of employers and the supervising ministry in establishing minimum wages, hours, and conditions of employment. This was a positive development insofar as it indicated respect for the ILO's "Social Partners" tripartite formula. Workers served on the boards of directors of public enterprises, and union representatives always were included on the boards.

The law provides for collective bargaining in the private sector, although past repression by the Government dissuaded most workers from exercising this right.

Unions have the right to litigate disputes over work contracts and other workers' interests with employers and were able to ask for binding arbitration. In practice, labor and management representatives settled most disputes without resort to legal remedies or arbitration. Management had the right to request arbitration, but that right seldom was exercised. Arbitration occurred when a worker initiated a dispute over wages or severance pay. Arbitration authority was vested in the Ministry of Justices Administrative Petition Court. In practice, this court did little more than certify agreements and plays little role in actually arbitrating disputes, as such disputes did not occur with any regularity.

The law does not prohibit strikes; however, previous government crackdowns deterred workers from striking. During the year, there were no strikes.

There are no unions in the seven free trade zones (FTZs). Firms in the zones are exempt from the laws and regulations governing hiring and firing, although they must observe some provisions on health, safety, hours, and sick and annual leave. Ninety percent of the workers in the FTZs are citizens of the country.

*c. Prohibition of Forced or Bonded Labor.*—There is no law prohibiting forced or bonded labor, including that performed by children, and there were no reports of forced or bonded labor by children, or forced labor involving foreign workers or domestic servants. Forced labor has been imposed as a punishment for some convicted prisoners.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Law provides for the protection of children from exploitation in the workplace; however, the Government permitted child labor in some instances. The private sector minimum age for employment is 15 years for most types of nonagricultural labor, and 18 years for heavy work. Working hours for youths of legal age do not differ from those established for adults. In all cases, parental permission is required for children under the age of 16. The law prohibits children from working at night; however, the law applies only to children who work for a salary. Those who worked in family businesses and who technically were not paid a salary—a common phenomenon—did not fall under the law. Children under 16 are prohibited by law from working in mines, at petroleum sites, or in other dangerous fields. Children are not allowed to lift, carry, or drag heavy objects. The exploitation of children for begging purposes also is prohibited. The Government claimed that the expansion of the private sector has increased child labor. Independent information and audits regarding government enforcement were not available. UNICEF, with the cooperation of the Government, conducted a survey of child labor in the country; however, it did not address enforcement issues. The majority of children under age 16 who worked did so for their parents in the agricultural sector without remuneration. In a 2002 study, UNICEF found that 18 percent of children under the age of 18 participated in the labor force.

The Ministry of Labor and Social Affairs monitored employment conditions for persons under the age of 18, but it did not have enough inspectors to ensure compliance with the laws. The Ministry has the authority to specify the industries in which children 15 and 16 years of age may work. The Labor Inspection Department

performed unannounced spot checks of employers on a daily basis to enforce the law; however, the scope of these checks was unknown. The law does not prohibit forced or bonded labor by children; however, such practices were not known to occur.

*e. Acceptable Conditions of Work.*—The Minister of Labor and Social Affairs is responsible for enforcing minimum wage levels in the public and private sectors. In 2002, the Government increased public sector minimum wages by 20 percent to \$69 (3,175 Syrian pounds) per month, plus other compensation (i.e., meals, uniforms, and transportation). In August, the Government announced a 20 percent increase in private sector minimum wages to \$51 (2,684 Syrian pounds) per month; however, increases in prices largely cancelled out the gain in minimum wage levels. These wages did not provide a decent standard of living for a worker and family. As a result, many workers in both the public and private sectors took additional jobs or were supported by their extended families.

The statutory workweek for administrative staff was 6 days of 6 hours each, and laborers worked 6 days of 8 hours each. In some cases a 9-hour workday was permitted. The laws mandate one 24-hour rest day per week.

Rules and regulations severely limit the ability of an employer to dismiss employees without cause. Even if a person is absent from work without notice for a long period, the employer must follow a lengthy procedure of trying to find and notify the person, including through newspaper notices, before he is able to take action against the employee. Dismissed employees have the right of appeal to a committee of representatives from the union, management, the Ministry of Labor and Social Affairs, and the appropriate municipality. Such committees usually found in favor of the employee. Dismissed employees are entitled to 80 percent of salary benefits while the dispute is under consideration. No additional back wages are awarded should the employer be found at fault, nor are wage penalties imposed in cases in which the employer is not found at fault.

The law does not protect temporary workers who are not subject to regulations on minimum wages. Small private firms and businesses employed such workers to avoid the costs associated with hiring permanent employees. The law mandates safety in all sectors, and managers were expected to implement them fully. In practice there was little enforcement without worker complaints, which occurred infrequently despite government efforts to post notices regarding safety rights and regulations. Large companies, such as oil field contractors, employed safety engineers.

Officials from the Ministries of Health and Labor are designated to inspect work sites for compliance with health and safety standards; however, such inspections appeared to be sporadic, apart from those conducted in hotels and other facilities that catered to foreigners. The enforcement of labor laws in rural areas were more lax than in urban areas, where inspectors were concentrated. Workers may lodge complaints about health and safety conditions, with special committees established to adjudicate such cases. Workers have the right to remove themselves from hazardous conditions without risking loss of employment.

The law provides protection for foreign workers who reside legally in the country, but not for illegal workers. There were no credible estimates available on the number of illegal workers in the country.

*f. Trafficking in Persons.*—There are no laws that specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country. Standard labor laws could be applied in the event of allegations of trafficking. The Penal Code penalizes prostitution and trafficking of citizen women abroad.

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## TUNISIA

Tunisia is a constitutional republic dominated by a single political party. Zine El-Abidine Ben Ali has been president since 1987. In the 1999 presidential and legislative elections, President Ben Ali ran against two opposition candidates and won 99.44 percent of the vote. There are 7 legal opposition parties, which together hold approximately 20 percent of the seats (34 of 182) that the law reserves for them in the Chamber of Deputies. Elections are regularly characterized by notable irregularities, including voter intimidation, and there is no secret ballot. The Constitution provides that the President appoints the prime minister, the cabinet, and the 24 governors. The Constitution provides for an independent judiciary; however, the executive branch and the President strongly influence judicial decisions, particularly in political cases.

The police share responsibility for internal security with the National Guard and other state security forces. The police operate in the capital and a few other cities.

In outlying areas, their policing duties are shared with, or ceded to, the National Guard. The majority of internal security forces are under the control of the Minister of Interior. The civilian authorities maintained effective control of all security forces. Members of the security forces committed numerous serious human rights abuses and acted with impunity.

The country has a population of approximately 10 million and an export-oriented economy that is relatively diversified and increasingly market-based. During the year, the economy's annual growth rate increased to its long-term average of approximately 5 percent. Wages have generally kept pace with inflation. The majority of citizens are in the middle class, and fewer than 5 percent fall below the poverty line.

The Government's human rights record remained poor, and it continued to commit serious abuses in many areas; however, the Government continued to respect human rights in certain areas. There were significant limitations on citizens' right to change their government. Members of the security forces tortured and physically abused prisoners and detainees. Security forces arbitrarily arrested and detained individuals. International observers were not allowed to inspect prisons, and lengthy pretrial, and sometimes incommunicado, detention remained a problem. The Government infringed on citizens' privacy rights. Security forces physically abused, intimidated, and harassed citizens who voiced public criticism of the Government. The Government continued to impose significant restrictions on freedom of speech and of the press. Editors and journalists continued to practice self-censorship. The Government remained intolerant of public criticism and used physical abuse, criminal investigations, the court system, arbitrary arrests, residential restrictions, and travel controls (including denial of passports), to discourage criticism by human rights and opposition activists. The Government restricted freedom of assembly and association. The Government did not permit proselytizing.

#### 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 Penal Code prohibits such practices; however, security forces tortured detainees to elicit confessions and political prisoners to discourage resistance. The forms of torture included: electric shock; confinement to tiny, unlit cells; submersion of the head in water; beatings with hands, sticks, and police batons; suspension from cell doors resulting in lost consciousness; cigarette burns; and food and sleep deprivation. Police allegedly beat naked, manacled prisoners while they were suspended from a rod. According to other credible reports, police and prison officials used sexual assault and threats of sexual assault against the wives of Islamist prisoners to extract information, to intimidate, and to punish. The Government did not use Islamic law (Shari'a) as a source of guidance on punishment.

Charges of torture were difficult to prove because authorities often denied victims access to medical care until evidence of abuse disappeared. The Government maintained that it investigated all complaints of torture and mistreatment filed with the prosecutor's office and noted that alleged victims sometimes accused police of torture without filing a complaint, which it stated was a prerequisite for an investigation. However, according to human rights groups, police refused to register complaints, and judges dismissed lodged complaints without investigating. According to Amnesty International (AI) and defense attorneys, the courts routinely failed to investigate allegations of torture and mistreatment and have accepted as evidence confessions extracted using torture. The Government may open an administrative investigation without a formal complaint but is unlikely in those cases to make the results public or even available to the lawyers of affected prisoners.

One reputable NGO suggested that while the Government had slowly improved its treatment of detainees and prisoners in the mid to late 1990s, incidents of abuse were now becoming as common as before. In June 2002, the Tunisian Human Rights League (LTDH) released a report stating that the human rights situation in the country had "seriously deteriorated." The report cited several instances of torture and deaths in prison in previous years. Political prisoners and Islamists allegedly received harsher treatment during their arrests and confinement than criminal detainees.

AI reported on March 10 that one minor and nine young men were arrested in early February in the southeast and that several of them were tortured. The report related that the detainees claimed to have been "beaten on various parts of the

body” and that two of them said they also had been “suspended from the ceiling and beaten on their arms and legs.” According to AI, one individual was told that “his mother and sister would be brought to the location of the detention, stripped naked, and tortured in his presence.”

Security forces regularly used violence against Islamists, activists, and dissidents. On May 10, policemen assaulted Bechir Essid, the President of the National Bar Association, while he was returning from a memorial service honoring the death of a political prisoner who died from torture.

On August 30, four plainclothes policemen attacked Lasaad Jouhri. Jouhri, a former Islamist prisoner who has a partially paralyzed right leg resulting from torture he received in prison between 1991 and 1994, is a key intermediary between current and former political prisoners and the year-old International Association for the Support of Political Prisoners (AISPP). Jouhri remained under close police surveillance and was harassed throughout the year for his political involvement. Police questioned individuals who spoke to him in public.

Credible NGOs stated that the incidence of violence committed by security forces against the property (especially vehicles) of human rights activists increased. During the year, there continued to be regular reports of such cases.

In 2002, three plainclothes policeman attacked and severely beat Judge Mokhtar Yahiaoui, who was removed from the bench in 2001 for criticizing interference with the judiciary by the executive branch. Yahiaoui said he believed the beating was the result of his 2002 call on the Government to release 23 political prisoners who had been in detention for more than 10 years.

Prison conditions ranged from spartan to poor, and in nearly all cases, did not meet international standards. Credible, independent observers described prison conditions as “horrible.” Overcrowding and limited medical care posed a significant threat to prisoners’ health. Sources reported that 40 to 50 prisoners were typically confined to a single 194-square-foot cell, and up to 140 prisoners share a 323-square-foot cell. Defense attorneys reported that prisoners were forced to share a single water and toilet facility with more than 100 cellmates, creating serious sanitation problems.

Zouhair Yahiaoui, a formerly imprisoned Internet journalist (see Section 2.a.), reported that he had shared a cell that was 40 square meters with 80 fellow prisoners and that they only had access to water for 30 minutes a day. He conducted hunger strikes to protest his treatment.

On March 18, a commission of inquiry into prison conditions delivered its report to President Ben Ali, who had ordered an investigation into the substandard prison conditions documented in a December 2002 article in the magazine *Réalités*. The report was not released to the public. The *Réalités* article had stated that there were 253 prisoners per 100,000 citizens, that prisoners were made to sleep on floors and under beds, and that some waited up to 7 months before moving from the floor to a bed shared with other prisoners.

On June 10, AI published a report entitled “Tunisia: the Cycle of Injustice,” stating that prisoners faced prolonged solitary confinement, medical neglect, torture, ill treatment, and humiliation, as well as the violation of other basic rights. It also highlighted continued government harassment of former prisoners after they are released.

Men, women, and children were held separately in prisons. According to *Réalités*, there were four juvenile “reformatory centers.” Conditions for detainees and convicts were believed to be roughly equivalent. Conditions in women’s jails and prisons were better than in men’s jails. Pretrial detainees were usually but not always kept separate from convicts.

There were credible reports that prison conditions and rules were harsher for political prisoners and Islamists. Former political prisoners said their records and identity cards were marked to identify them to guards for “special treatment.” These prisoners were apparently moved frequently and upon arrival at a new prison received a brutal beating. One credible report alleged the existence of special cellblocks for political prisoners, in which they might be held in solitary confinement for months at a time. Another credible source reported that high-ranking leaders of the illegal an-Nahdha (“Renaissance”) Islamist movement have remained in solitary confinement since 1991. Other sources alleged that political prisoners regularly were moved among jails throughout the country, thereby making it more difficult for their families to deliver food to them and to discourage their supporters or the press from inquiring about them. The National Council for Liberties in Tunisia (CNLT) reported that inmates were instructed to stay away from new political prisoners and were punished severely for contact with them.

Unlike in previous years, there were no confirmed deaths in prison from negligence. However, human rights activists attributed this improvement to what they

alleged was a new government policy of releasing terminally ill prisoners in order to avoid inquiries that would have resulted from deaths in prison. During the year, there were several cases in which prisoners died after being released from prison. Human rights NGOs claimed that some of these deaths were preventable, but for the inadequate medical care in prisons and unnecessary delays in seeking outside medical assistance for critically ill prisoners.

The Government did not permit international organizations or the media to inspect or monitor prison conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution specifically prohibits arbitrary arrest, detention, and exile; however, those prohibitions were not always observed in practice.

The Ministry of Interior controls the majority of the security services. Within the ministry are several law enforcement organizations, including the police, who have primary responsibility within the major cities; the National Guard, which has responsibility in smaller cities and the countryside; and state security forces tasked with monitoring groups and individuals the Government considers threatening, such as the media, Islamists, human rights activists, and opposition parties and leaders. It is widely believed that the Ministry of Interior monitors the communications of those groups and individuals, and there are a large number of plainclothes police throughout the country. In general, law enforcement groups are disciplined, organized, and effective. However, there were episodes involving petty corruption, including the solicitation of bribes by police at traffic stops, and police brutality against individuals whose behavior was deemed “provocative.” Human rights activists believed that law enforcement organizations operated with impunity and that high officials sanctioned the attacks on dissidents and oppositionists that the police allegedly committed.

The law provides that the police must have a warrant to arrest a suspect, unless the crime committed was a felony or in progress; however, authorities sometimes ignored this requirement and arbitrary arrests and detentions occurred. The Penal Code permits the detention of suspects for up to 6 days prior to arraignment (the 3 day maximum may be renewed once), during which the Government may hold suspects incommunicado. Arresting officers are required to inform detainees of their rights, immediately inform detainees’ families of the arrest, and make a complete record of the times and dates of such notifications. However, those rules were sometimes ignored. Detainees have the right to know the grounds of their arrest before questioning and may request a medical examination. However, they do not have a right to legal representation during the pre-arraignment detention. Attorneys, human rights monitors, and former detainees maintained that the authorities illegally extended detainment by falsifying arrest dates. Police reportedly extorted money from families of innocent detainees in exchange for dropping charges against them.

The law permits the release of accused persons on bail, which may be paid by a third party. In cases involving crimes for which the sentence exceeds 5 years or that involve national security, pretrial detention may last an initial period of 6-months and may be extended by court order for two additional 4-month periods. For crimes in which the sentence may not exceed 5 years, the court may extend the initial 6-month pretrial detention by an additional 3-months only. During this pretrial stage, the court conducts an investigation, hears arguments, and accepts evidence and motions from both parties. The law provides persons indicted for criminal acts the right to appeal their indictment before the case comes to trial. Detainees have the right to be represented by counsel during arraignment. The Government provides legal representation for indigents. At arraignment, the examining magistrate may decide to release the accused or remand him to pretrial detention.

After a case is investigated, a court sets a trial date. Defendants do not have the right to a speedy trial, nor is there any limit to how much time a case can take. Complaints of prolonged detention awaiting trial were common, and President Ben Ali publicly encouraged judges to make better use of bail and suspended sentences. Some defendants claimed that they were held in pretrial detention for years.

Judges are allowed to substitute community service for jail sentences in cases having sentences of 6-months or less. There were no reports that this alternative was applied in political cases.

The Government denied detaining anyone for political crimes. The lack of public information on prisoners made it impossible to estimate how many political detainees there were. However, it is likely that the number of political detainees held without charge is low because laws prohibiting membership in outlawed organizations and “spreading false information aimed at disturbing of the public order” are so broadly written that criminal convictions of dissidents and Islamists are easy to

secure. One credible estimate suggested that there were 600 political prisoners convicted of those and/or other charges (see Section 1.e.).

Judges and the Government exercised their authority to release prisoners or suspend their sentences, often on conditional parole (see Section 1.e.). Internet journalist Zouhair Yahiaoui was conditionally released from prison in November (see Section 2.a.).

The Constitution prohibits forced exile; however, some political opponents in self-imposed exile were prevented from obtaining or renewing their passports in order to return. The Penal Code allows judges to impose administrative controls at sentencing that follow the completion of a prison sentence; however, only judges may order a former prisoner to register at a police station, and the law limits registration requirements to 5 years. The arbitrary imposition of administrative controls on former prisoners following their release from prison often prevented them from being able to hold a job. Defense attorneys reported that some clients must sign in four or five times each day and at times that are determined only the previous evening. When their clients would arrive at the police station, they were forced to wait hours before signing in, which made employment impossible and childcare difficult. Numerous Islamists released from prison in recent years have been subjected to these types of requirements. At least one former prisoner, Abdullah Zouari, was arrested and sentenced to 9-months in prison in August for violating the terms of the administrative control measures imposed on him (see Section 2.a.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch and the President strongly influenced judicial decisions, particularly in political cases. The executive branch appoints, assigns, grants tenure to, and transfers judges, which rendered the system susceptible to pressure in sensitive cases. In addition, the President is head of the Supreme Council of Judges. The law provides citizens legal recourse to an administrative tribunal to address grievances against government ministries; however, government officials rarely respected the tribunal's decisions. Throughout the year, the Government permitted observers from diplomatic missions, members of the European Parliament, and foreign journalists to monitor trials, while selectively barring other observers from human rights organizations from entering the country (see Section 4). The Government did not permit observers to attend sessions of military tribunals.

The court system has civil and criminal courts, which include courts of first instance, housing, appeal, and cassation (the country's highest appeals court). There are also military courts, which fall under the Ministry of Defense, and an administrative tribunal. In most cases, the presiding judge or panel of judges dominates a trial, and defense attorneys have little opportunity to participate substantively.

Trials in the regular courts of first instance and in the courts of appeal are open to the public. By law, the accused has the right to be present at trial, be represented by counsel, and question witnesses; however, judges do not always observe these rights in practice. The law permits the trial in absentia of fugitives from the law. Indigent defendants are provided with free representation. Both the accused and the prosecutor may appeal decisions of the lower courts. In court, a woman's testimony is worth the same as a man's.

Although family and inheritance law is codified, judges were known to apply Shari'a law in family cases (especially those involving child custody) if the two systems conflicted. For example, codified laws provided women with the legal right to custody over minor children; however, judges sometimes refused to grant women permission to leave the country with them, holding that Shari'a appoints the father as the head of the family who must grant children permission to travel. Some families avoided the application of Shari'a inheritance rules by executing sales contracts between parents and children in order to ensure that daughters received shares of property equal to that of sons.

The Constitution provides that defendants are innocent until proven guilty "following a procedure offering essential defense guarantees." However, in 2001, a sitting judge, Jedidi Ghenya, was quoted as stating in court that everyone who appears before him is guilty until he or she proves their innocence. Defendants may request a different judge if they believe that a judge is not impartial; however, in practice, judges did not always permit this.

Lengthy trial delays remained a problem (see Section 1.d.). Defense lawyers claimed that judges sometimes refused to let them call witnesses on their clients' behalf or to question key government witnesses. Defense lawyers contended that the courts often failed to grant them adequate notice of trial dates or to allow them time to prepare their cases. Some reported that judges restricted access to evidence and court records, and in some cases, required all the lawyers working on a case to examine documents together on a single date in judges' chambers, without allowing them to copy relevant documents.

Lawyers and human rights organizations reported that courts routinely failed to investigate allegations of torture and mistreatment and accepted as evidence confessions extracted under torture (see Section 1.c.). They noted that the summary nature of court sessions sometimes prevented reasoned deliberation. They also stated that erratic court schedules and procedures were designed to deter observers of political trials.

Military tribunals try cases involving military personnel and civilians accused of national security crimes. A military tribunal consists of a civilian judge and four military deputy judges (conseillers). Defendants may appeal the military tribunal's verdict to the civilian court of cassation, which considers arguments on points of law as opposed to the facts of a case. AI has claimed that citizens charged under the tribunals have been denied basic rights during the judicial process.

The Government denied that it held any political prisoners but did not permit access into prisons by international humanitarian organizations. Therefore, there was no definitive information regarding the number of political prisoners. One credible local NGO claimed to have a list of 541 names, while other NGO estimates range from 450 to as many as 1,000. Nearly all of these prisoners were Islamists but very few were convicted for acts of violence. Those who have been identified by international human rights groups as political prisoners or prisoners of conscience were arrested or detained under articles of the Penal or Press Codes that prohibit membership in illegal organizations or spreading false information aimed at undermining the public order. Many were arrested for disseminating information produced by organizations such as the banned Islamist group an-Nahdha. Former political prisoners added that their identity papers were marked in a way that results in their receiving harsher treatment (see Section 1.c.). The Government normally did not provide details on the numbers or types of prisoners released. Prisoner releases traditionally take place on national holidays, but the Government does not announce the number of released prisoners or their names.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions “except in exceptional cases defined by law;” however, the Government infringed on these rights, and police sometimes ignored the requirement to have a warrant before conducting searches if authorities considered state security to be involved.

Unlike in previous years, there were no confirmed reports of forced entry into the homes and offices of human rights activists and opposition figures.

Authorities may invoke state security to justify telephone surveillance. There were numerous reports of the Government intercepting faxes and emails. The law does not explicitly authorize these activities, but the Government stated that the Code of Criminal Procedure implicitly gives investigating magistrates such authority. Many political activists experienced frequent and sometimes extended interruptions of home and business telephone and fax service. Human rights activists accused the Government of using the Postal Code, with its broad but undefined prohibition against mail that threatens the public order, to interfere with their correspondence and interrupt the delivery of foreign publications.

On September 4, the Government formed a “National Committee for the Protection of Personal Information,” allegedly to create a judicial structure sufficient to protect personal information.

Security forces routinely monitored the activities, telephone, and Internet exchanges of opposition, Islamist, and human rights activists and sometimes harassed, followed, questioned, assaulted, or otherwise intimidated them, their relatives, and associates. Security forces continued to harass, assault, and intimidate members of the CNLT and LTDH (see Sections 1.c., 2.b., and 4). Police placed journalists who wrote articles critical of the Government or who were active in human rights organizations under surveillance (see Section 2.a.). One such activist, human rights lawyer Radhia Nasraoui, conducted a 57-day hunger strike to protest the Government's mistreatment of her, her family, and her clients. She reported that the Government kept her under continuous surveillance, routinely cut her telephone service, and harassed her clients.

Credible reports indicated that the children of activists were harassed and beaten by police. In June 2002, a man that witnesses believed was a plainclothes policeman attacked the daughter of Judge Mokhtar Yahiaoui with a club as she was leaving school. Human rights activists claimed that the Government subjected family members of Islamist activists, as well as human rights activists, to arbitrary arrest, reportedly using charges of “association with criminal elements” to punish family members for crimes allegedly committed by the activists. Human rights activists reported that their family members were denied jobs, business licenses, and the right to travel due to their relatives' activism. They also alleged that the relatives of Islamist activists who are in jail or living abroad were subjected to police surveil-

lance and mandatory visits to police stations for questioning about their activist relatives. The Government maintained that the “non-activist” relatives were themselves members or associates of the outlawed an-Nahdha movement and that they were thereby subject to legitimate laws prohibiting membership in or association with that organization.

Human rights activists alleged that security forces arbitrarily imposed administrative controls on prisoners following their release from prison (see Section 1.d.) and confiscated national identity cards from numerous former prisoners. Confiscation of an identity card makes nearly every aspect of civil and administrative life difficult. An individual must have an identity card to receive access to healthcare, sign a lease, buy or drive a car, have access to bank accounts and pensions, and even to join a sports club. Police may stop anyone at any time and ask for their identity card. If individuals are unable to produce their cards, police may detain them until their identity can be established by a central fingerprint database. There were no indications that the Government had reissued any of the 10,000-plus confiscated national identity cards of former prisoners convicted of an-Nahdha membership or relatives of an-Nahdha members and their supporters.

The Government regularly prohibited the distribution of some foreign publications (see Section 2.a.). Security forces often questioned citizens seen talking with foreign visitors or residents, particularly visiting international human rights monitors and journalists (see Section 2.a.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press; however, the Government restricted these rights in practice. The Government used a central censorship office as well as indirect methods to restrict press freedom and encourage a high degree of self-censorship. The Government also uses the Press Code, which contains broad provisions prohibiting subversion and defamation, to prosecute individuals who expressed dissenting opinions. In a 2001 speech before his party, the ruling Constitutional Democratic Rally (RCD), President Ben Ali stated that although the Government must protect the right of citizens to hold dissenting opinions, those citizens who criticize the country in the international media were “traitors” who would be prosecuted to the full extent of the law. Direct criticism of government policies or officials was restricted, either directly or through self-censorship (Section 1.f.).

Abdullah Zouari, a former journalist for the an-Nahdha journal *Al-Fajr*, was released from prison in April 2002 after serving 11 years. He was rearrested in August 2002 for violating the terms of his “administrative control measures” (see Section 2.d.), which required him to stay “in the area of his residence” in a small town along the Libyan border, far from his family who lived in Tunis. In August, he again violated the terms of his release when he traveled with a foreign lawyer to meet with other former political prisoners and was rearrested. Several other *Al-Fajr* journalists allegedly remained in jail, serving sentences that were imposed in the early 1990s. The Government stated that the arrests, indictments, and convictions were carried out in full accordance with the law.

In 2002, the Tunisian Association of Journalists (AJT) released a widely disseminated report later denounced by the AJT leadership, strongly criticizing the Government’s control of the press and information sector. Apparently responding to government pressure, the AJT’s 2003 report contained almost no criticism of the present state of freedom of the press. At year’s end, the Tunisian Newspaper Association remained expelled from the World Association of Newspapers because of its failure to oppose repression of freedom of the press.

Several independent newspapers and magazines—including several opposition party journals—existed; however, the Government relied on direct and indirect methods to restrict press freedom and encourage a high degree of self-censorship. Most Government restrictions on the media were designed to control information published internally. The international media had reasonably free access within the country; however, visiting foreign journalists sometimes complained of being followed by security officials.

As a result of growing competition from satellite broadcasters, the broadcast media was forced to update its programming to include the addition of differing points of view on international issues. However, this dialogue did not extend to national issues.

Print media was less tightly controlled than broadcast media. The Government owned and operated the Tunisian Radio and Television Establishment (ERTT). The ERTT’s coverage of government news was taken directly from the official news agency, the Tunisian African Press. There were several government-owned regional radio stations and two national television channels. A bilateral agreement with Italy per-



mits citizens to receive the Italian television station RAI-UNO; however, the broadcast of French television station France 2 remained suspended because of its critical coverage of the 1999 elections. The Government regulated the sale and installation of satellite dishes, and, according to recent official estimates, there were more than 200,000 in the country. However, other sources stated that a majority of households had satellite receivers, and at least 70 percent of the population had access to satellite broadcasts. Citizens viewed broadcasts of not only pan-Arab media like Al Jazeera but also independent stations focusing on North Africa, such as the London-based Al-Mustakillah and Zeitouna (maintained by an-Nahdha, the outlawed Islamist party) as alternative sources of news and political opinion. The Zeitouna website was also popular. Al Jazeera cited onerous government controls to explain why it did not maintain a presence in the country.

The Government continued to tightly control the radio airwaves; however, on November 7, the country's first private radio station began broadcasting. Although the station was allowed to engage in wide social commentary it did not enjoy the same freedom in the political sphere.

On November 19, Internet journalist Neziha Rejiba, who writes under the name Om Zied, received a \$950 (1,200 dinar) fine and an 8-month suspended sentence for violating local currency restrictions. Rejiba noted that she was not in technical violation of the law, which was not routinely enforced. It was widely believed that she was singled out for her critical writing about local politics. The Government blocked access to the online magazine, Kalima, for which she is a contributing journalist.

On November 18, Internet journalist Zouhair Yahiaoui was conditionally released from prison after serving the majority of his 2-year prison sentence. Yahiaoui was arrested in June 2002 for spreading false information on his opposition web magazine TUNeZINE. The magazine had published an online conference on the May 2002 Constitutional referendum and asked respondents to vote whether they felt that living in the country was like living in a prison. He also was alleged to have posted a rumor of an armed attack against the President. Yahiaoui was considered the only secular (i.e. non-Islamist) political prisoner. Defense lawyers said they were given no opportunity to make arguments about his case in court (see Section 1.c.).

Opposition activists and international observers criticized the 2002 transfer of responsibility for the media to the Interior Ministry as superficial and designed to give the appearance of liberalization, with only cosmetic changes. The Government allowed newspapers published outside Tunis to provide copies for approval to local government offices instead of a central office located in Tunis. Newspapers were required to raise the percentage of journalists drawn from the government-run Institute of Journalism on their editorial staff from 30 percent to 50 percent.

Although no specific legislation directly allowing for government censorship exists, the LTDH 2003 Report on the Freedom of the Press noted that the Government maintained firm control over the independent press by controlling the placement of all ads in local newspapers and magazines, keeping subtle, but clear, pressure over the editors, reducing information to one single source (i.e. the local wire service or carefully orchestrated government press conferences).

The Government's strict psychological and legal control of the press continued to create a hostile environment for journalists. Primary among these methods was "depot legal," the requirement that printers and publishers provide copies of all publications to the Ministry of Interior and get a receipt before the publications may be distributed. On occasion, such receipts reportedly were withheld, sometimes indefinitely. Without a receipt, publications could not be distributed legally. The Government also reportedly withheld this authorization in order to prevent the circulation of books that it deemed critical of the Government.

In March 2002, the Government seized At-Tariq Al Jadid, the paper of the opposition party Renewal Movement when editors tried to print a story critical of the constitutional reform plan. The opposition Democratic Progressive Party (PDP) claimed that, in January and August 2001, copies of its government-subsidized newspaper, Al-Mawqif, were removed from newsstands because they contained articles critical of the Government. Publication of the Al-Mawqif newspaper was delayed on several occasions. During the year, Al-Mawqif returned to the newsstands, although on an irregular basis. Since 1999, the Government has not permitted the Tunisian Bar Association to publish its internal bulletin.

Human Rights groups criticized the selection of the country as the site of the 2005 World Summit on Information Society meeting because of the country's record on Internet freedoms and freedom of expression.

The Tunisian Agency for External Communications effectively imposed censorship by selectively withholding advertising funds. There were credible reports that the Government withheld advertising orders, a vital source of revenues, from publications that published articles deemed offensive by the Government. For example,

after Hedi Yahmed's *Réalités* article on prison conditions, the Government pulled its ads from the magazine for a brief time, and in December 2002, Yahmed was forced to resign from *Réalités* (see Section 1.c.). The Government exerted further control over the media by threatening to impose restrictions on journalists, such as refusing permission to travel abroad, withholding press credentials, and imposing police surveillance on those who wrote articles critical of the Government.

In July, the Government amended the electoral code to prohibit citizens from talking about national politics on foreign radio or television channels during the 2-week campaign prior to national elections. The law imposes a \$19,000 (25,000 TD) fine on violators. This was widely seen as an attempt to limit the impact of opposition party satellite broadcasts originating in London and to deter opposition leaders from criticizing the Government on foreign Arab media that have been unwilling to self-censor (like Al Jazeera).

The Press Code contains provisions similar to, but much broader than, libel laws that prohibit subversion and defamation, neither of which is clearly defined. The code stipulates both fines and confiscation for failure to comply with its provisions. The Government routinely used this method to prevent distribution of editions of foreign newspapers and magazines that contained articles critical of the Government.

Members of the security forces reportedly questioned journalists regarding the nature of press conferences and other public functions hosted by foreigners that the journalists attended.

The Government continued to refuse to allow AI's local chapter to distribute textbooks on human rights written for high school students. Like other publications, textbooks are subject to the "depot legal" process.

During the year, the Government selectively encouraged greater use of the Internet. Journalists and students were entitled to a 25 percent reduction in Internet usage fees. While there were an estimated 500,000 Internet users and 3 million subscriptions, the Government remained vigilant about monitoring e-mail and Internet content. It also frequently blocked websites and on-line publications containing information critical of the Government posted by NGOs, opposition parties, the media, and foreign governments, including a report on Internet use in the country by Human Rights Watch (HRW). The Government also closed several public Internet stations, citing complaints that minors were accessing "immoral" websites. The number of Internet cafes in the country dropped from 340 in 2002 to 260 during the year. Eighty were closed during a police sweep in June and July 2002. The Government used the Internet widely, with most government ministries and agencies posting information on readily accessible websites. The five Internet service providers in the country remained under the control of the Tunisian Internet Agency, which regularly provided lists of subscribers to the Government. Human rights activists alleged that the agency regularly interfered with and intercepted their Internet communications. The Press Code, including the requirement that advance copies of publications be provided to the Government, applies to information shared on the Internet (see Section 4).

The Government limited academic freedom. Like journalists, university professors sometimes practiced self-censorship by avoiding statements supporting the *an-Nahdha* movement or critical of the Government in the classroom. Professors alleged that the Government used the threat of tax audits, control over university positions, and strict publishing rules to encourage self-censorship. The presence of police on campuses also discouraged dissent. Professors must inform the Ministry of Higher Education in advance of any seminars, including the list of participants and subjects to be addressed. Copies of papers to be presented in university settings or seminars must be provided to the Ministry in advance.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right. Groups that wish to hold a public meeting, rally, or march must apply for (and subsequently obtain) a permit from the Ministry of Interior no later than 3 days before the proposed event, and they must submit a list of participants. The authorities routinely approved such permits for groups that support government positions but often refused permission for groups that expressed dissenting views. In addition to permits, registration also was used to control the status and operations of NGOs.

During the year, LTDH activists continued to report government harassment, interrogation, property loss or damage, unauthorized home entry, and denial of passports. In October 2002, the LTDH reported disruptions to its regional elections in the southern town of Gabes and the northern town of Jendouba. Accounts of events differed, but the LTDH maintained that ruling RCD party delegates objected to the voting procedures in Gabes and moved that the congress should be adjourned without completing the election. Members of the RCD threatened LTDH members with

physical violence and police intervened, ultimately prohibiting the conclusion of the voting. Additionally, smaller LTDH offices reported difficulty in renting space to hold elections. Leaders maintained that police threatened hotel and hall managers to prevent them from renting meeting space to them. Despite LTDH president Mokhtar Trifi's pledge to continue elections despite threats and violence, no new board was elected by year's end.

Unlike in previous years, there were no reports that police disrupted CNLT meetings during the year; however, large numbers of plainclothes state security officers continued to maintain a visible presence surrounding the meeting sites of human rights NGOs, allegedly to intimidate attendees.

The Government permitted some demonstrations to occur; however, the Government broke up several unsanctioned demonstrations during the year. For example, on February 16, police disrupted a Tunisian General Federation of Labor (UGTT) anti-war demonstration in Sfax, injuring 20 protestors; however, the Government allowed UGTT to demonstrate legally the next day. Five demonstrators, including the Secretary General of a high school teachers' union, were injured in another protest that police interrupted a week later on February 23. Police dispersed several pro-Iraq demonstrations and meetings on college campuses. In December 2002, the Government forbade 11 opposition and civil society groups from demonstrating against war with Iraq. Hundreds of riot police enforced the ban, although organizers indicated they had tried to coordinate the protest with authorities beforehand. The RCD organized several anti-war demonstrations on March 22 and 23, which were allowed to take place.

The Constitution provides for freedom of association; however, the Government restricted this right by refusing registration to some political groups or parties based on religion, race, region of origin, or political orientation. The Government banned organizations that it claimed threaten disruption of the public order and used this proscription to prosecute and harass members of the Tunisian Communist Worker's Party (PCOT), CNLT, and Rally for an International Alternative to Development (RAID), among others.

On July 8, the Court of Appeals ruled that the February 2002 1-day strike of lawyers organized by the Tunisian National Bar Association, to protest the excessive use of force by security forces in the courtroom of opposition activist Hama Hammami, had been illegal.

*c. Freedom of Religion.*—The Constitution provides for the free exercise of religions that do not disturb the public order, and the Government generally respected this right in practice; however, there were some restrictions and abuses. The Government does not permit the establishment of political parties based on religion, prohibits proselytizing, and partially limits the religious freedom of Baha'is. Islam is the state religion, and the Constitution stipulates that the President must be a Muslim. The Government controlled and subsidized mosques and some synagogues, and it paid the salaries of both Muslim prayer leaders and the country's Grand Rabbi.

The Government recognizes all Christian and Jewish religious organizations that were established before independence in 1956. Although it permitted other Christian denominations to operate freely, only the Catholic Church had formal recognition from the post-independence Government. Other groups may in theory be recognized on an ad hoc basis. Authorities deported foreigners suspected of proselytizing and did not permit them to return. There were no reported cases of official action against persons suspected of proselytizing during the year. Since 1999, the Government has not permitted registration of a Jewish religious organization in Djerba; however, the group has been permitted to operate, and it performed religious activities and charitable work unhindered.

Islamic religious education was mandatory in public schools; however, the religious curriculum for secondary school students also included histories of Judaism and Christianity.

The Government did not permit the establishment of political parties based on religion, and it used this prohibition to outlaw the Islamist party, an-Nahdha, and to prosecute suspected activists for "membership in an illegal organization" (see Sections 1.c., 1.d., 1.e., and 2.b.). Several years ago, the Government revoked the identity cards of an estimated 10,000 to 15,000 Islamists and fundamentalists (see Section 1.f.), which, among other consequences, prevented them from being legally employed. The Government continued to maintain tight surveillance over Islamists and Islamic fundamentalists.

The law provides that only persons whom the Government appoints may lead activities in mosques, such as prayer or theological discussion groups. The Government required that mosques remain closed except during prayer times and other authorized religious ceremonies, such as marriages or funerals. According to human

rights lawyers, the Government regularly questioned individuals observed praying frequently in mosques. Authorities instructed imams to espouse government social and economic programs during prayer times in mosques.

Government regulations forbid the wearing of hijabs (headscarves worn by traditional Muslim women) in government offices, and the Government discouraged their use in public. While penalties were not normally applied, there were reports of police requiring women to remove their hijabs in offices, on the street, and at certain public gatherings.

Religious publications are subject to the same restrictions on freedom of speech and press as secular publications. Christian groups were generally allowed to distribute religious documents in English but not in Arabic. Moreover, only sanctioned religious groups were allowed to distribute religious documents. In the Government's view, distribution by other groups constituted an illegal "threat to public order."

Christians and Jews living in the country, including foreigners, constitute approximately 2 percent of the population. The Government permitted Christians who did not proselytize to worship as they wished, and it let Jewish communities operate private religious schools. Jewish children on the island of Djerba were permitted to divide their academic day between secular public schools and private religious schools. The Government also encouraged Jewish expatriates to return for the annual pilgrimage to the historic El-Ghriba Synagogue on the island of Djerba. After a suicide truck bombing at that same synagogue in April 2002, the Government provided increased security.

While Baha'is do not consider themselves to be Muslims, the Government regarded the Baha'i faith as a heretical sect of Islam and permitted its adherents to practice their faith only in private. It also did not permit Christian groups to establish new churches. Although proselytizing was banned, there were no reported cases of official action against persons suspected of proselytizing during the period covered by this report.

The Government denied the applications for passports of some individuals who converted to another faith from Islam, allegedly as a form of retribution and to discourage others from also converting. In addition, Muslims who convert to another religion faced social ostracism.

For a more detailed discussion, see the 2003 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, the Government refused to issue, renew, amend, or accept passports of some dissidents, Islamists, and their relatives. The Government also may impose at sentencing a 5-year period of "administrative controls" on certain former prisoners that constituted a type of internal exile. Unlike parole, these individuals have completed their sentences, and the areas to which they are sent to live could be far from their homes and families (see Section 1.d.).

The law provides that the courts can cancel passports and contains broad provisions that both permit passport seizure on national security grounds and deny citizens the right either to present their case against seizure or to appeal the judges' decision. The Ministry of Interior is required to submit requests to seize or withhold a citizen's passport through the public prosecutor to the courts; however, the Ministry of Interior routinely bypassed the public prosecutor to withhold passports from citizens with impunity. The public prosecutor deferred to the Ministry of Interior on such requests.

On August 12, a citizen was reportedly refused permission to travel outside the country because she was the sister of a critic of the Government living in France. Likewise, former Judge Mokhtar Yahiaoui continued to be prevented from traveling abroad. Another citizen said that her father was prevented from traveling to both Saudi Arabia to perform religious rituals and Europe to seek medical treatment because the Government saw him as a "former" dissident. The Government did not process his application for a passport, and he died in September without having been able to travel (see Section 2.c.).

Hedi Bejaoui, another an-Nahdha member under administrative control since 1990, has been unable to travel for medical treatment due to the Government's seizure of his passport (see Section 1.d.). In November 2002, the Government again denied Sadri Khiari the right to travel to France to defend his dissertation. A support committee called Article 13, after the freedom of movement section of the Universal Declaration of Human Rights, was established in support of Khiari and others who were denied their right to travel.

Some political opponents in self-imposed exile were prevented from obtaining or renewing their passports in order to return (see Section 1.d.). The Government also reportedly confiscated the passports of a small number of Christian converts.

There was no data available about the number of internally displaced persons in the country, but it was a technique occasionally imposed on Islamist former prisoners, as part of a broader set of administrative controls imposed on released political prisoners. The Government assigns those individuals a place of residence at the time of their initial sentencing, and they may be instructed to report to the police several times per day. One example was Abdallah Zouari, a former journalist, who was assigned to live in the small southeastern town of Zarzis (see Section 2.a.).

The Constitution provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and regularly granted refugee status and asylum. It also expressly prohibited the extradition of political refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. The Government acknowledged the UNHCR's determination of refugee status, which was accorded to 99 individuals during the year. Also during that year, the UNHCR processed 71 applications for asylum. The Government provided temporary protection for refugees based on UNHCR recommendations. There was no pattern of abuse of refugees. Although a few refugees were deported during the year, none were forced to return to countries where they feared persecution. During the year, a UNHCR official in the country said that there were 120,000 Algerian refugees and 75,000 Iraqi refugees living in the country.

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

The Constitution provides that citizens shall elect the President and members of the Chamber of Deputies for 5-year terms; however, there were significant limitations on citizens' right to change their government. The RCD's domination of state institutions and political activity precluded credible and competitive electoral challenges from unsanctioned actors. Moreover, irregularities that called into question the legitimacy of elections were routine. In national votes over the last few years, official margins of victory for the incumbent or the Government position were routinely greater than 99 percent, and there were indications that voter turnout was falsified. The Chamber of Deputies held occasionally lively debates on the merits of government initiatives, but, in terms of lawmaking, it simply confirmed legislation initiated by the executive branch.

The ruling party has maintained power continuously since the country gained its independence in 1956. The RCD dominates the Cabinet, the Chamber of Deputies, and regional and local governments. The President appoints the Cabinet and the 24 governors. The Government and the party are integrated closely; the President of the Republic is also the president of the party, and the party's secretary general holds the rank of minister, as do most members of the RCD politburo, who exert significant influence over national affairs. There were 7 legal opposition parties, which together held approximately 20 percent of the seats (34 of 182) that the law reserves for them in the Chamber of Deputies.

Narrowly written criteria in the Electoral Code significantly limit the number of individuals eligible to run for president. A candidate must receive the endorsement of 30 sitting deputies or municipal council presidents to be eligible to run. On January 7, the Chamber of Deputies debated and passed a government-sponsored bill that amended Article 40 of the Constitution to redefine the prerequisites for presidential candidates. According to the new amendment, a candidate must be drawn from the executive or steering committee of his or her political party, instead of the old rule allowing only party chiefs to run, but must have been on the committee for 5 years. A further condition is that the party must have representation in the Chamber of Deputies. Those reforms, which in theory increased the number of persons eligible to run for president, also criminalized the use of foreign media during the campaign period immediately preceding the election (see Section 2.a.).

To mitigate the advantages wielded by the ruling party, the Electoral Code reserves 20 percent of seats in the Chamber of Deputies for the officially recognized opposition parties and distributes them on a proportional basis to those parties that won at least a single directly elected district seat. Because opposition parties have been unsuccessful in their attempts to raise money from private contributors, the Government partially funded their campaigns. For the 1999 elections, each party represented in the Chamber of Deputies received an annual public subsidy of approximately \$42,000 (60,000 TD), plus an additional payment of \$3,500 (5,000 TD) per deputy. Additional funding was available in proportion to the number of district

lists that each party presented. During the 4-month campaign for the 2002 constitutional referendum, the Government gave opposition parties television time to present their positions. Opposition newspapers had difficulty finding sources of advertising revenue, so the Government gave each one \$105,000 (150,000 TD) annually. The Government provided airtime and equal space on bulletin boards for opposition parties.

RCD membership conferred other tangible advantages. For example, children of RCD members were much more likely to receive scholarships and housing preferences at school. There also were reports that RCD members were much more likely to receive small business permits and waivers on zoning restrictions.

The Government did not permit the establishment of political parties on the basis of religion and used the prohibition to refuse recognition of the an-Nahdha party and to prosecute suspected members for "membership in an illegal organization" (see Sections 2.b. and 2.c.). In 2002, the Democratic Forum for Labor and Liberties (FTDL) was legalized, 8 years after first applying for recognition.

The 2002 constitutional amendments enable President Ben Ali to remain in office past his third 5-year term, which ends in 2004. Of the 38 amendments to the constitution that were approved, the 6 most substantive were the following: Article 15, which originally endowed citizens with the responsibility for national defense, was broadened to include protection of the country's "independence, sovereignty, and integrity." Article 19 established a Chamber of Councilors as a second legislative chamber, comprised of 1 to 2 members (depending on population) from each of the 24 governorates, as well as two other groups who will be chosen by the President, one from among "professional organizations" and another of "national public figures." Article 39, which originally limited the president to three terms, was abolished. Changes to Article 40 raised the upper age limit of presidential candidates to 75. Article 41 granted the president judicial immunity upon leaving office for acts he undertook in the exercise of his duties. Lastly, Article 57 granted the Constitutional Council responsibility for determining if the president is unfit to govern and mandates that, in such an event, the president of the Chamber of Deputies would hold the presidency between 45 and 60 days until new elections can be held. On July 28, President Ben Ali announced his candidacy to run for president in the 2004 elections.

There were 21 women in the 182-seat legislature. One of the 25 ministers, and 5 of the 20 Secretaries of State in the Government were women. More than one-fifth of municipal council members were women. Three women served as presidents of chambers on the Court of Cassation, the highest court of appeals. Two women served on the 15-member higher council of the magistracy. September 7 by-elections in a governorate on the outskirts of Tunis were one of the first elections held in the country without gender segregation at polling stations.

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

A number of domestic and international human rights groups existed and were able to investigate and publish their findings on human rights cases; however, the Government sought to discourage investigations of human rights abuses. The Government claimed that there were more than 7,000 NGOs in the country; however, the number of human rights NGOs is closer to 10, of which 5 were authorized and 5 were unauthorized. However, the Government states that a much larger number work on a broader set of human rights related issues, such as social and economic development. The Government met with registered domestic human rights NGOs, and it responded to their inquiries; however, it also harassed, targeted, and prosecuted some of them. Human rights activists and lawyers complained of frequent interruptions of postal and telephone services (see Section 1.f.). There were numerous additional reports during the year of unauthorized home entries, suspicious property loss or damage, and police attacking human rights activists, journalists, and others critical of the Government (see Sections 1.c., 2.a., and 2.b.).

The LTDH was one of the most active independent advocacy organizations, with 41 branches throughout the country. The organization receives and investigates complaints and protests abuses. It reported that RCD activists had disrupted some of its regional elections and had prevented national elections from taking place. In previous years, the LTDH had reported unauthorized break-ins and denial of passports. During the year, the LTDH reported that RCD activists disrupted some of its regional elections. By year's end, incomplete regional results prevented national elections from taking place (see Section 2.b.).

The Government charged two human rights activists, Mohamed Nouri and Mokhtar Yahiaoui, with "knowingly spreading false information with the aim of inspiring belief in the existence of a criminal act targeting persons or property" after

they cited, in May, the apparently false claims of a citizen seeking asylum in France that a person had died in police custody in April.

Since 1998 the Government has refused to authorize the CNLT's registration as an NGO. The CNLT issued statements criticizing government human rights practices. Government officials stated that, by publishing communiques in the name of an unregistered NGO, CNLT members violated the Publications Code (which requires that advance copies be provided to the Government), belonged to an illegal organization, and threatened public order. Some CNLT members still were unable to obtain passports (see Sections 1.f. and 2.d.).

Unlike previous years, during which the Government deterred representatives of international NGOs from traveling to the country, there were no reported cases of the Government preventing international NGOs from visiting. On March 11, the International Commission of Jurists issued a report in which it stated that it had attempted to conduct two fact-finding missions in the country in June 2002 and October 2002. On each occasion, members of the groups were forced by immigration officials to return to Europe immediately upon their arrival. In September 2002 a delegation of Dutch lawyers was also denied entry into the country to protest the lack of an independent judiciary and support for the Tunisian Bar Association.

HRW stated that Abdullah Zouari was arrested in August because he assisted an HRW research mission in the south, despite a warning by police "not to contact foreign media and rights workers" (see Section 2.a.).

AI continued to maintain a local chapter, although members complained that the office suffered repeated loss of telephone and fax service. Persons who had considered joining the chapter reported that security officials discouraged them from doing so. AI officials reported that they were under periodic police surveillance and that there was interference with their mail.

The International Committee of the Red Cross (ICRC) maintained a regional office in the country, covering Algeria, Libya, Mauritania, Morocco/Western Sahara, and Tunisia. According to its website, it focuses on the Western Sahara issue and on promoting knowledge of international humanitarian law.

In June, the U.N. Committee on the Elimination of Racial Discrimination issued a report in response to a July 2002 government report that the Committee said did not provide sufficient information about the country's human rights situation and the status of Berbers. The Committee also expressed concern that "penal laws punish racial discrimination and incitement to racial hatred as extensions of the law that penalizes terrorism."

The Ministry of Justice and Human Rights, created in September 2002 and headed by Bechir Tekkari, has the lead on addressing human rights issues in the country. The General Coordinator for Human Rights directed the Ministry's human rights portfolio on a day-to-day basis. There were also human rights offices in other ministries. A governmental body, the Higher Commission on Human Rights and Basic Freedoms, allegedly addressed and sometimes resolved human rights complaints. The Higher Commission submitted confidential reports directly to President Ben Ali. The Government maintained several human rights websites, which highlighted the country's human rights achievements, but it continued to block access to the sites of most human rights organizations (see Section 2.a.).

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

The Constitution provides that all citizens are equal before the law, and the Government generally respected these rights. Legal discrimination was not pervasive; however, in some areas such as inheritance and family law, Shari'a-based provisions in the civil code adversely affected women.

*Women.*—Violence against women occurs, but there are no comprehensive statistics to measure its extent. The National Union of Tunisian Women (UNFT) is a government-sponsored organization that ran a center to assist women and children in difficulty. Another, the Tunisian Democratic Women's Association, also operated a counseling center for women who were victims of domestic violence. It assisted approximately 20 women per month. Police officers and the courts tended to regard domestic violence as a problem to be handled by the family. Nonetheless, there are stiff penalties for spousal abuse. Both the fine and imprisonment for battery or violence committed by a spouse or family member are double those for the same crimes committed by an individual not related to the victim.

The Penal Code specifically prohibits rape. There is no legal exception to this law for spousal rape, but in part due to social stigma, there were no reports of spousal rape being prosecuted.

The Penal Code prohibits prostitution, but charges against individuals were rare. There were no reported cases of trafficking or forced prostitution involving women (see Section 6.f.).

During the year, there were approximately 20 cases of young women who were slashed with razorblades by one or more male assailants riding mopeds, reportedly because the women were dressed in a style Islamists viewed as immodest. In August, police arrested two individuals for the attacks. Both remained imprisoned at year's end.

The Penal Code specifically prohibits sexual harassment. Sexual harassment occurred, but there were no comprehensive statistics to measure its extent.

Women enjoy substantial rights, and the Government advanced those rights in the areas of property ownership practices and support to divorced women. Women comprised approximately 30 percent of the work force. The law explicitly requires equal pay for equal work, and although there were no statistics comparing the average earnings of men and women, anecdotal evidence indicated that women and men performing the same work received the same wages. In 2002 there were an estimated 5,000 businesses headed by women, which was an increase from 3,900 in 2000. A slight majority of university students were women. Even in the last few years female (as well as male) illiteracy levels dropped markedly in both rural and urban areas, and although overall illiteracy among women remained 20 percent higher than among men, that figure, due in large part to rural illiteracy among generations born prior to the country's independence, continued to drop. Women served in high levels of the Government as cabinet ministers and secretaries of state, comprising more than 13 percent of the total (see Section 3). Women constituted 37 percent of the civil service and 24 percent of the nation's total jurists. However, women still face societal and economic discrimination in certain categories of private sector employment.

Codified civil law is based on the Napoleonic code; however, judges often use Shari'a as a basis for customary law in cases involving family and inheritance laws. Most property acquired during marriage, including property acquired solely by the wife, is held in the name of the husband. Muslim women are not permitted to marry outside their religion. Marriages of Muslim women to non-Muslim men abroad are considered common-law and are voided when the couple returns to the country. Application of inheritance law continued to discriminate against women, and there was a double standard based on gender and religion: Non-Muslim women and Muslim men who are married may not inherit from each other, the Government considers all children from those marriages to be Muslim, and those children are forbidden by law from inheriting anything from their mothers.

There was a Ministry for Women's Affairs, Family, and Childhood, with nearly 3 percent of its \$2 million (3 million TD) budget devoted to ensuring the legal rights of women while simultaneously improving their socioeconomic status. The Government supported and funded the UNFT, women's professional associations, and the Government's Women's Research Center. Several NGOs focused, in whole or in part, on women's advocacy and research in women's issues, and a number of attorneys represented women in domestic cases.

*Children.*—The Government demonstrated a strong commitment to free and universal public education, which is compulsory from age 6 to 16. According to UNICEF, 95 percent of boys and 93 percent of girls were in primary school, and approximately 73 percent of boys and 76 percent of girls were in secondary school. During the year, female students graduated from secondary school at a higher rate than male counterparts. There were schools for religious groups (see Section 2.c.). The Government sponsored an immunization program targeting preschool-age children and reported that more than 95 percent of children are vaccinated. Male and female students received equal access to medical care.

Penalties for convictions for abandonment and assault on minors were severe. There was no societal pattern of abuse of children. There were two ministries responsible for rights of children: the Ministry of Women's Affairs, Family, and Childhood, and the Ministry of Culture, Youth, and Leisure. Each had secretaries of state responsible for safeguarding the rights of children.

*Persons with Disabilities.*—Persons with disabilities faced little discrimination in the fields of employment or education or in the provision of state services. The law prohibits such discrimination and mandates that at least 1 percent of public and private sector jobs be reserved for persons with disabilities. All public buildings constructed since 1991 must be accessible to persons with physical disabilities, and the Government generally enforced these provisions. Many cities, including the capital, began installing wheelchair access ramps on city sidewalks. The Government issued special cards to persons with disabilities for benefits such as unrestricted parking, priority medical services, preferential seating on public transportation, and consumer discounts. The Government provided tax incentives to companies to encourage the hiring of persons with physical disabilities.



The law also specifically prohibits discrimination against persons with mental disabilities. Several active NGOs provided educational, vocational, and recreational assistance to children and young adults with mental disabilities. The Government and international organizations funded several programs.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide workers the right to organize and form unions, and the Government generally respected this right in practice. The UGTT is the country's only labor federation. Approximately 15 percent of the 3.3 million-person work force were members, including civil servants and employees of state-owned enterprises, and a considerably larger proportion of the work force is covered by union contracts. A union may be dissolved only by court order.

The UGTT and its member unions are legally independent of the Government and the ruling party but operated under regulations that restrict their freedom of action. The UGTT's membership included persons associated with all political tendencies. There were credible reports that the UGTT receives substantial government subsidies to supplement modest union dues and funding from the National Social Security Account. While regional and sector-specific unions operate with some independence on local issues, the central UGTT leadership generally cooperated with the Government regarding its economic reform program. Throughout the year the UGTT board showed some independence regarding economic and social issues and in support of greater democracy.

The law prohibited antiunion discrimination by employers; however, the UGTT claims that there was antiunion activity among private sector employers, especially firing of union activists and using temporary workers to avoid unionization. In certain industries, such as textiles, hotels, and construction, temporary workers account for a large majority of the work force. The Labor Code protects temporary workers, but enforcement was more difficult than in the case of permanent workers. A committee chaired by an officer from the Labor Inspectorate of the Office of the Inspector General of the Ministry of Social Affairs and Solidarity, and including a labor representative and an employers' association representative, approves all worker dismissals.

Unions were free to associate with international bodies. The UGTT is a signatory to the Maghreb Social Charter which includes provisions on the right to work, gender equality, freedom of movement, protection for children, women, elderly, and persons with disabilities, better working conditions, workplace health and safety, and vocational and professional training. The UGTT was a member of the International Confederation of the Free Trade Unions (ICFTU), Confederation of Arab Trade Unions, and Confederation of African Trade Unions. Many individual unions are affiliated with relevant international sectoral confederations. ICFTU noted in its Annual Survey of Trade Union Rights that the Government has never produced the list of essential services "whose interruption would endanger the lives, safety or health of all or a section of the population," which leaves that provision of the Labor Code open to abuse.

*b. The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is protected by law and observed in practice. Wages and working conditions are set in triennial negotiations between the UGTT member unions and employers. Forty-seven collective bargaining agreements set standards for industries in the private sector and covered 80 percent of the total private sector workforce. The Government's role in private sector negotiations was minimal, consisting mainly of lending its good offices if talks stalled. However, the Government must approve, but may not modify, all agreements. Once approved, the agreements are binding on both union and nonunion workers in the line of work that they cover. The UGTT also negotiated wages and work conditions of civil servants and employees of state-owned enterprises. The Government is the partner in such negotiations. The 2002–03 triennial labor negotiations with the UGTT and UTICA (the private sector employer's association) resulted in a compromise 5 percent wage increase in most sectors.

Unions, including those representing civil servants, have the right to strike, provided that they give 10 days advance notice to the UGTT and it grants approval. The ICFTU has characterized the requirement for prior UGTT approval of strikes as a violation of worker rights. However, such advance approval rarely was sought in practice. There were numerous short-lived strikes over failure by employers to fulfill contract provisions regarding pay and conditions and over efforts by employers to impede union activities. While the majority of the strikes technically were illegal, the Government did not prosecute workers for illegal strike activity, and the strikes were reported objectively in the press. The law prohibited retribution against

strikers. Labor disputes were settled through conciliation panels in which labor and management are represented equally. Tripartite regional arbitration commissions settle industrial disputes when conciliation fails.

There are export-processing zones (EPZs) in the country. Organization and collective bargaining rights are not denied by law or practice in EPZs, nor are there any special laws or exemptions for regular labor laws for these zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, and there were no reports that such practices occurred. However, some parents of teenage girls placed their daughters as domestic servants and collected their wages (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor does not pose a significant problem. The minimum age for employment is 16 years and is consistent with the age for completing educational requirement (see Section 5). The minimum age for light work in the non-industrial and agricultural sectors during non-school hours is 13 years. Workers between the ages of 14 and 18 must have 12 hours of rest per day, which must include the hours between 10 p.m. and 6 a.m. Children between the ages of 14 and 16 in non-agricultural sectors may work no more than 2 hours per day. The total time that children spend in school and work may not exceed 7 hours per day. The minimum age for hazardous or manual labor is 18. The Government adhered to the standards of International Labor Organization (ILO) Convention 182 and enacted regulations concerning the “worst forms of child labor” and “hazardous” work. Inspectors of the Ministry of Social Affairs and Solidarity examined the records of employees to verify that employers complied with the minimum age law. Nonetheless, young children sometimes performed agricultural work in rural areas and worked as vendors in towns, primarily during their summer vacation from school. There were no reports of sanctions against employers.

Observers expressed concern that child labor existed, both disguised as apprenticeship, particularly in the handicraft industry, and in the cases of teenage girls whose families placed them as domestic servants. There were no reliable statistics on the extent of this phenomenon; however, an independent lawyer who conducted a study of the practice in 2000 concluded that hiring of underage girls as domestics servants had declined with increased government enforcement of school attendance and minimum work age laws.

*e. Acceptable Conditions of Work.*—The Labor Code provides for a range of administratively determined minimum wages, which are set by a commission of representatives from the Ministries of Finance, Social Affairs and Solidarity, and Development and International Cooperation, in consultation with UGTT and UTICA and approved by the President. In June, the industrial minimum wage was raised to \$165 (211 dinar) per month for a 48-hour workweek and to \$144 (184 dinar) per month for a 40-hour workweek. The agricultural minimum wage is \$5 (7 dinar) per day. With the addition of transportation and family allowances, the minimum wage provided a decent standard of living for a worker and family. However, that income was only enough to cover essential costs. The Labor Code sets a standard 48-hour workweek for most sectors and requires one 24-hour rest period per week.

Regional labor inspectors are responsible for enforcing standards related to hourly wage regulations. They inspect most firms approximately once every 2 years. However, the Government often had difficulty enforcing the minimum wage law, particularly in non-unionized sectors of the economy. In addition, the ILO has estimated that more than 240,000 workers were employed in the informal sector, which was not covered by labor laws.

The Ministry of Social Affairs and Solidarity has responsibility for enforcing health and safety standards in the workplace. There were special government regulations covering hazardous occupations like mining, petroleum engineering, and construction. Working conditions and standards tended to be better in firms that were export oriented than in those producing exclusively for the domestic market. Workers were free to remove themselves from dangerous situations without jeopardizing their employment, and they may take legal action against employers who retaliate against them for exercising this right.

The few foreign workers in the country have the same protections as citizen workers.

*f. Trafficking in Persons.*—Establishing the scope of trafficking in persons is problematic due to difficulties distinguishing trafficking in persons from other forms of illegal migration; however, available reports do not indicate that trafficking in persons was a significant problem. Although the law does not specifically prohibit trafficking in persons, the Government was prepared to use other provisions of the penal code to combat trafficking should the need arise. Measures were introduced

during the year to criminalize aspects of it; however, current law does prohibit slavery and bonded labor.

In March, the Coast Guard stopped a Libyan ship transiting Tunisian waters. Police arrested 180 persons on board, including the captain and crew. The passengers were deported and the ship's operators were charged with filing improper shipping documents. In April, the National Guard arrested 50 North Africans attempting to emigrate illegally from Mahdia (120 miles south of Tunis) by boat to Italy. Those arrested claimed they paid up to \$900 (1000 TD) each. Passengers were convicted of illegal border crossing and imprisoned. In June, a Libyan ship sank off the coast of Tunisia attempting to cross to Italy, which resulted in more than 200 deaths. A week later, nine more illegal immigrants drowned when their ship sank off the northeastern coast. In August, 1 group of 46 Central Africans successfully made the crossing from the country to Sicily, while authorities arrested another group of 30 individuals near Moknine, thus preventing their departure for the Italian coast.

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## UNITED ARAB EMIRATES

The United Arab Emirates (UAE) is a federation of seven emirates established with no democratically elected institutions or political parties. Traditional rule in the emirates generally is patriarchal, with political allegiance defined in terms of loyalty to the tribal leaders, to the leaders of the individual emirates, and to the leaders of the federation. There are no general elections; however, citizens may express their concerns directly to their leaders through traditional consultative mechanisms, such as the open majlis, or council. The seven emirate rulers constitute a Federal Supreme Council, the highest legislative and executive body. The Council selects a President and Vice President from its membership; the President, in turn, appoints the Prime Minister and Cabinet. In 2001, the Council reelected Sheikh Zayed bin Sultan al-Nahyan as head of the state for 5 years. The Constitution requires the Council to meet annually, although individual leaders meet frequently in more traditional settings. The Cabinet manages the Federation on a day-to-day basis. A consultative body, the Federal National Council (FNC), consisting of 40 advisors appointed for 2-year terms by the emirate rulers, reviews proposed legislation, discusses the annual budget, and may question federal government ministers in open sessions. The Constitution provides for an independent judiciary; however, its decisions were subject to review by the political leadership.

Each emirate maintains its own independent police force. While all emirate internal security organs theoretically are branches of one federal organization, in practice they operated with considerable independence. The Government maintained effective control over security forces. There were no reports that security forces committed human rights abuses.

The country has a free market economy based on oil and gas production, trade, tourism, and light manufacturing. The expatriate population comprised about 85 percent of the estimated 3.8 million population. Each emirate independently owns local petroleum production, with most of the country's petroleum resources located in Abu Dhabi. The emirate of Dubai has developed into the region's leading financial, commercial, transport, and tourism center. The economy provided citizens with a high per capita income, but it was heavily dependent on foreign skilled and unskilled workers.

Serious problems remain, although the Government's respect for human rights improved in a few areas. Citizens do not have the right to change their government. The Government restricted freedom of speech and of the press. The press continued to practice self-censorship. The Government restricted free assembly and association, and somewhat restricted religious freedom by banning proselytizing of Muslims. In August, the Government closed the Zayed Centre for Coordination and Follow-up for sponsoring anti-Jewish activities. The Government restricted the rights of workers, many of whom are not protected by labor laws. There are no labor unions; however, the Government mediated several labor disputes and often ruled in favor of employees. There were reports of poor working conditions for some laborers, failure to pay wages, and abuse of foreign domestic servants in an economy in which 98 percent of the private sector workforce is foreign. Trafficking in women and children continued to be a problem, despite Government efforts to end the practice.

## 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. There were no developments in the 2001 case of Libyan national Abdullah Abu al Ghazali, who died while in security force custody.

*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 there were no reports that government officials employed it; however, Shari'a (Islamic law) courts sometimes impose flogging sentences on Muslims (except in Dubai, where flogging is banned), and some non-Muslims, found guilty of adultery, prostitution, and drug or alcohol abuse. There were reports that flogging sometimes was carried out symbolically to prevent major or permanent injuries; however, during the year there was at least one case in Abu Dhabi Emirate of authorities using a leather strap to administer the flogging sentence, which caused the recipient significant pain and left substantial bruising, welting, and open wounds on the body.

Convictions in Shari'a courts do not require the Shari'a penalties on non-Muslims; however, such sentences were carried out in some cases. According to a 2002 Amnesty International (AI) report, at least 20 flogging sentences were passed in cases of adultery. For example, on August 17, the federal court ordered the flogging of a 15-year-old girl for adultery. She was sentenced to 90 lashes. The girl, who also faced deportation, appealed twice on the grounds that she was a juvenile but the federal court upheld the ruling under Shari'a law. The Federal Supreme Court overturned the ruling 5 days later, stating she was not responsible for the adultery charge under Shari'a due to her age. The court also overturned the deportation penalty.

Prison conditions generally met international standards and the Government permitted visits by independent human rights observers; however, rural prison conditions at times were inadequate. The Research Center of Abu Dhabi Police Department reported that all six of Abu Dhabi's prisons were overcrowded. Noncitizens represented approximately 85 percent of all prisoners. According to the Jurists Association, prison conditions varied widely from emirate to emirate. Men and women are housed separately. Pre-trial detainees were held separately from convicted criminals until the trial begins. Juveniles were held separately from adults. Political or security prisoners were kept separately and, in some cases, were transferred from the custody of the Ministry of Interior to the State Security Agency.

Police in Dubai and Abu Dhabi allow NGOs access to observe prison conditions; however, there were no reports of any such visits during the year.

In March, the Dubai police Human Rights Department launched the "Victim Care" program to provide psychological, emotional, and legal assistance to victims of sexual crimes and crimes against children. The program aims to protect victims from further harassment. In December, the Deputy Ruler of Dubai and Minister of Finance and Industry granted \$40,984 (150,000 dirhams) to the Human Rights Department in support of the Victim Care program.

In 2002, the Dubai police established a Human Rights Department within its prison system to monitor conditions, address prisoners' concerns, and maintain rehabilitation programs. The department organizes lectures, maintains libraries, and provides educational opportunities to prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the law permits incommunicado detention. The Government generally uses it in sensitive criminal cases in which the police claim that communication between the accused and a third party could jeopardize their investigation. In such cases, no one is notified that the person has been arrested. There were no reports of incommunicado detention during the year. In concert with other governments, there were arrests and detentions in 2001 of numerous individuals suspected of ties to extremist groups. Most of them were released.

The law prohibits arrest or search without probable cause.

Under the Criminal Procedures Code, the police must report arrests within 48 hours to the Public Prosecutor, who must determine within the next 24 hours whether to charge, release, or order further detention pending an investigation. The Public Prosecutor may order that detainees be held up to 21 days without charge. In cases of felonies or misdemeanors punishable by imprisonment, the authorities must obtain a court order after 21 days for additional detention. A court-ordered extension may not exceed an additional 30 days of detention without charge. Some diplomatic missions complain that authorities do not always notify them when their

citizens are detained or arrested. The Federal Constitution provides accused persons the right to a speedy trial. This right most often was invoked in civil cases, with civil defendants at times demanding same-day disposition of the cases filed against them. Authorities reportedly brought criminal defendants to trial in approximately 2 to 3 months, with the exception of drug-related cases. In drug-related cases, the authorities are required to inform the office of the ruler for the emirate in which the offense was committed of the charges, which may prolong the process considerably.

Trials can last a substantial period of time, depending on the seriousness of the charges, number of witnesses, and availability of judges. Serious cases such as rape sometimes take more than 1 year to get to trial.

There is no formal system of bail; however, authorities can release detainees temporarily who deposit money, an important document such as a passport, and/or an unsecured personal guarantee statement signed by a third party. Those arrested on regular charges were generally allowed to telephone third parties while in detention.

Defendants in cases involving loss of life, including involuntary manslaughter, can be denied release in accordance with the law. However, bail usually is permitted after a payment of compensation to the victims' families, commonly called "blood money," or *diya*, which is a form of financial penalty imposed on defendants in criminal cases involving a killing.

Review of criminal cases by the local ruler's *diwan*, as well as bureaucratic delays in processing or releasing prisoners, at times resulted in detainees serving time in the central prisons beyond their original sentences.

Rulers of the individual emirates regularly pardon prisoners on religious and national holidays. Those pardoned generally were serving sentences from 3 to 5 years for financial crimes, immigration violations, or other minor offenses. Pardons were not extended to prisoners convicted of more serious charges such as murder, rape, and kidnapping. Most pardoned foreign nationals were deported, while those jailed for financial crimes often were given a grace period before deportation to settle amounts still owed.

The Constitution prohibits forced exile, and there were no reported cases during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, its decisions were subject to review by the political leadership.

Many judges were noncitizen Arabs, whose mandates were subject to periodic renewal by the Government. The percentage of citizens serving as public prosecutors and judges, particularly at the federal level, continued to grow. Of all judges, 55 percent were country nationals, and 45 percent were non-nationals.

There is a dual system of Shari'a (Islamic) courts for criminal and family law matters and civil courts for civil law matters. Civil courts generally are part of the federal system, except in the Dubai and Ras Al-Khaimah Emirates, and are accountable to the Federal Supreme Court, located in Abu Dhabi. The Federal Supreme Court has the power of judicial review, as well as original jurisdiction in disputes between emirates or between the federal Government and individual emirates. The emirates of Dubai and Ras Al-Khaimah have their own local and appellate courts, which have jurisdiction over matters within their territories that the Constitution or federal legislation does not specifically reserve for the federal system. The emirates of Dubai and Ras Al-Khaimah do not refer cases in their courts to the Federal Supreme Court located in Abu Dhabi for judicial review, although they maintained a liaison with the federal Ministries of Justice, Islamic Affairs, and Awqaf.

Each emirate administers Shari'a courts. In some emirates, these courts consider all types of civil and commercial cases as well as serious criminal cases and family matters. They act in accordance with traditional Islamic law and practice, but also are required to answer to the Federal Supreme Court. Dubai has a special Shi'a council to act on matters pertaining to Shi'a family law (see Section 5).

Legal counsel may represent defendants in both court systems. Under the Criminal Procedures Code, the defendant has a right to government-provided counsel in all cases involving a capital crime or possible life imprisonment, regardless of whether the defendant is financially able to hire counsel. The Government provides counsel to indigent defendants charged with felonies punishable by "provisional imprisonment," or imprisonment of 3 to 15 years.

A defendant is entitled to an attorney only after the police have completed their investigation. As a result, police can question accused persons sometimes for days or weeks, as in narcotics cases, without benefit of legal counsel.

Defendants are presumed innocent until proven guilty. There are no jury trials. The number of judges sitting for a case depends on the type of crime alleged. Generally, three judges sit for felony criminal cases, and one judge sits for all other

cases. All trials are public, except for national security cases and those deemed by the judge likely to harm public morality.

Each court system has an appeals process. Death sentences may be appealed to the ruler of the emirate in which the offense is committed, or to the President of the Federation. Non-Muslims who are tried for criminal offenses in Shari'a courts can receive civil penalties at the discretion of the judge. Shari'a penalties imposed on non-Muslims can be overturned or modified by a higher court.

In cases in which a defendant is acquitted of a crime, the prosecutor may appeal the acquittal to a higher court. If the case is appealed, the higher court reviews the case and may receive additional evidence. If convinced of the defendant's guilt, the appellate court may set aside the lower court's verdict of not guilty, enter a verdict of guilty, and order the defendant to pay compensation. The appellate standard for overturning an acquittal is "without the slightest doubt of guilt."

In cases in which a defendant is sentenced to death, the sentence may be reduced to a term of imprisonment if the victim or victim's family provides a statement to the court forgiving the defendant. This waiver by the victim or victim's family is sometimes made in exchange for a "diya," or a financial payment from the defendant. The term of imprisonment in criminal cases is not related to the defendant's payment of compensation to the victim or victim's family.

The local rulers' diwans, following traditional prerogatives, maintain the practice of reviewing many types of criminal and civil offenses before cases are referred to the prosecutor's office. The diwans may review sentences passed by judges and return cases to the court on appeal. The diwans' involvement, which typically occurs when the case involves parties from two different emirates or a citizen and a noncitizen, can lead to long delays prior to and following the judicial process, causing some prisoners to remain in prison after they have completed their original sentences. Unlike in previous years, there were no reports of intervention by other emirates' rulers in specific cases of personal interest.

The military has its own court system. Military tribunals try only military personnel. There is no separate national security court system. Convicted criminals may request a pardon at any time, unless convicted of serious offenses such as murder.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits entry into homes without the owner's permission, except with a warrant and in accordance with the law. Only police officers and public prosecutors carrying a warrant are permitted entry into homes. Officers' actions in searching premises are subject to review, and officers are subject to disciplinary action if their actions are judged to be irresponsible. Local custom and practice place a high value on privacy, and entry into private homes without owners' permission was rare. A female police officer is required to be present during the search of a private home when male family members are absent.

Authorities do not commonly screen private correspondence; however, there have been reports of censorship of incoming international mail. The Government-owned Internet provider, Etisalat, regularly blocks Internet sites determined to be "objectionable" (see Section 2.a.).

Family matters for Muslims are governed by Shari'a law and the local Shari'a courts. Muslim women are forbidden to marry non-Muslims. In such cases, both parties can be arrested and tried. However, Muslim men are free to marry all women "of the book," which means Muslim, Christian and Jewish women.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech; however, the Government restricted this right in practice. The law prohibits, under penalty of imprisonment, criticism of the Government, ruling families, and friendly governments, as well as other statements that threaten social stability; however, the law was rarely enforced because journalists commonly practiced self-censorship.

Freedom of the press also was restricted. Two of the country's newspapers were government-owned and one, Al Bayan, received government subsidies. Privately owned newspapers no longer received government subsidies. The country's largest English- and Arabic-language newspapers were privately owned. Newspapers often relied on news agencies for material. Government-owned Emirates News Agency regularly provided newspapers with articles regarding domestic and international issues. This material was printed verbatim by most newspapers.

By law, the Ministry of Information licenses all publications. The ministry also approves the appointment of editors. The law governs press content and contains a list of proscribed subjects. Government officials reportedly warn journalists when they published material deemed politically or culturally sensitive.

A de facto ban prohibiting 10 prominent intellectuals from publishing opinion pieces in the country's Arabic and English language media continued. In 2002, 6 academics from Al Ain University were also banned. The ban was reportedly linked to the controversial Islamic fundamentalist political opinions held by those affected.

The government-owned Emirates Media, which published Al-Ittihad newspaper and owns Abu Dhabi's radio and television stations, forbids all its employees, including journalists, from speaking with representatives of foreign diplomatic missions without prior approval, although this rule was not enforced in practice.

While self-censorship affected what is reported locally, foreign journalists and news organizations operating out of Dubai Media Free Zone, reported few or no restrictions on the content of print and broadcast material produced for use outside the country.

Except for those located in Dubai's "Media Free Zone," most television and radio stations were government-owned and conformed to unpublished government reporting guidelines; however, these guidelines were not always applied consistently. Satellite receiving dishes were widespread and provided access to international broadcasts without apparent censorship. The main pan-Arab dailies were not censored and were distributed on the same day of publication. Censors at the Ministry of Information and Culture review imported newspapers, magazines, periodicals, books, films, and videos. They banned or censored before distribution material considered pornographic, excessively violent, derogatory to Islam, supportive of certain Israeli government positions, unduly critical of friendly countries, or critical of the Government or ruling families.

Internet access, which was open to public use with an estimated 1.11 million users, was provided through a state-owned monopoly, Etisalat. A proxy server blocked material regarded as pornographic or morally offensive, or as promoting radical Islamic ideologies, as well as anti-government sites. Generally, the proxy server did not appear to block news services, political expression unrelated to radical Islamic ideologies, or material originating from specific countries. However, it occasionally blocked individual news stories on news websites. Etisalat blocked AOL in the UAE because AOL offers a program that allows users to access censored sites. The Internet monopoly solicits suggestions from users regarding "objectionable" sites, and at times the Government responds by briefly blocking some politically oriented sites, which are later unblocked. The also blocks commercial "voice-chat" sites on the Internet.

Academic materials destined for schools were subject to censorship. Students were banned from reading texts featuring sexuality or pictures of the human body. In 2002, the Ministry of Education and Youth listed 26 books prohibited in schools, although the same books are widely available in bookstores. The Ministry also obligates private schools to comply with its censorship rules regarding curricula and textbooks. In 2001, over 60 employees of the Ministry of Education and Youth were either retired or transferred involuntarily, reportedly due to their extremist religious and/or political views. In 2002, six professors at UAE University, primarily political science professors, were banned from lecturing at the university, reportedly because of their extremist political views. At least one of them was also banned from publishing writings in newspapers.

In August, the Government closed the Zayed Centre for Coordination and Follow-up, a think tank that published and distributed literature, sponsored lectures, and operated a website. The center published some books with anti-Jewish themes such as "The Zionist Movement and its Animosity to Jews" and "Al Buraq Wall, Not Wailing Wall." It also allowed some anti-Semitic language on its website, and hosted some speakers who promoted anti-Semitic views. According to a statement from President Zayed's office, the Government closed the center because its activities "starkly contradicted the principles of interfaith tolerance" advocated by the president (see Sections 2.c.).

*b. Freedom of Peaceful Assembly and Association.*—The Government does not provide for freedom of assembly. Organized public gatherings require a government permit. In practice, the Government does not regularly interfere with informal gatherings held without a government permit in public places, unless complaints are made.

During the year, there were a number of widely publicized, organized gatherings of workers complaining of unpaid wages and unsuitable working conditions before the Ministry of Labor and Social Affairs building. Increasingly, the Ministry of Labor has mediated such disputes, ruling most often in favor of the workers. There also were a number of peaceful marches and rallies conducted in support of Palestinians and Iraq after the police granted permission.

Citizens normally confined their political discussions to the numerous gatherings, or majlises, held in private homes. There were many associations organized for economic, religious, labor, social, cultural, sports, and other purposes.

In March, anti-war demonstrations reportedly took place in Al Ain, Dubai and Ras Al Khaimah. Authorities reportedly allowed the protests and no arrests were made. In June, approximately 200 Iranians demonstrated in Dubai in support of student demonstrators in Iran. Police reportedly detained and questioned four students after molotov cocktails were thrown into the Iranian Consulate compound. However, Dubai police deny that this occurred.

The Government does not permit freedom of association without prior permission. However, there were no reports that the Government interfered with associations that formed without prior permission.

Unauthorized political organizations are prohibited. There were no political parties, independent human rights groups, or trade unions (see Sections 3 and 6.a.).

All nongovernmental organizations (NGOs) are required to register with the Ministry of Labor and Social Affairs. There were approximately 100 domestic NGOs registered with the Ministry of Labor and Social Affairs. However, a number of unregistered local NGOs operate in the country, with little or no government interference. Local NGOs focus on a multitude of topics, including women's issues, the environment, natural history, and archaeology. The Jurists Association's Human Rights Committee focused on local and regional human rights issues. The percentage of citizen membership in NGOs varied widely. All private associations, including children's clubs, charitable groups, and hobby associations, required approval and licensing by local authorities, although this requirement was enforced loosely in some emirates. NGOs registered and licensed with the Government reportedly received subsidies from the Government, with the amount received based on the size of their membership (see Section 4).

Private associations must follow the Government's censorship guidelines and receive prior government approval before publishing any material. In practice, some groups did not seek prior Government approval before printing and distributing materials, and were not persecuted by the Government for doing so.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion in accordance with established customs and the Government generally respects this right in practice; however, there were some restrictions. The Federal Constitution declares that Islam is the official religion of all seven of the constituent emirates of the federal union.

The Government controls virtually all Sunni mosques, prohibited proselytizing, and restricted the freedom of assembly and association, thereby limiting the ability of religious groups without dedicated religious buildings to worship and conduct business. The Government funded or subsidized virtually all Sunni mosques and employed all Sunni imams; approximately 5 percent of Sunni mosques were entirely private, and several large mosques have large private endowments. The Government distributes guidance on religious sermons to mosques and imams, whether Sunni or Shi'a, and monitors all sermons for political content.

The federal Ministry of Justice and Islamic Affairs and Awqaf, which regulates mosques, distributes weekly guidance to both Sunni imams and Shi'a sheikhs regarding subject matter, themes, and content of religious sermons. There were reports that an unknown number of imams were deported throughout the year for preaching messages of intolerance. All Sunni imams are employees of either the Federal Ministry of Justice, Islamic Affairs and Awqaf, or individual emirate departments. The emirate of Dubai's Department of Islamic Affairs and Endowments has approval authority over the appointment of preachers in that emirate's private mosques, as well as the conduct of their work.

The Shi'a minority, which was concentrated in the northern emirates, was free to worship and maintain its own mosques. All Shi'a mosques were considered private and received no funds from the Government. The Government did not appoint sheikhs for Shi'a mosques, but did monitor them closely. Shi'a Muslims in Dubai can pursue Shi'a family law cases through a special Shi'a council rather than the Shari'a courts.

Some non-Muslim groups can own their own houses of worship in which they can practice their religion freely. Although the title for the land remains with the ruler, they may request a land grant and permission to build a compound from the local ruler. The local ruler may approve or deny any or all such requests. Religious groups without land grants were limited in their ability to assemble for worship and conduct religious business. Some, but not all, were permitted to worship on the compounds of other religious groups. Groups that did not have their own buildings were required to use the facilities of other religious organizations or worship in private



homes. The police or other security forces did not interfere with gatherings held in private homes

The Government in practice interfered very little in the religious activities of non-Muslims. The treatment of Muslim and non-Muslim groups differed between citizens and noncitizens rather than because of religious differences.

During the year, there were serious accusations of religious and ethnic intolerance leveled at the Zayed Centre for Coordination and Follow-up, a local think tank. Critics worldwide cited multiple examples of anti-Jewish literature, website material, and lectures sponsored by the Zayed Centre, and began an international publicity campaign to expose the center's anti-Jewish bias. The center strongly refuted the charges; however, the Government shut down the center in August, stating that the center engaged in discourses that "starkly contradicted the principles of interfaith tolerance (see Sections 2.a. and 4).

Individual emirates excused considerable autonomy in religious matters. There did not appear to be a formalized method of granting official status to religious groups. Rather, the ruling families choose whether to grant access to land and permission to build houses of worship thereon. Since not all religious groups were given land use grants, several unrelated congregations were often required to share common facilities. Because Islam respects Christianity as one of the monotheistic religions, facilities for Christian congregations are far greater in number and size than those for other non-Muslim groups, despite the fact that Christians represented only approximately one quarter of non-Muslim noncitizens, according to government figures. No Jewish synagogues existed in the country. There were two Sikh temples and one Hindu temple operating in the country, all located in Dubai. There were no Buddhist temples; however, Buddhists, along with Hindus and Sikhs in cities without temples, conducted religious ceremonies in private homes without interference. There was a Baha'i cemetery in Abu Dhabi Emirate. There were only two cremation facilities and associated cemeteries for the large Hindu community, one in Dubai and the other in Sharjah. Official permission must be obtained to use the facilities in every instance, which posed a hardship for the large Hindu community.

Conversion of Muslims to other religions is prohibited. Although non-Muslims in the country are free to practice their religion, they are not allowed to proselytize or distribute religious literature to Muslims under penalty of criminal prosecution, imprisonment, and deportation. There are no specific laws against missionary activities, and unlike in previous years, authorities did not revoke the residence permits of persons suspected of such activities during the year. Although the Government does not permit foreign missionaries to proselytize Muslims, missionaries have performed nontraditional humanitarian work since before the country's independence in 1971. An International Bible Society representative in Al-Ain distributed Bibles and other religious materials to Christian religious groups countrywide.

In 2002, Dubai Police Criminal Investigation Department (CID) arrested a Filipino evangelical Christian pastor, for distributing religious materials in public in violation of the prohibition against proselytizing. He was detained for 1 month before being released on bail and he continued his preaching activity without restriction. On April 27, the pastor was found guilty of abusing Islam and missionary activity and received a 1-year suspended jail sentence. He departed the country voluntarily shortly after sentencing.

According to the country's first census in 2001, out of a total population of 3,754,000, 76 percent of the population was Muslim, 9 percent was Christian, and 15 percent belonged to other religious groups.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement or relocation within the country and the Government generally respected these rights in practice.

Unrestricted foreign travel and emigration is permitted for male citizens, except those involved in legal disputes under adjudication. Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country, which he usually accomplishes by taking custody of their passports (see Section 5). However, there was no enforcement of this custom at exit points unless there was a court order barring an individual from traveling. All citizens have the right to return.

There was a small population of "stateless" residents who either were without citizenship or had no proof of citizenship to any country. Many such families have lived in the country for more than one generation. Many stateless residents originally were from Iran and South Asia. Other stateless residents included Bedouins or the descendants of Bedouins who were unable to prove they originated in the country. There is no formal procedure for naturalization, although foreign women receive citi-

zenship through marriage to a citizen, and anyone may receive a passport by presidential fiat. Because they were not of the original tribal groups, passports and citizenship status of naturalized citizens may be revoked for criminal or politically provocative actions. However, such revocations were rare and there were no reports of such occurrences during the year.

A child born to at least one citizen parent acquires citizenship at birth.

During the year, the Government prohibited the long-standing practice of employers collecting and holding employees' passports. Embassies, consulates, and media reports confirm that police were enforcing the law. There were reports that the practice continued; however, there were also reports that the Ministry of Labor and police departments took action against these employers after employees filed complaints. There was wide media coverage of this change in law (see Section 6).

In July, the Ministry of Interior banned the widespread practice of employers forcing foreign national employees to surrender their passports as a condition of employment. This practice prevented international travel or repatriation by foreign national employees without their employers' consent, and especially affected employees in the resolution of employment disputes. Employers sometimes petitioned immigration authorities to blacklist employees with whom they were engaged in contract disputes. However, immigration authorities did not blacklist employees or employers without legal justification. Citizens are not restricted in seeking or changing employment. However, foreign nationals in specific occupations are not permitted to change employers without first leaving the country for 6 months (see Section 6.e.).

The law does not provide for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government does not provide protection against refoulement, and does not routinely grant refugee status or asylum.

Refugees generally are required to petition for settlement in third countries. In the past, the Government detained persons seeking refugee status, particularly non-Arabs, while they awaited resettlement in third countries.

There were cases during the year in which the Government indicated its intention to force refugee seekers to return to countries where they feared persecution. There were no reports that such deportations took place before the U.N. High Commissioner for Refugees (UNHCR) resettled the refugees in safe countries of transit.

In February, Dubai police, under orders from the Ministry of Interior, deported a group of noncitizens after the killing of an Indian businessman. Although, the group's involvement in the killing was unclear, the group was ordered administratively removed from the country for security reasons.

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

The law does not provide citizens with the right to change their government peacefully. There are no democratic institutions, and citizens do not have the right to form political parties.

Federal executive and legislative power is in the hands of the Federal Supreme Council, a body composed of the hereditary rulers of the seven emirates that elects from its members the country's president and vice-president. Decisions at the federal level generally were made by consensus among the rulers, their families, and other leading families. The seven emirate rulers, their extended families, and those persons and families to whom they are allied by historical ties, marriage, or common interest, held political and economic power in their respective emirates.

The rulers appoint the Federal National Council (FNC), a 40-person advisory federal consultative body. The Advisors are drawn from each emirate, with proportion based on emirate population. The FNC has no legislative authority but it may question ministers and make policy recommendations to the Cabinet. Its sessions usually were open to the public.

The ruling family, in consultation with other prominent tribal figures, chooses new emirate rulers. By tradition, rulers and ruling families were presumed to have the right to rule, but their incumbency ultimately depended on the quality of their leadership and their responsiveness to their subjects' needs. Emirate rulers were accessible, in varying degrees, to citizens who had a problem or a request.

There were very few women in senior positions. There were no female members of the FNC. In Sharjah, there were five women in the 40-seat Consultative Council. The new female Council members served on the Council's Family Development Committee. However, they reportedly were not limited to working on social issues and may also join the Council's other committees if they choose to do so. Other women in senior government positions included an undersecretary in the Ministry of Labor and Social Affairs and an assistant undersecretary for planning and evaluation in the Ministry of Education. On July 8, the Ministry of Foreign Affairs

swore in eight female diplomats, raising the total number of women serving in the diplomatic corps to 16. Prior to 2001, women were not allowed to serve as diplomats.

Although the small Shi'a minority enjoyed commercial success, few Shi'as held top positions in the federal government.

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

Few domestic and international human rights groups operate in the country. Although they must register with the government and are subject to regulations, in practice they generally operate without government restriction. There are legal restrictions regarding investigating and publishing findings on human rights cases. However, these restrictions, if violated, are often overlooked, and Government officials generally are cooperative and responsive to the groups.

In August, the Government closed the Zayed Centre for Coordination and Follow-up, a local think tank that published and distributed literature, sponsored lectures, and operated a website. The center published some materials with anti-Jewish themes, and hosted some speakers who promoted anti-Jewish views. The Government stated that it closed the center because its activities "starkly contradicted the principles of interfaith tolerance" advocated by the president.

The Jurists' Association Human Rights Committee, which focuses on human rights education, operated an independent domestic human rights NGO. During the year, the Committee regularly conducted seminars and symposia throughout the year on various human rights issues.

AI last visited the country in September 2002. During the year, the Government cooperated with other foreign NGOs and worked with foreign governments on issues involving the practice of trafficking in boys for use as child camel jockeys (see Section 6.f.). The Ministry of the Interior operated a Human Rights Department to monitor abuses and to increase human rights awareness. The Dubai Police Academy regularly offered a course on human rights in its curriculum for fourth-year students.

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

The Constitution provides for equality before the law without regard to race, nationality, or social status; however, there was institutional and cultural discrimination based on sex and nationality.

*Women.*—Abuse and rape are criminal offenses, and offenders are prosecuted and penalized. There were some reported cases of spousal abuse. The law protects women from verbal abuse and harassment from men, and violators are subject to criminal action. Police units were stationed at major public hospitals so that victims of abuse may file complaints, which fall under the jurisdiction of the Shari'a courts. In addition, attending physicians may call police to interview suspected victims of abuse. Social workers and counselors also maintained offices in public hospitals. However, women sometimes were reluctant to file formal charges for social, cultural, and economic reasons. When abuse is reported to local police, authorities may take action to protect the complainant. The Women's Da'waa Administration, part of the Dubai Awqaf and Islamic Affairs Department, operates a telephone hotline for women and children. The hotline has direct access to the Dubai Police, and is open to requests for assistance from women in all emirates.

There continued to be credible reports of physical and sexual abuse of female domestic servants by some local and foreign employers (see Section 6.e.).

"Honor killings" were rare and there were no reports during the year.

Prostitution is illegal; however, it has become an increasing problem in recent years, particularly in Dubai. Substantial numbers of women reportedly arrive regularly from the states of the former Soviet Union, Africa, East Asia, Eastern Europe, and other states of the Middle East for temporary stays, during which they allegedly engage in prostitution and possibly other activities connected with organized crime. While some prostitutes were trafficked to the country, there was credible evidence others entered the country of their own volition to make substantially more money than in their home countries (see Section 6.f.).

While prostitution was acknowledged widely to exist, the Government did not address the issue publicly because of societal sensitivities. However, during the year, there were newspaper reports highlighting the problems of prostitution and trafficking. In an effort to combat prostitution, the Dubai police conducted special patrols in areas frequented by prostitutes, and the immigration and police forces formed special units that conduct raids and sting operations in areas frequented by prostitutes. To further address the problem, authorities restricted the number of visas issued to single young women from certain countries of concern; however, there were ongoing reports that airlines and tourism companies continued to obtain

visitor visas for single young women, some of whom may have participated in prostitution upon their arrival. Other unconfirmed reports stated that some women were entering the country at smaller airports in the northern emirates to avoid unwanted scrutiny at the larger airports in Dubai and Abu Dhabi.

Trafficking in women for the purposes of sexual exploitation remained a problem, although the Government took steps to address the problem. Late in the year, the Dubai Police Department created an "Anti-Trafficking in Persons" department. The new department, along with the Human Rights Care Department and other police sections, the Immigration and Residency Administration, and public prosecutors formed a "Human Rights Council" to reportedly coordinate efforts to safeguard all aspects of human rights, and combat trafficking in persons (see Section 6.f.). Neither the labor law nor the civil service law, which covers labor matters in the public sector, prohibits the employment of women. A man has no right under Shari'a law to ban his wife from working if she was employed at the time of their marriage. By custom and tradition, some government bodies do not employ married women without their husbands' written consent. Reportedly in such cases, permission usually was granted.

There are no legal prohibitions against women owning their own businesses. Traditionally, professional women, including doctors, architects, and lawyers, did not face restrictions on licensing businesses in their names. The Abu Dhabi Chamber of Commerce regularly conducted programs to encourage small business entrepreneurship by women. In October, the First Economic Business Women's Forum, sponsored by the General Women's Union, provided a networking platform for Arab businesswomen, as well as ways to enhance the role of Arab businesswomen in the economic field. The Chambers of Commerce and Industry in Abu Dhabi and Dubai Emirates had Businesswomen's Councils.

Women who worked outside the home sometimes did not receive equal benefits, such as housing, and some faced discrimination in promotion. For example, if a woman and her husband were both employed by the Government, both housing allowances will be paid to the husband because he is obliged under Shari'a law to provide for housing. The Government provided employee housing allowances to single women and to married women whose husbands were employed in the private sector.

Maternity leave for public sector employees is a minimum of 60 days to a maximum of 6 months—2 months with full pay, 2 additional months of nursing leave with half salary, and the possibility of 2 more months without salary.

Opportunities for women were growing in government service, education, private business, and health services. According to a Ministry of Planning report issued during the year, citizen and noncitizen women constituted approximately 22 percent of the national workforce. The Government publicly encouraged citizen women to join the workforce and ensured public sector employment for all that apply. Women comprise the majority of primary and secondary school teachers and health care workers, and accounted for almost half of all government workers.

The Shari'a law of inheritance applies equally to men and women, although laws of distribution may differ. When a woman marries, her separate property—including her dowry, which is set by law at a maximum of approximately \$13,700(50,000 dirhams)—and the income of her separate property remain under her control and are not commingled with the separate property of her husband. During the marriage, the husband is obliged to provide a marital home and necessities for his wife and children. In the event of divorce, a woman takes her separate property, any amounts she receives in a property settlement with her husband, plus any allowances granted to her for maintenance for herself and her children.

Custom dictates that a husband can bar his wife, minor children, and adult unmarried daughters from leaving the country. When practiced, this was commonly accomplished by taking custody of their passports (see Section 2.d.).

Shari'a law is applied in personal status cases. The law permits men to have more than one wife, but not more than four at any given time.

Divorce is permissible. A woman may be granted a divorce if she can prove that her husband has inflicted physical or moral harm upon her. A woman also may sue for divorce if her husband has deliberately stayed away from her for a minimum of 3 months, or if he has not maintained the upkeep of her or her children. Divorced women also normally receive custody of female children until they reach the age of maturity or marry. Divorced women are also normally granted custody of male children until they reach the age of 13. If the court deems the mother to be unfit, custody normally reverts to the next able female relative on the mother's side. A woman who remarries may forfeit her right to the custody of children from a previous marriage.

The law prohibits cohabitation by unmarried couples; however, authorities generally did not pursue such cases. The Government may imprison and deport noncit-

izen women if they bear children out of wedlock. In the event that a court sentences a woman to prison for such an offense, local authorities, at the request of the prisoner, may hold the newborn children in a special area within the confines of the prison or place them with a relative. In rare cases, children are held in other facilities until the mother's release from prison. In Dubai Emirate, unmarried pregnant noncitizen women generally must marry the father of the child or repatriate to their home country. Otherwise, both parties are subject to arrest for fornication.

The law prohibits sexual harassment. As a form of deterrence, Dubai-based newspapers regularly published pictures of men arrested in Dubai for harassing women in public places.

Women constitute nearly 72 percent of the country's student body. Coeducation is prohibited in government schools and universities, with the one exception of the UAE University Executive MBA Program. In this program, men and women, as well as Emirati and expatriate students, were allowed to take classes together. The American Universities in Dubai and Sharjah, both private institutions, are coeducational as well. Government-sponsored women's centers which provide adult education and technical training courses. The federal armed forces accepts female volunteers. The Dubai Police College also recruits women. Many are employed in airports, immigration offices, and women's prisons.

*Children.*—The Government is committed to children's rights and welfare, and expends resources on the welfare of child citizens; however, noncitizen children receive fewer benefits.

Citizen children receive free public education through the university level and free health care. Housing also is routinely granted to citizens with children who apply for this benefit in their respective emirates. Some citizens opted for a land grant and interest-free loans available to finance building a house, since the waiting period was long for the Government to provide a house. Citizens employed by the Government also are eligible to receive aid from the Ministry of Labor and Social Welfare for children who are under the age of 18, are unmarried, or have disabilities.

Noncitizen resident children are not permitted to enroll in public schools unless they live in rural areas that lack private schools. Many foreign workers in private sector employment received education allowances as part of their salary packages. The Government provided an annual subsidy of approximately \$1,600 (6,000 dirhams) per family to its noncitizen employees for private school tuition for those who do not receive the extra salary benefit.

Citizen children are required to attend school—segregated by gender—through the sixth grade, the last grade of primary education, when children can be as young as 10 or 11 years old. However, compulsory education was not enforced, and some children did not attend school.

Child abuse was not prevalent. Trafficking of young, noncitizen boys employed as camel jockeys continued to be a problem; however, the Government took measures to eliminate the use of boys under the age of 15 as camel jockeys (see Sections 6.c., 6.d., and 6.f.).

*Persons with Disabilities.*—The law states that there is no federal legislation requiring accessibility for persons with disabilities; however, most public buildings provided access to disabled persons. There were no reported incidents of discrimination against persons with disabilities in employment, education, or in the provision of other state services.

The Ministry of Labor and Social Affairs sponsored six government-managed physical and mental rehabilitation centers, which were open only to citizens. During the year, 17 additional similar centers were created by individuals, associations, and local governments. The Ministry of Interior runs a Rehabilitation and Employment Special Care Center to provide training for people with disabilities, with the goal of integrating them into society. Other rehabilitation centers were partially owned by the Government or were maintained by charity associations. Initiatives included monthly social aid funds, special education, transportation assistance, and sponsoring a Special Olympics team. There was also a significant amount of nongovernmental financial assistance, services, and emotional support to persons with disabilities.

The Ministry of the Interior operated, in Abu Dhabi Emirate, a Rehabilitation, Training, and Recruitment Center for People with Special Needs. The center provided comprehensive education, training, guidance, and job placement assistance to disabled persons between 14 and 40 years of age.

During the year, the Cabinet appropriated 1 percent of all federal jobs in the government sector for persons with disabilities.

Citizens employed by the Government who have disabled children are eligible to receive financial assistance for their maintenance from the Ministry of Labor and Social Welfare.

*National/Racial/Ethnic Minorities.*—Societal discrimination against noncitizens, while not legally sanctioned, was prevalent and occurred in most areas of daily life, including employment, housing, and social interaction. Employment, immigration, and security policies, as well as cultural attitudes towards noncitizens, who comprised approximately 85 percent of the national population, were conditioned by national origin.

It was estimated that more than 50 percent of foreign workers were from the Indian subcontinent. Noncitizens are denied access to many free or reduced-cost services provided by the Government to citizens, including child and adult education, health care, housing, and social and recreational club memberships.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law does not entitle workers to form or join unions, and no unions existed. However, the government allowed workers to associate freely for the advancement of common goals and interests. In practice, workers addressed grievances and negotiated disputes or matters of interest with employers through formal and informal mechanisms.

In April, the Government reportedly implemented ILO biohazard rules on occupational health and safety, and ratified ILO convention 81 on labor inspections. Discussions between the Government and the ILO regarding implementation of a national labor union and labor rights were ongoing during the year. The Government has not ratified either of the International Labor Organization's (ILO) "Core" Conventions on Freedom of Association, Nos. 87 and 98.

Since 1995, the country has been suspended from the U.S. Overseas Private Investment Corporation insurance programs because of the Government's lack of compliance with internationally recognized worker rights standards. The ILO reported in April that the country, along with other Gulf States, had agreed to start projects to improve respect for freedom of association and the right to collective bargaining.

*b. The Right to Organize and Bargain Collectively.*—Although the law does not grant workers the right to engage in collective bargaining, it expressly authorizes collective work dispute resolution. The Government granted some professional associations greater freedom to raise work-related concerns, to lobby the Government for redress, or to file grievances with the Government.

Labor law does not address the right to strike; however, the media has quoted a high-ranking Ministry of Labor official as saying that the law does not forbid strikes, and if laborers are denied their rights, they can stop working. In practice, there were numerous strikes by private sector employees in addition to organized gatherings of workers who complained of unpaid wages to the Ministry of Labor and Social Affairs. In May, 1,600 workers reportedly went on strike in Dubai to protest a company decision to stop paying overtime. There were no reports that workers who went on strike were deported. The Government prohibits strikes by public sector employees on national security grounds.

The Ministry of Labor reviews employment contracts for workers in the industrial and service sectors to ensure compliance with the labor laws.

The Ministry of Labor distributed information to foreign workers outlining their rights under the labor law and how to pursue labor disputes, whether individually or collectively. Employees may file individual employment dispute complaints with the Ministry of Labor, which serves as the mediator between the parties. If the dispute remains unresolved, the employee may file a complaint with the labor court system. In a collective work dispute concerning a subject of interest to a group in an establishment, trade, vocation or in a certain vocational sector, employees or employers may file complaints with the Ministry of Labor if they are unable to settle such disputes amicably. If the Ministry of Labor is unable to mediate a settlement within 10 days, the complaint is submitted to a Conciliation Committee for settlement. Either the employee or employer can appeal the Conciliation Committee's decision to a Supreme Committee of Conciliation, whose decision is final. While these regulations exist, there was little information available about their implementation in practice.

Labor laws do not cover, and therefore do not protect, government employees, domestic servants, and agricultural workers. The latter two groups face considerable difficulty in negotiating employment contracts because the mandatory requirements contained in the labor law do not apply. They also face considerable difficulty in obtaining assistance to resolve disputes with their employers. The employer generally ties an employee's residency or visa to his employment and sponsorship. If the em-

ployee terminates his employment and is unable to secure new employment and a new sponsor, the employee loses residency and can be required to leave the country.

The Ministry of Labor and Social Affairs intensified the inspection of establishments to ensure compliance with labor laws and ferret out violators.

The Ministry of Interior's Naturalization and Residency Administration reviews the contracts of foreign domestic employees as part of the residency permit processing to ensure that the negotiated salaries and terms are adequate. Although not protected by the national labor law, domestic workers may bring work-related disputes to conciliation committees organized by the Ministry of Labor and Social Affairs or to special labor courts.

Businesses in free trade zones must comply with federal labor laws; however, the Ministry of Labor did not regulate them. Instead, each free trade zone maintains its own labor department to address workers' concerns.

*c. Prohibition of Forced or Bonded Labor.*—Forced or bonded labor is illegal; however, some employment agents continued to bring foreign workers to the country under conditions approaching indenture. Some women reportedly were brought to the country for service sector employment and were later forced into prostitution (see Section 6.f.). Some low-paid unskilled and semi-skilled workers were victims of contract switching.

The Government prohibits forced and bonded child labor and generally enforced this prohibition effectively. In particular, it took concrete steps to resolve problems faced by child camel jockeys (see Sections 4, 6.d., and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The labor law prohibits employment of persons under the age of 15 and has special provisions for employing those 15 to 18 years of age. The Ministry of Labor and Social Affairs is responsible for enforcing the regulations. The Government does not issue work permits for foreign workers under the age of 18 years. Child labor was not tolerated, with the exception in the past of child camel jockeys (see Section 5, 6.c., and 6.f.). In 2002, the Government implemented and began enforcing a child camel jockey ban, building on a previous ban passed in 1993. There are criminal penalties for violators of a child camel jockey ban up to and including imprisonment. The ban prohibits the use of camel jockeys less than 15 years old and weighing less than 45 kilograms (99 pounds).

*e. Acceptable Conditions of Work.*—Approximately 98 percent of the private sector workforce consisted of foreigners. The country also was a destination for a large number of unskilled workers, including up to 300,000 domestic servants, most of them women from South and East Asia, and an even larger number of unskilled male workers, mostly from South Asia. These unskilled laborers actively competed for jobs in the country and other Gulf countries, and sometimes were subject to poor working conditions.

In January, the Government adopted a 6-month amnesty program that encouraged illegal immigrants to exit the country without paying fines or suffering other legal liabilities related to their immigration status. The Government's stated purpose in implementing the amnesty was to regulate and stabilize the labor market by removing marginal and ineffective manpower. Official reports declared that approximately 100,000 illegal laborers departed the country during the amnesty.

The standard workday is 8 hours per day, and the standard workweek is 6 days per week; however, these standards were not enforced strictly. Certain types of workers, notably domestic servants and agricultural workers, are not covered by labor laws and were reportedly obliged to work longer than the mandated standard. According to the Ministry of Labor and the Labor Law, employees are entitled 2 days per month after finishing six months on the job, up until that person passes the one year mark. After finishing 1 year on the job, the employee is entitled to 30 calendar days of annual leave in addition to the holidays. There is no minimum wage. Salaries depended on the occupation and employer and ranged from \$109 (400 dirhams) per month for domestic or agricultural workers working for local individual employers to \$164 (600 dirhams) per month for construction workers working for companies to much higher salaries for highly skilled employees. Compensation packages generally provided housing or housing allowances. In addition, other benefits, such as homeward passage or health cards for minimal to no-cost health care, were often provided for employees by their employers. Local newspapers detailed numerous cases of non-payment of wages to foreign workers, but also reported the Ministry of Labor blacklisted hundreds of firms for violating labor laws, particularly the failure to pay salaries.

The Ministry Labor and Social Affairs reviews labor contracts and does not approve any pact that stipulates a clearly unacceptable wage.

Most foreign workers do not earn the salary required to obtain residency permits for their families. The required monthly minimum salary to permit accompanying families is \$1,090 (3,924 dirhams) or \$817 (2,941 dirhams), when a housing allowance is provided.

In 2002, a number of citizens were involuntarily transferred, retired, or terminated from government employment reportedly due to their affiliations or opinions affecting the long held assumption of almost total job security for citizens. The federal civil service laws, rather than the labor laws, covered public sector employees. According to press reports, 10 national employees of the Ministry of Justice, Islamic Affairs and Awqaf filed complaints in June alleging that adverse employment actions taken against them—involuntary retirement prior to the legal age of retirement—were in alleged violation of the civil service laws and the Social Security Law. There were no further developments at year's end. In 2002, some employees of the Ministry of Education and Youth also were affected by adverse employment decisions. Press reports indicated that these national employees were retired involuntarily, whereas others were transferred involuntarily to other federal ministries. The affected employees claimed they had good service records and alleged that the adverse employment actions were taken without stated reasons, cause, notice or process. There were no further developments at year's end. In 2002, a number of workers from the construction, transport, hotel and education sectors filed complaints with the Labor Ministry over unpaid salary and loss of benefits, there were no further developments on these cases at year's end. In 2001, the Government introduced a law requiring employers to deposit guarantees with third party banks to protect employees from working without wages. Banks, insurance and petroleum firms, certain hotels, and companies owned wholly or partially by the Government are exempt from the guarantee requirement. The Labor Ministry announced that the institution of bank guarantees had been mostly successful as the number of labor disputes, had decreased. After reports that some employers were making their employees pay the amount of the bank guarantee, the Labor Ministry warned employers that such actions were in violation of the labor laws.

Some foreign nationals involved in disputes with employers—particularly in cases in which the employee signs a contract containing a clause not to complete (i.e. the employee must work for the full duration of the contract)—can be blacklisted by the employer with immigration authorities, effectively preventing their return for a specified period of time. Employers also have the option to petition to ban from the work force for 6 months any foreign employee who leaves his job without fulfilling the terms of his contract (see Section 2.d.).

Employers did not always follow laws regarding the sponsorship of foreign employees. Under the regulations, a company that has one or more employee whose work permit has expired and not been renewed will be barred from employing new staff. However, the rule was enforced unevenly.

In March, the Government enacted a law requiring all foreign workers seeking jobs in the private sector to have at least a high school certificate or equivalent degree. Arabs and construction, agricultural, and domestic workers are exempt from the regulation.

The Ministries of Health and of Labor and Social Affairs, municipalities, and civil defense enforce health and safety standards, and the Government requires every large industrial concern to employ a certified occupational safety officer. However, health and safety standards were not observed uniformly.

In July, the Government approved the recommendations developed at the ILO Conference in June, requiring new standards for the prevention of biological hazards in the workplace.

In 2002, in Dubai, the steel roof of a four-story power plant building under construction collapsed, killing 9 laborers and injuring 19, 5 of them seriously. During the year, following investigations, the Minister of Labor required the responsible companies to pay the employer's liability. The Minister of Labor reportedly returned the bodies of the deceased to their home countries and made visits to the building to ensure builders were adopting safety measures.

The law requires that employers provide employees with a safe work environment. Medical experts in the country reported that it is inadvisable for laborers to work outdoors when the temperature exceeds 40 degrees Celsius. In August, local press reported complaints filed by Filipino workers against an employer for violating health and safety laws by forcing them to work outside during peak heat hours. Also, in August, the Ministry of Labor permitted Moroccan laborers to terminate their employment contracts due to their inability to adapt to the extreme heat of the local climate.

According to media reports, safety measures include wearing helmets during the summer heat, and adjusting work hours so that workers can be less exposed to the



sun. Workers' jobs are not protected if they remove themselves from what they consider to be unsafe working conditions; however, the Ministry of Labor and Social Affairs can require employers to reinstate workers who are dismissed for not performing unsafe work. Injured workers are entitled to fair compensation, and all workers have the right to lodge grievances with ministry officials, who make an effort to investigate all complaints.

Rulings on complaints may be appealed within the ministry, and ultimately to the courts. However, reportedly many workers choose not to protest for fear of reprisals or deportation.

There were reports of abuse of domestic workers by their employers. Allegations included excessive work hours, nonpayment of wages, and verbal, physical, and sexual abuse.

Sponsorship and residency laws do not permit most foreign national employees to change employers. Some categories of professional or skilled workers are allowed to change employers after a certain period of time; however, most workers are not allowed to change sponsors. Employers normally hold their employees' passports and many servants are unable to leave their employment and return to their home countries or find other jobs. In July, the Federal Supreme Court ruled that employers cannot withhold employees' passports, because they are personal documents (see Section 6.f.). The Ministry of Interior issued a statement enforcing the ruling. When reported, police implement the laws and act to have the passports returned to foreign workers. However, there was no information regarding the extent that these actions have had a practical impact.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, although child smuggling, prostitution, and pornography are crimes. Trafficking in women and girls used as prostitutes and domestic laborers, and men used as servants, laborers and unskilled workers, and young boys used as camel jockeys continues to be a problem. Camel racing regulations prohibit the use of children as camel jockeys, in an effort to end this use of child labor and eliminate the trafficking of young boys to the country for this purpose. To implement the ban, the Government tightened controls at points of entry into the country for noncitizen boys under the age of 15 years. The Government further enforced the ban by conducting inspections at camel races.

The Government established the following penalties for violators of the child camel jockey ban: first offense, a fine of approximately \$5,500 (20,000 dirhams); second offense, a ban from participation in camel races for 1 year; third and subsequent offenses, imprisonment.

The regulations prohibit the use of camel jockeys who are less than 15 years of age and weigh less than 45 kilograms (99 pounds). All camel jockeys are required to have government-issued identification cards, which are issued after physical examinations by a special medical committee using x-rays and other tests to confirm that the children are at least 15 years of age. The Government also regularly performed DNA testing to prove the relationship of foreign boys coming into the country to work in the camel racing industry and adults claiming to be their parents.

In 2002, Bangladeshi NGOs reported that camel jockeys working in the country were subjected to extremely harsh conditions that at times led to serious injuries or death. Some of the children were allegedly subject to physical abuse by their employers. Further reports accused some employers of physical neglect due to the practice of underfeeding the boys in order to keep down their weight. The Government took steps to remove these boys from these conditions and repatriate them to their countries of origin.

The Government worked closely with the governments of Pakistan and Bangladesh to repatriate many of the boys who were trafficked to work as camel jockeys. During the year, Pakistani Embassy in Abu Dhabi, stated that 125 Pakistani boys were repatriated. The Bangladeshi Consulate estimated that it repatriated between 120 and 150 boys during the year. There were no statistics available to document how many more of these boys were repatriated, or how many remained in the country.

There continued to be credible reports of trafficking in women and girls to the country, although the Government took some measures to eliminate this practice. Some foreign diplomats and NGOs reported some women were brought to the country under the false pretense of working in the service sector or as domestic servants, but then were forced into prostitution. When these women and girls arrived in the country, the traffickers did not provide the promised employment. The traffickers reportedly took their passports and forced them to work as prostitutes to repay their travel expenses; however, the women received little payment from the traffickers, which made it difficult to repay their debts. The Federal Supreme Court has ruled that it is illegal for employers to require employees to turn over their passports. The

Ministry of Interior issued a statement enforcing the ruling (see Section 6.e.). Police were called upon to enforce the ruling, and have done so when incidents were reported.

Traffickers warned the women that police will arrest them if they turned to the authorities for help. It was unclear whether this trafficking activity was conducted with the full complicity of the women's citizen sponsors, or if the women's noncitizen agents were exploiting the sponsorship system to engage in illicit activity (see Section 5).

Law enforcement actively investigated trafficking cases and complaints of abuse. The Institute for Judicial Training and Studies at the Ministry of Justice has mandatory courses for prosecutors and judges on human rights, sex offenses, immigration, and labor violations. The Department of Naturalization and Residency at the Ministry of Interior established a central operations room to track the arrival and departure of individuals in the country, some of whom may be trafficking victims. The Dubai Tourist Security Department operated a 24-hour hotline to assist visitors with problems. Information about the hotline was distributed at ports of entry. The Ministry of Foreign Affairs worked with source country embassies to combat trafficking. The Ministry of Health trained medical personnel on how to spot specific signs of abuse.

The Government also provided assistance to trafficking victims. Counseling services are available in public hospitals. Police did not jail trafficking victims, and they were not prosecuted for violations of other laws. The Dubai Police developed a Crime Victims' Assistance Program, and assigned program coordinators in police stations throughout the city. Police were also trained in victim protection and assistance.

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## YEMEN

Yemen is a republic with an active bicameral legislature. An elected President, an elected 301-seat House of Representatives, and an appointed 111-member Shura Council shared Constitutional power. President Ali Abdullah Saleh was the leader of the ruling party, the General People's Congress (GPC), which dominated the Government. The Constitution provides that the President be elected by popular vote from at least two candidates endorsed by Parliament. In 1999, President Saleh was directly elected in a popular vote to another 5-year term, amended in 2001 by referendum to a 7-year term. A competitive candidate did not oppose the President because his sole opponent was a member of the ruling GPC. In April parliamentary elections the GPC maintained an absolute majority. International observers judged elections to be generally free and fair and there was a marked decrease from previous years in election related violence; however, there were some problems with underage voting, confiscation of ballot boxes, voter intimidation and election related violence. The Parliament was not an effective counterweight to executive authority, although it increasingly demonstrated independence from the Government. The head of Islaah, the leading opposition party, led the elected House of Representatives, which effectively blocked some legislation favored by the Executive. Real political power rested with the executive branch, particularly the President. The Constitution provides for an "autonomous" judiciary and independent judges; however, the judiciary was weak, and corruption and executive branch interference severely hampered its independence.

The primary state security apparatus is the Political Security Organization (PSO), which reports directly to the President. The Criminal Investigative Department (CID) of the police reports to the Ministry of Interior and conducts most criminal investigations and makes most arrests. The Central Security Organization (CSO), also a part of the Ministry of Interior, maintains a paramilitary force. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed serious human rights abuses.

The country had a population of approximately 19.5 million; more than 40 percent of the population live in poverty and the unemployment rate was 37 percent. The country's market-based economy remained impeded by government interference and corruption. The economy was mixed; oil and remittances from workers in other Arabian Peninsula states were the primary sources of foreign exchange. The economy continued to suffer due to other Arab governments' reaction to the Government's lack of support for the U.N. coalition during the 1990-91 Gulf War. However, foreign aid and workers' remittances have since reemerged as important sources of income.

Although many problems remained, the Government's respect for human rights improved in a few areas during the year. There were limitations on citizens' ability to change their Government. Security forces continued to arbitrarily arrest, detain, and torture persons. The Government sometimes failed to hold members of the security forces accountable for abuses; however, the number of security officials tried for abuses increased since 2002. Prison conditions remained poor. Despite constitutional constraints, security officers routinely monitored citizens' activities, searched their homes, detained citizens for questioning, and mistreated detainees. Prolonged pre-trial detention, judicial corruption, and executive interference undermined due process. There continued to be limits on freedom of speech and of the press, and the Government continued to harass and intimidate journalists despite a decline in detention of journalists from last year. Journalists practiced self-censorship. The Government at times limited freedom of assembly. The Government imposed some restrictions on freedom of religion and placed some limits on freedom of movement. Violence and discrimination against women remained problems. Female genital mutilation (FGM) was practiced on a limited scale. There was some discrimination against persons with disabilities and against religious, racial, and ethnic minorities. The Government imposed restrictions on labor unions. Child labor remained a problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, there were some reports during the year that security forces killed or injured persons whom they believed were engaging in criminal activity and resisting arrest.

In March, security forces killed and injured demonstrators after a gunfight broke out between demonstrators and security forces protecting an embassy. Security forces used tear gas and shots in the air to disperse demonstrators. A policeman and an 11-year-old male citizen reportedly were killed during the shootout (see Section 2.b.). Amnesty International (AI) reported that police detained dozens of demonstrators and subjected some to beatings upon arrest (see Section 1.d.). The Government had previously allowed several peaceful anti-war demonstrations (see Section 1.b.); however, in this instance, the demonstrators, led by pro-Iraqi politicians, initiated violence aimed at an embassy (see Section 2.b.). Several members of the security forces were also injured.

In June, security forces took action against persons involved in an attack by elements of the Aden-Abyan Islamic Army, a militant domestic group, on a medical convoy in Abyan. Arrests were made in both incidents.

Unlike in the past, there were no reports of high-profile clashes between security forces and private bodyguards of prominent figures. There were no developments in the 2002 cases of persons killed during such clashes and there were no arrests by year's end.

During the year, approximately 40 security officials were disciplined or tried for abuses with sentences ranging from 20 days to more than 10 years imprisonment for attacks during investigation, shootings, accidental and intentional killings, fraud and extortion (see Section 1.b.). For example, one security official was tried and sentenced to one and a half years in prison for attacking a person during an investigation. In separate incidents, two security officials received 10-year sentences for attacking citizens. In 2002, in Hadramaut, three security officers were on trial for torturing two young boys. In Damar, a former Security Director was on trial for torture and bribery. These cases still were pending at year's end.

In April, election-related violence resulted in three documented deaths (see Section 3).

Tribal violence resulted in a number of killings and other abuses, and the Government's ability to control tribal elements remained limited (see Section 5). In several cases, long-standing tribal disputes were resolved through government-supported mediation by nongovernmental actors (see Section 4).

Persons continued to be killed and injured in shootings and violence during the year. In December, police arrested a suspect accused of stabbing three foreigners in Sana'a. The case remained pending at year's end. In most cases, it was impossible to determine the perpetrator or the motive, and there were no claims of responsibility. Some cases appeared to have criminal, religious, or political motives; others appeared to be cases of tribal revenge or land disputes. There were no reported developments on the President's 2001 strategy to address the phenomenon of tribal revenge.

In 2002, there were threats, attacks, and killing of high-profile persons. In December 2002, Ali al-Jarallah, a high ranking official of the Yemeni Socialist Party, reportedly killed Jarallah Omar in Sana'a. In December 2002, Abed Abdul Razak Kamal smuggled a semiautomatic rifle into the hospital in Jibla and killed three American medical workers and injured one (see Section 2.c.). Both suspects were convicted and sentenced during the year.

There was no action taken during the year to bring suspects to trial in the 2000 bombing of the USS Cole (see Section 1.e.).

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, disappearances that occurred during the pre-unity period in the former People's Democratic Republic of Yemen (PDRY) and during the 1994 war of secession remained unresolved. The Government stated that the scarcity of records, resulting from the country's lack of an effective national registry, hindered its attempts to create database files for those persons who have disappeared. A media campaign to ask families for information was undertaken; however, by year's end no families had come forward. Although the Government submitted information to resolve the cases, both AI and the U.N. Working Group on Enforced and Involuntary Disappearances continued to report that there were less than 100 cases of unresolved disappearances dating from the preunity period in the former PDRY. AI has received no credible reports of new disappearances in the last 9 years.

The law stipulates severe punishments up to and including capital punishment for persons involved in kidnapping, carjacking, attacking oil pipelines, and other acts of banditry and sabotage. Unlike in previous years, there were no tribal kidnappings of foreigners for political and economic purposes during the year. There has been a marked decline in tribal kidnappings of foreigners, from six cases in 2000 and seven cases in 2001 to no cases in 2002 and during the year. This decrease was at least in part the result of the Government's establishment of a special court and special prosecutor to try kidnappers and other violent offenders. During the year, there was one reported instance of a non-citizen Arab foreigner detained briefly in a business dispute by a rival, who was later released. In the past, some tribes used kidnapping to bring their political and economic concerns to the attention of the Government. Foreign businessmen, diplomats, and tourists were the principal targets. A total of 166 foreigners have been kidnapped since 1992; however, the kidnapping victims rarely were injured and were generally released shortly thereafter.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution is ambiguous regarding the prohibition of cruel or inhuman punishment, and members of the security forces tortured and otherwise abused persons in detention. Arresting authorities were known to use force during interrogations, especially against those arrested for violent crimes. Detainees in some instances were confined in leg-irons and shackles, despite a 1998 law outlawing this practice.

The Government has acknowledged publicly that torture occurred, but claimed that torture was not official policy. The Government has taken some effective steps to end the practice or to punish those who commit such abuses. However, a government prosecutor cited illiteracy, lack of training among police and security officials and a human rights activist has suggested that corruption and pressure from superiors to produce convictions also played a role as reasons for the use of undue force. During the year, it was reported that the Government reportedly increased training and awareness programs on human rights for police and security.

The immunity of all public employees from prosecution for crimes allegedly committed while on duty also hindered accountability; prosecutors must obtain permission from the Attorney General to investigate members of the security forces, and the head of the Appeals Court formally must lift their immunity before they are tried. Low salaries for police officers of approximately \$35 to \$53 (6,000 to 9,000 riyals) per month also contribute to corruption and police abuse.

More than 40 security officials were tried and imprisoned for abuses committed during the year with sentences ranging from 20 days to more than 10 years' imprisonment for attacks on citizens during investigation and shootings (see Section 1.a.). During the year, there were two reported prosecutions of security officials for abuses committed in 2001. The trials of security officers charged with torture in 2002 remained ongoing at year's end.

There were numerous allegations and credible evidence that authorities tortured and abused suspects and detainees to attempt to coerce confessions before or during trial. During the year, several families of persons detained in relation to terrorist activities have alleged that torture has been used during interrogation (see Section 2.d.).

The Constitution may be interpreted as permitting amputations in accordance with Shari'a (Islamic law) and physical punishment such as flogging, for some

crimes; however, the use of amputations as punishment was extremely rare and there were no reported floggings during the year. Only one reported case of amputation has occurred since 1991, although a few persons convicted of theft remained in jail awaiting their amputation. Unlike in the past, firing squads were not used for capital punishment.

In March, the Government used force to prevent a demonstration against an embassy (see Section 1.a.).

Tribal violence continued to be a problem during the year, causing numerous deaths and injuries (see Section 5).

Prison conditions were poor and did not meet internationally recognized standards. Prisons were overcrowded, sanitary conditions were poor, and food and health care were inadequate. Prison authorities often exacted bribes from prisoners to obtain privileges or refused to release prisoners who completed their sentences until family members paid. Tribal leaders misused the prison system by placing "problem" tribesmen in jail, either to punish them for noncriminal indiscretions or to protect them from retaliation or violence motivated by revenge. Authorities in some cases arrested without charge and imprisoned refugees, persons with mental disabilities, and illegal immigrants in prisons with common criminals.

Women and children were held separately from men and conditions were equally poor in women's prisons. Children were likely to be incarcerated along with their mothers. By custom and preference, babies born in prison generally remained in prison with their mothers. At times, male police and prison officials subjected female prisoners to sexual harassment and violent interrogation. The law requires male members of the families of female prisoners to arrange their release; however, female prisoners regularly were held in jail past the expiration of their sentences because their male relatives refused to authorize their release due to the shame associated with their alleged behavior.

Several nongovernmental organizations (NGOs), often with government support, undertook activities to address the legal and other problems of female prisoners (see Section 4). During the year, the Government released 10 women after making arrangements for their release via a government committee led by the Chief of the Supreme Judicial Council and composed of representatives from the Ministries of Justice, Human Rights, Public Health and Population, Technical and Vocational Education, Legal Affairs, and Interior. The Committee inspected prison conditions in several governorates and noted problems with a lack of resources and infrastructure to improve conditions and to provide job training for prisoners.

Unauthorized "private" prisons, in rural areas controlled by tribes and sometimes simple rooms in a tribal sheikh's house, remained a problem. Persons detained in such prisons often were held for strictly personal or tribal reasons and without trial or sentencing. There were credible reports of the existence of private prisons in government installations, although senior officials did not sanction these prisons.

During the year, efforts to implement directives intended to align the country's arrest, interrogation, and detention procedures more closely with internationally accepted standards continued. In 2002, the Ministry of Interior created detention and interrogation centers in each governorate (including four in Sana'a), to prevent suspects from being detained with convicted criminals.

In November, the President released 1,700 prisoners in honor of the Islamic holy month of Ramadan. The prisoners were released because they either completed three-fourths of their sentence and behaved well or, in keeping with tribal or Islamic law, were being held in prison pending payment of restitution to their victims, despite having completed their sentences.

The Government tightly controlled access to detention facilities by NGOs; however, during the year, it permitted local and international human rights monitors access to some prisoners.

Patients with mental illness, particularly those who committed crimes, were imprisoned and even shackled when there was no one to care for them. In some instances, authorities arrested persons with mental illness without charge and placed them in prisons alongside criminals. In July, the President declared the release of mentally disturbed prisoners into the custody of mental institutions. However, there were not enough mental institutions despite the International Committee for the Red Cross (ICRC), in cooperation with the Yemeni Red Crescent Society, building and staffing separate detention facilities for prisoners with mental illness.

The PSO did not permit access to its detention centers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention or exile; however, security forces arbitrarily arrested and detained persons. Enforcement of the law was irregular and in some cases nonexistent, particularly in cases involving security offenses. The Police CID reports to the Ministry of Interior

and conducts most criminal investigations and makes most arrests. The CSO, also a part of the Ministry of Interior, maintains a paramilitary force.

According to the law, detainees must be arraigned within 24 hours of arrest or be released. The judge or prosecuting attorney must inform the accused of the basis for the arrest and decide whether detention is required. In no case may a detainee legally be held longer than 7 days without a court order. Despite these constitutional and other legal provisions, arbitrary arrest and prolonged detention without charge remained common practices. During the year, directives were implemented to align arrest, interrogation, and detention procedures more closely with internationally accepted standards.

During the year, the Government decreased its practice of detaining journalists for questioning concerning articles critical of the Government or that the Government considered sensitive, with no cases of arbitrary detention reported. A Presidential amnesty issued in 2002 remained in effect and past specific cases against journalists were dropped (see Section 2.a.).

During the year, the Government continued to detain suspects accused of links to terrorism. In November, the Government arrested Saudi-born Mohammed Hamdi al-Ahdal (AKA Abu Assam al-Maki), who has been implicated in the 2000 attack on the USS Cole. During the year, the Government arrested Hadi Dulqum, a weapons dealer, al-Qa'ida associate, and supplier of weapons for the group. In November, the President released approximately 90 security detainees not facing charges in honor of Ramadan. A parliamentary report issued in September 2002 contained an acknowledgement by the Minister of Interior that such detentions violated the Constitution; however, it asserted that they were necessary for national security. The Government sponsored an ideological dialogue led by Islamic scholars to obtain assurances from detainees to repent past extremism, denounce terrorism, commit to obeying the laws and Government, respect non-Muslims, and refrain from attacking foreign interests. More than 150 detainees have undergone the dialogue process since 2002, most of whom were released. At year's end, more than 50 persons who were accused of specific crimes or unwilling to repent remained in detention.

Amar Mahmoud Ali Abdo al-Madhagi, who was arrested in 2001 for providing inaccurate information regarding terrorist attacks in 2000, reportedly remained in prison awaiting trial at year's end.

The law prohibits incommunicado detentions and provides detainees with the right to inform their families of their arrests and to decline to answer questions without an attorney present. There are provisions for bail. However, in practice, many authorities abide by these provisions only if bribed.

Citizens regularly claimed that security officials did not observe due process procedures when arresting and detaining suspects, particularly those accused of involvement in political violence. There also were claims that private individuals hired lower-level security officials to intervene on their behalf and harass their business rivals. Security forces at times detained demonstrators (see Section 2.b.). Members of security forces continue to arrest and detain citizens for varying periods of time without charge or notification to their families.

In cases in which a criminal suspect was at large, security forces in some instances detained a relative while the suspect was being sought. The detention may continue while the concerned families negotiate compensation for the alleged wrongdoing. Arbitration commonly was used to settle cases.

The Government failed to ensure that detainees and prisoners were incarcerated only in authorized detention facilities. The Ministry of Interior and the PSO operated extrajudicial detention facilities.

A large percentage of the total prison population consisted of pretrial detainees, many of whom have been imprisoned for years without charge.

Some government inspection missions and local human rights groups helped in the release of some persons held without charge; however, overall the Government did not investigate or resolve these cases adequately.

Unauthorized private prisons also exist (see Sections 1.c. and 1.e.).

The law does not permit forced exile and the Government did not use forced exile. During the year, with the encouragement of the Government, prominent southern journalists, military officers, and their families who fled the country during the 1994 war of secession returned to the country, including prominent persons from the secessionists of the Democratic Republic of Yemen (DRY) (see Section 1.e.).

During the year, the Government continued to deport foreigners, many of whom were studying at Muslim religious schools and believed to be in the country illegally. The Government claimed that these persons were suspected of inciting violence or engaging in criminal acts by promoting religious extremism. The Government deported them using existing laws that require all foreigners to register with the police or immigration authorities within a month of arrival in the country.

*e. Denial of Fair Public Trial.*—The Constitution provides for an “autonomous” judiciary and independent judges; however, the judiciary was weak and corruption and executive branch interference severely hampered it. The executive branch appointed judges, and some have been harassed, reassigned, or removed from office following rulings against the Government. Many litigants maintained, and the Government acknowledged, that a judge’s social ties and bribery at times influenced the verdict more than the law or the facts. Many judges were poorly trained; some closely associated with the Government often render decisions favorable to it. The judiciary further hampered by the Government’s frequent reluctance to enforce judgments. Tribal members at times threatened and harassed members of the judiciary.

There are five types of courts: Criminal; civil and personal status; kidnapping/terrorism; commercial; and court-martial.

All laws are codified from Shari’a, under which there are no jury trials. A judge, who played an active role in questioning witnesses and the accused, adjudicates criminal cases. Under the Constitution and by law, the Government must provide attorneys for indigent defendants; however, in practice this never occurred. Judges at times appointed attorneys present in their courtrooms to represent indigent defendants; however, most accepted to avoid displeasing judges before whom they must appear later.

By law, prosecutors are a part of the judiciary and independent of the Government; however, in practice prosecutors considered themselves an extension of the police.

Defense attorneys are allowed to counsel their clients, address the court, and examine witnesses. Defendants, including those in commercial courts, have the right to appeal their sentences. Trials generally were public; however, all courts may conduct closed sessions “for reasons of public security or morals.” Foreign litigants in commercial disputes have complained of biased rulings. However, some foreign companies have won cases against local defendants, and some such decisions have been enforced.

In addition to regular courts, the law permits a system of tribal adjudication for noncriminal issues; however, in practice, tribal “judges” often adjudicated criminal cases as well. The results of such mediation carry the same if not greater weight as court judgments. Persons jailed under the tribal system usually were not charged formally with a crime but stood publicly accused of their transgression.

A special court existed to try persons charged with kidnapping, carjacking, attacking oil pipelines, and other acts of banditry and sabotage (see Section 1.b.).

The Government continued its ongoing program begun in 1997 to reform the judiciary. The newly appointed Minister of Justice undertook a series of conferences around the country to reinvigorate the reform process and establish a written plan for reform. Some improvements include a reduction in the number of Supreme Court justices, an increase in judges’ salaries, an increase in the Ministry of Justice’s budget and participation by judges in workshops and study tours conducted by foreign judicial officials.

During the year, the country’s Higher Judicial Council, chaired by the President, dismissed more than a dozen judges and prosecutors for violating the law. In 2002, 35 judges and prosecutors were dismissed.

The security services continued to arrest, charge, and try persons alleged to be linked to various shootings, explosions, and other acts of violence. Citizens and human rights groups alleged that the judiciary did not observe due process in these cases.

During the year, the Government conducted a release program for detainees held in connection with terrorist groups and activities. In 2002, Parliament issued a report, on detainees held in connection with terrorist activities. In the report, detainees’ family members alleged that detainees were held without family notification, counsel, charges, and basic privileges such as health care. Family members alleged that some were held in isolation and tortured. The Minister of Interior acknowledged that the detainees were held but asserted that it was necessary for national security. He denied the torture charges and said that the detainees related to the USS Cole attacks would be charged and prosecuted after investigation in cooperation with international law enforcement partners. By year’s end, the investigation into the attack was transferred to the General Prosecutor to prepare for trial, and several suspects were in custody. On April 10 suspects in the USS Cole bombing escaped from prison. They remained at large at year’s end and no suspects went to trial during the year (see Section 1.a.). In 2001, the lawyer claimed that authorities denied him access to his clients. However, there have been no reports of allegations of torture from persons detained in connection with the USS Cole investigation.

The Government claimed that it did not hold political prisoners. Local opposition politicians and human rights activists generally accepted this claim; however, some

international human rights groups and members of the opposition-in-exile disputed it.

At the end of the 1994 war of secession, the President pardoned nearly all who had fought against the central Government, including military personnel and most leaders of the secessionists. In previous years, the Government tried in absentia the leaders of the so-called 16. By May, the President had granted amnesty to all 16.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits interference with privacy; however, security forces routinely searched homes and private offices, monitored telephones, read personal mail, and otherwise intruded into personal matters for alleged security reasons. Such activities were conducted without legally issued warrants or judicial supervision. Security forces regularly monitored telephone conversations and interfered with the telephone service of government critics and opponents. Security forces sometimes detained relatives of suspects while the suspect was being sought (see Section 1.d.). Government informers monitored meetings and assemblies (see Section 2.b.).

The Government reportedly blocked sexually explicit Web sites but did not block politically oriented sites (see Section 2.a.). The Government claimed that it did not monitor Internet usage, but some persons suspected security authorities read their e-mail messages.

The law prohibits arrests or the serving of a subpoena between the hours of sundown and dawn. However, persons suspected of crimes in some instances were taken from their homes in the middle of the night, without search warrants. Jews traditionally faced social (but not legal) restrictions on their residence and their employment; however, there were no reported cases during the year.

No citizen may marry a foreigner without Interior Ministry permission (see Section 5). This regulation does not carry the force of law and appears to be enforced irregularly.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press “within the limits of the law”; however, the Government influenced the media and restricted press freedom. Some security officials attempted to influence press coverage by threatening and harassing journalists. Although most citizens were uninhibited in their private discussions of domestic and foreign policies, some were cautious in public, fearing harassment for criticism of the Government. The Penal Code criminalizes, with fines and sentences up to 5 years in jail, “the humiliation of the State, the Cabinet, or parliamentary institutions,” the publication of “false information” that “threatens public order or the public interest,” and “false stories intended to damage Arab and friendly countries or their relations” with the country.

An atmosphere of government pressure on independent and political party newspapers continued at a lower level than in 2002, due to a reduction in cases of detention after a presidential amnesty to all journalists in July 2002. The Government dropped previous cases against journalists and media outlets but continued to use censorship and intimidation directed at journalists. Self-censorship was practiced despite the decrease in detention and prosecution.

The Ministry of Information influenced the media through its control of most printing presses, subsidies to certain newspapers, and its ownership of the country’s sole television and radio outlets. Only two newspapers, the weekly Al-Shumu and the daily Aden independent Al-Ayyam, owned their own presses. The Government selected the items to be covered in news broadcasts, and it often did not permit broadcast reporting critical of the Government. The Government televised parliamentary debates, but it edited them selectively to remove criticism.

Press Law regulations specify that newspapers must apply annually to the Government for licensing renewal, and that they must show continuing evidence of approximately \$4,375 (700,000 riyals) in operating capital. There were no reports of denied registrations during the year.

Although newspapers ostensibly were permitted to criticize the Government, journalists at times censored themselves, especially when writing on such sensitive issues as government policies toward the southern governorates, relations with Saudi Arabia and other foreign governments, official corruption, and combating terrorism. Journalists were subject to arrest for libel, dismissal from employment, or extrajudicial harassment. Editors-in-chief legally were responsible for everything printed in their newspapers, regardless of authorship. Some journalists have reported threats from security officials to change the tone and substance of their reporting. Journalists must have a permit to travel abroad; however, there were no reports that this restriction was enforced during the year (see Section 2.d.). During the year, the Government continues to enforce a 2001 circular prohibiting publica-



tion of information or news pertaining to the armed forces before “consulting” with the Ministry of Defense.

In 2002 the President issued an amnesty for all journalists in detention or awaiting trial. The amnesty directed the General Prosecutor to stop all cases filed against journalists awaiting prosecution. The orders also required journalists to pledge to discontinue reporting that went against the law, national norms, or national unity. The General Prosecutor dropped past cases. Some journalists claimed that most harassment came from the police, in particular the CID.

Unlike in previous years, there were no journalists detained; however, harassment and intimidation continued. For example, the Press Freedom and Press Training Center, an NGO that tracks human rights violations against journalists and newspapers, still had not received a license to operate, since it applied in 2002. The Ministry of Information on occasion confiscated specific issues of opposition newspapers that contained anti-government reports. In 2002, the PSO arrested Abdul-Rahim Muhsen, a journalist for the Yemeni Socialist Party’s newspaper Al-Thawri, for writing articles critical of the Government. In 2002, Ibrahim Hussein, an Al-Thawri journalist, was also sentenced to 5 months in jail for violating the press law. Two weeks later, the PSO rearrested and imprisoned Hussein; he was held incommunicado for more than 2 weeks until release. The cases were later dropped pursuant to the President’s July 2002 amnesty.

In January, the Sana’a Appeals Court acquitted Jamal Ahmed Amer in a 2000 case involving an article that criticized the Government of Saudi Arabia.

The 2001 case of al-Shumu’s editor-in-chief Seif al-Hadri was dropped during the year.

All cases against Hisham Ba Sharahil were dropped pursuant to the President’s amnesty: The 2000 case the editor of al-Ayyam who was charged with “instigating the use of force and terrorism” and “publishing false information” for publishing an interview with Islamic militant Abu Hamza al-Masri in 1999, and with “insulting public institutions” for publishing an article critical of the Director of Aden Security from the secessionist Movement of Self-Determination for South Arabia.

The Yemeni Journalists Syndicate defended freedom of the press and publicized human rights concerns. Critics claim that the syndicate was ineffective because it had too many non-journalist members who supported government policy. In 2002, the Press Freedom and Training Center, under the leadership of Mohammed Sadeq Al-Udaini, was established to document abuses against journalists and defend their rights; however, it still does not have a license to operate by year’s end.

Customs officials confiscate foreign publications regarded as pornographic or objectionable because of religious or political content. There were some reports during the year that the Ministry of Information delayed the distribution of international Arabic-language dailies in an effort to decrease their sales in the country. Authorities monitored foreign publications, banning those that they deem harmful to national interests.

An author must obtain a permit from the Ministry of Culture to publish a book. The author is required to submit copies of the book to the Ministry. Officials at the National Library must read and endorse the text, and then it is submitted to a special committee for final approval. If a book is not deemed appropriate for publication, the Ministry simply does not issue a decision. Publishers usually did not deal with an author who had not yet obtained a permit. Most books were approved, but the process was time-consuming.

The Government did not impose restrictions on Internet use, but most persons claimed that equipment and subscriptions costs were prohibitively high. Teleyemen, a parastatal company under the Ministry of Telecommunications, and YemenNet were the country’s Internet service providers. The Government did not block politically oriented web sites.

The Government restricted academic freedom to some extent because of the extreme politicization of university campuses. A majority of professors and students aligned themselves with either the ruling GPC party or the opposition Islaah party. Each group closely monitored the activities of the other. Top administrative positions were usually awarded to political allies of these two major parties. There were several clashes between GPC- and Islaah-affiliated students during the year, but no serious violence.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. The Government claimed that it banned and disrupted some demonstrations to prevent them from degenerating into riots and violence. The Government required a permit for demonstrations, which it issued routinely. Government informers monitored meetings and assemblies. The opposition claimed that the Government sometimes detained activists for questioning to prevent them from organizing demonstrations.

In March, security forces killed and injured demonstrators after a gunfight broke out between demonstrators and security forces protecting a foreign embassy. Security forces used tear gas and shots in the air to disperse demonstrators. A policeman and an 11-year-old male citizen reportedly were killed during the shootout (see Section 1.a.). AI reported that police detained dozens of demonstrators and subjected some to beatings upon arrest (see Sections 1.c. and 1.d.). The Government had previously allowed several peaceful anti-war demonstrations (see Section 1.b.); however, in this instance, the demonstrators, led by pro-Iraqi politicians, initiated violence aimed at a foreign embassy. Several members of the security forces were also injured. There were also a number of peaceful demonstrations during the year.

Authorities arrested and were prosecuting the soldier allegedly responsible for the April 2001 killing of a demonstrator in al-Dalah governorate.

The Constitution provides for the freedom of association, and the Government generally respected this right in practice. Associations must obtain an operating license from the Ministry of Social Affairs or the Ministry of Culture, usually a routine matter. Government informants monitored meetings and assemblies.

The Government cooperated to some extent with NGOs, although NGOs complained that there was a lack of response to their requests from officials. Some part of the Government's limited responsiveness was due to a lack of material and human resources. In 2001, Parliament passed the controversial Law for Associations and Foundations, which regulates the formation and activities of NGOs (see Section 4).

All political parties must be registered in accordance with the Political Parties Law, which stipulates that each party must have at least 75 founders and 2,500 members (see Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, there were some restrictions. The Constitution declares that Islam is the state religion and that Shari'a is the source of all legislation.

Followers of other religions were free to worship according to their beliefs and to wear religiously distinctive ornaments or dress; however, the Government forbids conversion from Islam, requires permission for the construction of new places of worship, and prohibits non-Muslims from proselytizing and holding elected office. The Government did not keep track of an individual's religious identity.

Under Islam, the conversion of a Muslim to another religion is considered apostasy, which the Government interprets as a crime punishable by death. There were no reports of cases in which the crime was charged or prosecuted by authorities.

Official policy does not prohibit or prescribe punishment for the possession of non-Islamic religious literature; however, there were unconfirmed reports that police have harassed foreigners for its possession. In addition, ostensibly to prevent proselytizing, some members of the security forces occasionally censored the mail of Christian clergy who ministered to the foreign community.

The Government did not allow the building of new non-Muslim public places of worship without permission. Weekly services for Catholic, Protestant, and Ethiopian Christians were held in various locations in Sana'a without government interference. Christian church services were held regularly in other cities without harassment in private homes or facilities such as schools, and these facilities appeared to accommodate the small numbers involved.

There were unconfirmed reports that some police, without the authorization or knowledge of their superiors, on occasion have harassed and detained persons suspected of apostasy to compel them to renounce their conversions.

Public schools provided instruction in Islam but not in other religions. However, almost all non-Muslims were foreigners who attended private schools.

The Government has taken steps to prevent the politicization of mosque activities in an attempt to curb extremism. This included the monitoring of mosques for sermons that incited violence or other political statements that it considered harmful to public security. Private Islamic organizations may maintain ties to pan-Islamic organizations and, in the past, have operated private schools; however, the Government monitored their activities.

In 2001, the Government mandated the implementation of a 1992 law to unify educational curriculums and administration of all publicly funded schools. The process of absorbing publicly funded Islamic schools into the national system was ongoing at year's end.

In 2000, the Government suspended its policy of allowing Yemeni-origin Israeli passport holders to travel to the country on laissez-passer documents. However, Yemeni, Israeli, and other Jews may travel freely to and within the country on non-Israeli passports (see Section 2.d.).

Following unification of North and South Yemen in 1990, owners of property previously expropriated by the Communist government of the former PDRY, including

religious organizations, were invited to seek restitution of their property. However, implementation of the process, including for religious institutions, has been extremely limited, and very few properties have been returned to previous owners.

Shari'a-based law and social customs discriminated against women (see Section 5).

Nearly all of the country's once sizable Jewish population has emigrated. There were no legal restrictions on the few hundred Jews who remained, although there were traditional restrictions on places of residence and choice of employment (see Section 5).

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government placed some limits on freedom of movement. In practice, the Government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads. There were a few reports during the year that security forces at checkpoints injured persons whom they believed were engaging in criminal activity and resisting arrest.

In certain areas, armed tribesmen occasionally manned checkpoints alongside military or security officials, and subjected travelers to physical harassment, bribe demands, or theft.

The Government did not routinely obstruct foreign travel or the right to emigrate and return. However, journalists must have a permit to travel abroad. There were no reports that the restriction on journalists was enforced during the year (see Section 2.a.). Women must obtain permission from a male relative before applying for a passport or departing the country.

Immigrants and refugees traveling within the country often were required by security officials at government checkpoints to show that they possessed resident status or refugee identification cards.

During the year, the government deported foreigners who were in the country illegally or whom it suspected of inciting violence or engaging in criminal acts.

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. However, the Government continues to grant refugee status on a group basis to Somalis who arrived in the country after 1991.

The Government cooperated with the U.N. High Commissioner for Refugees in assisting refugees and asylum seekers from Somalia, Eritrea, Ethiopia, and various other countries.

At times, authorities arrested without charge and imprisoned refugees (see Section 1.d.).

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

The Constitution provides citizens with the right to change their government; however, there were limitations in practice. By law the Government is accountable to the Parliament; however, the Parliament was not an effective counterweight to executive authority. Decisionmaking and real political power still rested in the hands of the executive branch, particularly the President. In addition, the Constitution prohibits the establishment of parties that are contrary to Islam, oppose the goals of the country's revolution, or violate the country's international commitments.

The President appoints the Prime Minister, who forms the Government. The cabinet consists of 35 ministers. Parliament is elected by universal adult suffrage; the first such election was held in 1993. International observers judged April Parliamentary elections to be "generally free and fair"; however, there were some problems with underage voting, confiscation of ballot boxes, voter intimidation, and vote buying. In addition, international observers reported that some officials were allegedly prevented from approving results that gave victory to opposition parties. At least three people were reportedly killed and one person wounded in shootings involving supporters of rival candidates. Approximately 28 persons were killed and 47 injured in election-related violence in 1997 (see Section 1.a.). President Saleh's ruling GPC party maintained its large majority in Parliament. Eight million voters or 75 percent of eligible voters went to the polls, of which 43 percent were women. Throughout the country, 1396 candidates represented 21 political parties competed for 301 seats.

Ali Abdullah Saleh, the President and leader of the GPC, was elected to a 5-year term in the country's first nation-wide direct presidential election in 1999, winning 96.3 percent of the vote. In 2001, the 5-year term was later amended to a 7-year

term. The Constitution provides that the President is elected by popular vote from at least two candidates endorsed by Parliament, and the election was generally free and fair; however, there were some problems, including the lack of a credible voter registration list. In addition, the President was not opposed by a truly competitive candidate because the candidate selected by the leftist opposition coalition did not receive from the GPC-dominated Parliament the minimum number of votes required to run (the other opposition party chose not to run its own candidate, despite its seats in Parliament). The President's sole opponent was a member of the GPC.

The Constitution permits Parliament to initiate legislation; however, to date it has not done so. Parliament debated policies that the Government submitted; however, it increasingly and successfully revised or blocked draft legislation submitted by the Government. In addition, the Government routinely consulted senior parliamentary leaders when it drafted important national legislation. Although the President's party, the GPC, enjoyed an absolute majority, Parliament has rejected or delayed action on major legislation introduced by the Government and has forced significant modification. The Parliament also has criticized the Government for some actions, including the issue of detainees and aspects of the Government's counterterrorism campaign. Ministers frequently were called to Parliament to defend actions, policies, or proposed legislation, although they may and sometimes did refuse to appear. Parliamentarians, at times, were sharply critical during these sessions. Parliamentarians and staff attended foreign NGO-sponsored training workshops designed to increase their independence and effectiveness.

In a national referendum in 2001, citizens approved several amendments to the Constitution, including amendments that extend the terms of Members of Parliament from 4 to 6 years and the President from 5 to 7 years, allow the President to dissolve Parliament without a referendum in rare instances, and abolish the President's ability to issue decrees while Parliament was in recess. Another approved amendment transformed the 59-member Consultative Council, an advisory board to the President, into an appointed 111-member Shura Council. The new Council, like the old, advised the President on a range of issues and consisted of appointed members chaired by a former prime minister. However, unlike its predecessor, which had no constitutional role, the Shura Council has limited legislative and candidate approval powers. In general, the elections and referendum in 2001 appeared to be free and fair; however, there were problems. Approximately 28 persons were killed and 47 injured in election-related violence. There were some reports of fraud, as well as logistical problems in voting procedures.

Formal government authority is centralized in Sana'a; many citizens, especially in urban areas, complain about the inability of local and governorate entities to make policy or resource decisions. The Local Authority Law, decentralizes authority by establishing locally elected district and governorate councils, headed government-appointed governors. The first elections for the councils were held concurrently with the constitutional referendum in 2001. A few local councils still were not constituted at year's end and many continued to lack sufficient resources.

In some governorates, tribal leaders exercised considerable discretion in the interpretation and enforcement of the law. Central government authority in these areas was often weak.

The GPC dominated Parliament, and Islaah was the only other party of significance in Parliament. All parties must be registered in accordance with the Political Parties Law of 1991, which stipulates that each party must have at least 75 founders and 2,500 members. Some oppositionists contended that they were unable to organize new parties because of the prohibitively high legal requirements regarding the minimum number of members and leaders. The Yemeni Socialist Party and several smaller parties boycotted the country's first nationwide direct presidential election in 1999, but they returned to active political life by participating in the 2001 local elections, constitutional referendum, and the April parliamentary election.

The Government provided financial support to political parties, including a small stipend to publish their own newspapers. However, the YSP claimed that the Government has not returned the assets that it seized from the party during the 1994 war of secession.

In May, an extensive cabinet change occurred after the parliamentary election, with more than half of the ministries receiving new ministers.

Although women voted and held office, cultural norms and religious customs often limited these rights, and the numbers of women in Government and politics did not correspond to their percentage of the population. There was one woman in the 301-seat legislature and in the Cabinet, and none in the Supreme Court. During the year, one woman was elected to Parliament. Two women were elected to the Parliament in 1997. An increasing number held senior leadership positions in the Government or in the GPC. The country's first female minister was appointed in April

2001 and its second this year and 35 women were elected to the local councils in 2001. International observers reported that more than 40 percent of the electorate were women.

Many Akhdam, a small ethnic minority who may be descendants of African slaves, did not participate in the political process. There were no credible reports that citizen members of religious minorities were not permitted to participate in the political process (see Section 2.c.).

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views; however, NGOs complained that at times there was a lack of response to their requests. Some part of the Government's limitation in responsiveness was due to a lack of material and human resources. During the year, several government-sponsored initiatives were aimed at furthering cooperation with NGOs. In 2001, Parliament passed the Law for Associations and Foundations, which regulates the formation and activities of NGOs.

The Taiz-based Human Rights Information and Training Center placed particular emphasis on education, NGO training, and increasing human rights awareness in the country and in the region via workshops and public awareness campaigns.

During the year, the Sana'a-based NGO Forum for a Civil Society held training programs on prison reform and human rights in the family and community and distributed the Transparency International report on corruption.

During the year, the Yemen Institute for Democracy Development monitored the parliamentary elections, held discussion fora on the impact of elections on the democratization process and advocated on behalf of specific human rights cases.

The NGO Sisters Arabic Forum for Human Rights conducted several advocacy conferences on women in the law, women in elections, and women's political participation.

The NGO Civic Democratic Forum (CDF) monitored the April parliamentary election, including both pre- and post-election periods. CDF also conducted programs to train women candidates.

The Government gives AI, Human Rights Watch (HRW), the Parliament of the European Union, and the Committee to Protect Journalists broad access to officials, records, refugee camps, and prisons (see Section 1.c.). For example, the ICRC maintained a resident representative to inspect prisons during the year.

The Supreme National Committee for Human Rights, which reported to the Prime Minister, was dissolved in December under a Republic Decree establishing the mandate of the Ministry of Human Rights. The Ministry's by-laws outline its general functions and tasks, the responsibilities of the Minister, Deputy Minister, Board and staff, and its regulatory structure. The Ministry's primary functions include: Proposing "policies, programs and procedures required for the enhancement of human rights and their protection in coordination with the bodies concerned"; studying legislation and laws to judge compatibility with international human rights conventions and treaties ratified by the country and proposing amendments as necessary; receiving complaints from citizens and organizations to study them and treat them in accordance with jurisdictions of Ministry of Human Rights in coordination with bodies concerned; enhancing "fields of cooperation" with civil society organizations; contributing to the preparation of human rights studies; reporting on the country's international human rights commitments; and coordinating and developing cooperation with the human rights-related international organizations.

During the year, the Ministry of Human Rights raised awareness of human rights via public information campaigns and provided training to activists on human rights. The Ministry resolved human rights cases through coordination with other Ministries and human rights NGOs and a newly established complaint mechanism. The Ministry cooperated with a U.N. Development Program (UNDP) project to increase its ability to combat human rights abuses by improving ministry management and staff training and establishing an information center and complaint mechanism.

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

The Constitution provides for equal rights and equal opportunity for all citizens; however, discrimination based on race, sex, and disability existed. Entrenched cultural attitudes often affected women's ability to enjoy equal rights.

*Women.*—The law provides for protection against violence against women; however, such provisions rarely were enforced. Although spousal abuse reportedly was

common, it generally was undocumented. Violence against women and children was considered a family affair and usually was not reported to the police. In the country's traditional society, an abused woman was expected to take her complaint to a male relative (rather than the authorities), who should intercede on her behalf or provide her sanctuary if required. A small shelter for battered women in Aden assisted victims, and telephone hotlines operated in Aden and Sana'a.

The law prohibits rape; however, it was a widespread problem. The punishment for rape is imprisonment up to 15 years depending on circumstances; however, it was seldom imposed.

The press and women's rights activists continued to investigate or report on violations of women's rights. During the year, NGO-sponsored conferences attempted to raise the media's awareness of violence against women.

The law prohibits FGM; however, it was practiced. The prevalence of the practice varied substantially by region. Citizens of African origin or those living in communities with strong African influence were more likely to practice FGM. Government health workers and officials continued to discourage the practice actively and publicly. During the year, the National Women's Committee (NWC) in Aden provided awareness programs targeting health professionals, schools, and rural communities.

Prostitution is illegal; however, it occurred in practice. The punishment for prostitution is imprisonment up to 3 years or a fine.

The Penal Code allows for leniency for persons guilty of committing a "crime against honor," violent assaults or killings committed against a female for her perceived immodest or defiant behavior. Legal provisions regarding violence against women state that an accused man should be put to death for murdering a woman. However, a husband who murders his wife and her lover may be fined or imprisoned for a term not to exceed 1 year. Despite the apparent sanctioning of honor killings, most citizens, including women's activists, believed the phenomenon was not widespread. Some international NGOs claimed that the practice was more prevalent, but admitted to a lack of evidence to support such claims.

The law, social custom, and Shari'a, as interpreted in the country, discriminated against women. Men are permitted to take as many as four wives, although very few did so. By law the minimum age of marriage is 15; however, the law largely was not enforced, and some girls married as early as age 12.

The law stipulates that the wife's "consent" to the marriage is required; consent is defined as "silence" for previously unwed women and "pronouncement of consent" for divorced women. The husband and the wife's "guardian" (usually her father) signed the marriage contract; in Aden and some outlying governorates, the wife also signed. The practice of bride-price payments was widespread, despite efforts to limit the size of such payments.

The law provides that the wife must obey the husband. She must live with him at the place stipulated in the contract, consummate the marriage, and not leave the home without his consent. Husbands may divorce wives without justifying their action in court. A woman has the legal right to divorce; however, she must provide a justification, such as her husband's nonsupport, impotence, or taking of a second wife without her consent. However, the expense of hiring a lawyer was a significant deterrent, as was the necessity for rural women to travel to a city to present their case. A woman seeking a divorce also must repay the mahr (a portion of her bride price), which created an additional hardship. As a woman's family usually retains the mahr, the refusal by a family to pay the mahr effectively could prevent a divorce. The family's refusal to accept the woman back into the home also could deter divorce, as few other options were available to women. When a divorce occurs, the family home and older children often were awarded to the husband. The divorced woman usually returned to her father's home or to the home of another male relative. Her former husband must continue to support her for another 3 months, since she may not remarry until she proves that she is not pregnant.

Women who seek to travel abroad must obtain permission from their husbands or fathers to receive a passport and to travel (see Section 2.d.). Male relatives were expected to accompany women when travelling. However, enforcement of this requirement was not consistent.

Shari'a-based law permits a Muslim man to marry a non-Muslim woman; however, no Muslim woman may marry a non-Muslim.

Women do not have the right to confer citizenship on their foreign-born spouses; however, they may confer citizenship on children born of foreign-born fathers under certain circumstances as stipulated by law and determined by the Government.

According to an Ministry of Interior regulation, any citizen who wishes to marry a foreigner must obtain the permission of the Ministry. A woman wishing to marry a foreigner must present proof of her parents' approval to the Ministry of Interior. A foreign woman who wishes to marry a citizen man must prove to the Ministry

that she is “of good conduct and behavior,” and “is free from contagious disease.” There are no corresponding requirements for men to demonstrate parental approval, good conduct, or freedom from contagious diseases.

The Government continued to support women’s rights as exemplified by local law and the expansion of the public role of women. The President and Government strongly encouraged women to vote and strongly supported several NGO-sponsored conferences to increase the role of women in political life. The number of women in positions of leadership in government ministries increased during the year.

According to 2002 government statistics, approximately 67.5 percent of women were illiterate, compared with approximately 27.7 percent of men. The fertility rate was 6.5 children per woman. Most women had little access to basic health care.

In general women in the south, particularly in Aden, were better educated and had somewhat greater employment opportunities than their northern counterparts. However, since the 1994 war of secession, the number of working women in the south appears to have declined, due not only to the stagnant economy but also to increasing cultural pressure from the north. According to the UNDP, female workers accounted for 19 percent of the paid labor force. During the year, the Government amended a law to require that every public or private institution employing more than 50 female workers must provide assistance with the care of their children. There were no laws prohibiting sexual harassment, and it occurred in practice.

Prior to unification, approximately half of the judges working in the PDRY were women. However, after the 1994 war of secession, conservative leaders of the judiciary reassigned many southern female judges to administrative or clerical duties. Although several female judges continued to practice in Aden, there were no female judges in northern courts.

In July 2001, the NWC completed a 6-month review of 58 significant national laws to find and rectify provisions that discriminated against women or violated equal status requirements agreed to by the Government in international conventions. The NWC’s seven-member legal committee identified problems and recommended legal changes. The Cabinet has approved the recommended changes in principle, with some revisions. Parliament passed several amendments relating to civil status by year’s end and efforts continued to amend further laws. During the year and in 2002, the NWC also pushed for a quota system to reserve at least 10 percent of parliament any seats for women, but failed.

There were a number of NGOs working for women’s advancement, including the Social Association for Productive Families, promoting vocational development for women; the Women and Children’s Department of the Center for Future Studies, organizing seminars and publishing studies on women and children; the Woman and Child Development Association, focusing on health education and illiteracy; and the Yemeni Council for Motherhood and Childhood, providing microcredit and vocational training to women.

*Children.*—While the Government asserted its commitment to protect children’s rights, it lacked the resources necessary to ensure adequate health care, education, and welfare services for children. Malnutrition was common. Most recent figures showed that the infant mortality rate in 1999 was 75 deaths per 1,000 births, down from 105 per 1,000 in 1998. Male children received preferential treatment and had better health and survival rates.

The law provides for universal, compulsory, and free education from ages 6 to 15; however, the provision regarding compulsory attendance was not enforced. Many children, especially girls, did not attend primary school. According to a UNDP report released during 2001, average student attendance in primary schools was 76 percent for boys and 40 percent for girls. In rural areas, 52 percent of children attended school; the rate in urban areas was 81 percent.

Child marriage was common in rural areas. Although the law requires that a girl be 15 years of age to marry, the law was not enforced, and marriages of girls as young as age 12 occurred.

The law does not prohibit child abuse and it was a problem.

FGM was practiced on a limited scale (see Section 5, Women).

In 2002, the Supreme Council for Childhood and Motherhood developed the Child Rights Law passed by Parliament, which explicitly prohibits child labor.

*Persons with Disabilities.*—Persons with mental and physical disabilities faced social prejudices, as well as discrimination in education and employment. The Government mandated the acceptance of persons with disabilities in universities, exempted them from paying tuition, and required that schools be made more accessible to persons with disabilities; however, it was unclear to what extent these laws have been implemented. There is no national law mandating the accessibility of buildings for persons with disabilities.

Public awareness regarding the need to address the concerns of persons with disabilities appeared to be increasing. In 2001, NGOs established a privately funded center for persons with hearing and speaking impairments in Taiz.

At times authorities arrested without charge imprisoned persons with mental disabilities (see Section 1.d.).

During the year, the Handicapped Society and the Challenge Society were involved in assisting persons with disabilities. These two NGOs provided rehabilitation assistance and vocational training and sponsored cultural and sports activities.

*National/Racial/Ethnic Minorities.*—A small group of persons claiming to be the descendants of ancient Ethiopian occupiers of the country, who later were enslaved, were considered the lowest social class. Known as the “Akhdam” (servants), they lived in poverty and endure persistent social discrimination. The Government’s Social Fund for Development for “special needs groups” focused particularly on the Akhdam. In 2001, several Akhdam-origin citizens in Taiz governorate established the Free Black People’s Charitable Organization to fight discrimination and improve conditions for their community.

Human rights groups have reported that some immigrants of African origin had difficulty in securing Interior Ministry permission to marry citizens. An Interior Ministry regulation requires that marriages of citizens and foreigners be approved in advance by the Ministry (see Section 1.f.).

Tribal violence continued to be a problem during the year, and the Government’s ability to control tribal elements responsible for acts of violence remained limited. Tensions, which periodically escalated into violent confrontations, continue between the Government and some tribes.

Citizens with a non-citizen parent, at times faced discrimination in employment and in other areas. Persons who sought employment at Sana’a University or admission to the military academy by law must demonstrate that they have two citizen parents. Nonetheless, many senior officials, including Members of Parliament and ministers, had only one citizen parent; at times, naturalization of the non-citizen parent fulfilled this requirement.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and Labor Law provide that citizens have the right to form and join unions; however, this right was restricted in practice. The Government sought to place its own personnel in positions of influence inside unions and trade union federations.

The law permits trade unions to establish only under federation. The General Federation of Trade Unions of Yemen (GFWTUY) remained the sole national umbrella organization. The GFWTUY claimed approximately 350,000 members in 14 unions and denied any association with the Government, although it worked closely with the Government to resolve labor disputes through negotiation. Observers suggest that the Government likely would not tolerate the establishment of an alternative labor federation unless it believed such an establishment to be in its best interest.

Only the General Assembly of the GFWTUY may dissolve unions. The law provides equal labor rights for women, and it confirms the freedom of workers to associate. The Labor Law does not stipulate a minimum membership for unions, or limit them to a specific enterprise or firm. Thus citizens may associate by profession or trade.

The law generally protects employees from anti-union discrimination. Employers do not have the right to dismiss an employee for union activities. Employees may appeal any disputes, including cases of anti-union discrimination, to the Ministry of Social Affairs and Labor. Employees also may take a case to the Labor Arbitration Committee, which is chaired by the Ministry of Labor and also consists of an employer representative and a GFWTUY representative. Such cases often were disposed favorably toward workers, especially if the employer was a foreign company.

The GFWTUY is affiliated with the Confederation of Arab Trade Unions and the Brussels-based International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law provides workers with the right to organize and bargain collectively. The Government permitted these activities; however, it sought to influence them by placing its own personnel inside groups and organizations. The Ministry of Labor has veto power over collective bargaining agreements, a practice criticized by the International Labor Organization (ILO). Several such agreements existed. Agreements may be invalidated if they are “likely to cause a breach of security or to damage the economic interests of the country.” Unions may negotiate wage settlements for their members and may resort to strikes or other actions to achieve their demands. Public sector employees must take their grievances to court.



The Labor Law provides for the right to strike; however, strikes were not permitted unless a dispute between workers and employers is “final” and “incontestable” (a prior attempt must have been made to settle through negotiation or arbitration). The proposal to strike must be submitted to at least 60 percent of all concerned workers, of whom 25 percent must vote in favor of the proposal. Permission to strike also must be obtained from the GFWTUY. Strikes for explicit “political purposes” were prohibited.

There were some peaceful strikes during the year.

There are reports that private sector employers discriminated against union members by transfers, demotions, and dismissals.

There are no export processing zones (EPZs) in operation.

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

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits child labor. The established minimum age for employment is 15 years in the private sector and 18 years in the public sector. By special permit, children between the ages of 12 and 15 may work. The Government rarely enforced these provisions, especially in rural and remote areas. The Government also did not enforce laws requiring 9 years of compulsory education for children.

Child labor was common, especially in rural areas. Many children were required to work in subsistence farming because of the poverty of their families. Even in urban areas, children worked in stores and workshops, sold goods on the streets, and begged. Many school-aged children worked instead of attending school, particularly in areas in which schools were not easily accessible.

In 2000, the Shura Council adopted the ILO’s Child Labor Strategy to address persistent child labor problems. A special council, under the leadership of the Minister of Social Affairs and Labor, used the strategy as a government-wide guideline for enforcing existing child labor laws and formulating and implementing new laws. In late 2002, the Supreme Council for Childhood and Motherhood developed the Child Rights Law later passed by Parliament that explicitly prohibits child labor.

The Child Labor Unit at the Ministry of Labor is responsible for implementing and enforcing child labor laws and regulations. The unit is responsible for investigating and addressing cases and issuing guidelines to prevent child labor. They had offices in 11 provinces and have established specific guidelines to prevent child labor under the age of 12. The Government was an active partner with the ILO’s International Program to Eliminate Child Labor.

*e. Acceptable Conditions of Work.*—There was no established minimum wage for any type of employment. The Labor Law provides equal wages for workers and civil servants. During the year, the Government again increased selected civil servants’ wages. Private sector workers, especially skilled technicians, earned a far higher wage. The average wage did not provide a decent standard of living for a worker and family. The minimum civil service wage during the year did not meet the country’s poverty level.

The law specifies a maximum 48-hour workweek with a maximum 8-hour workday, but many workshops and stores operate 10- to 12-hour shifts without penalty. The 35-hour workweek for government employees was 7 hours per day from Saturday through Wednesday.

The Ministry of Labor is responsible for regulating workplace health and safety conditions. The requisite legislation for regulating occupational health is contained in the Labor Law, but enforcement was weak to nonexistent. Many workers regularly were exposed to toxic industrial products and developed respiratory illnesses. Some foreign-owned companies and major manufacturers implemented higher health, safety, and environmental standards than the Government required. Workers have the right to remove themselves from dangerous work situations and may challenge dismissals in court. These laws were generally respected in practice.

*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.



## SOUTH ASIA

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### AFGHANISTAN

Afghanistan made significant progress in establishing its institutions of democracy and governance; however, during the second year of its transition, reconstruction and recovery from the 23 years of civil war was the central focus of activity, and numerous problems remained. The Transitional Islamic State of Afghanistan (TISA) continued to govern the country and began the task of drafting a new constitution, overseeing the formation of a national army, and of preparing for elections in 2004. In June 2002, the Emergency Loya Jirga (ELJ), a gathering of Afghan representatives from throughout the country called for by the 2001 Bonn Agreement, elected Hamid Karzai as President of the TISA. President Karzai subsequently formed a 30-member cabinet including a broad ethnic representation and 2 female members. Some major provincial centers were under the control of regional commanders. With some significant exceptions, these commanders acknowledged the Karzai administration as the legitimate central authority. Karzai appointed governors to all 32 provinces. The legal framework and judicial system of the country were set forth in the 2001 Bonn Agreement. Existing laws, not inconsistent with the Bonn Agreement, the country's international obligations, or applicable provisions of the Constitution, remained in effect. Judicial power rested with the Supreme Court. Under the Karzai Government, the rule of law applied throughout the country; however, in practice recognition of the rule of law, particularly outside of Kabul, was limited. The judiciary deteriorated during the Soviet occupation and civil war and operated on an ad hoc basis during the year.

The registration of district representatives to elect delegates for the Constitutional Loya Jirga (CLJ) was completed in mid-November. Countrywide elections for the candidates to the CLJ took place in November and December. Despite reports of intimidation of representatives, most independent observers deemed the registration and election free and fair. In November, the TISA released a draft Constitution. In December, 502 delegates to a CLJ met to discuss the new charter. Presidential elections were scheduled for June 2004. The Bonn Agreement stipulated that national elections must take place by June 2004, which the country is preparing for.

Among the TISA's security forces, the police officially had primary responsibility for internal order; however, local and regional commanders maintained considerable power, as the TISA was not in a position to exercise control nationwide. Outside the capital, there was some fighting between local militias maintained by rival commanders who were also often government officials, and insecurity and the absence of robust legal institutions threatened stability and development. On August 11, NATO assumed command of the International Security Assistance Force (ISAF) with responsibility for the security of Kabul. On October 13, the U.N. Security Council extended ISAF's mandate for another year and authorized its expansion to other parts of the country. By year's end, there were more than 5,300 active members of the Afghan National Army (ANA) working with coalition partners. A resurgence of Taliban and al-Qa'ida activity, particularly in the South and Southeast, added to security concerns. U.N. agencies and Non Governmental Organization (NGOs) temporarily cancelled or curtailed their activities in these areas at various times during the year.

The country remained engaged in agriculture and animal husbandry and remained extremely poor; per capita earnings for the population of 26 million was below subsistence level. The World Bank unofficially estimated the growth rate at 30 percent for the year. Illegal opium poppy was the mainstay of the economy and largely financed the military operations of various provincial authorities. According to the U.N., the poppy harvest grew by an estimated additional 6 percent during the year. There was little manufacturing, and there were few exports; a projected 36 percent of the Government's operating budget came from domestic revenues; the rest, as well as the development budget, was donor-financed. In December, the coun-

try celebrated the reconstruction of Kabul-Kandahar road. Reconstruction of the devastated infrastructure proceeded in differing degrees throughout the country. Twenty-three years of fighting and decades of corruption and mismanagement resulted in a devastated infrastructure.

The TISA and its agents' respect for human rights improved during the year; however, many serious problems remained, especially where its authority was challenged outside Kabul. Members of local security forces committed arbitrary, unlawful, and some extrajudicial killings, and officials used torture in jails and prisons. Prolonged pretrial detention, due to a severe lack of resources in the judicial system, remained a problem. Prison conditions remained poor. Overcrowding and limited food and medical supplies contributed to deteriorating health and even death among prisoners. The Karzai Government generally provided for the freedom of speech, the press, assembly, association, religion, and movement; however, problems remained. Approximately 60,000 Pashtun internally displaced persons (IDPs) had yet to return to their former homes in northern provinces after local commanders targeted Pashtuns after the fall of the Taliban for murder, looting, rape, and destruction of property. Security concerns, as well as the drought, discouraged some refugees from returning to their country. Violence and societal discrimination against women and minorities were problems. Women and girls were subjected to rape and kidnapping, particularly in areas outside Kabul where security problems persisted. There was widespread disregard for, and abuse of, internationally recognized worker rights. Child labor continued to be a problem. Trafficking of persons was a problem.

Terrorist attacks and severe violence continued. The remnants of the Taliban and rogue warlords threatened, robbed, attacked, and occasionally killed local villagers, political opponents, and prisoners. During the year, some efforts were made to bring to justice those persons responsible for serious abuses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The arrival of the Operation Enduring Freedom (OEF) forces and the collapse of the Taliban in 2001 helped begin an end to the decades-long pattern of serious human rights abuses, including extrajudicial killings. However, inter-factional fighting between regional commanders, persistent Taliban and al-Qa'ida activity, and criminal activity contributed to continued reports of unlawful deprivations of life. Militants targeted foreigners and local employees of NGOs for unlawful killings. Civilians also were killed during fighting between OEF forces and rebel forces.

During the year, the TISA investigated the November 2002 unlawful police killing of two demonstrators in Kabul and an unknown number of persons have been arrested. The case has been referred to the Supreme Court; however, there had been no trial date set by year's end. There were reports of deaths in custody.

Intimidation, attacks, and killings took place during the 2002 Loya Jirga process. Further, Human Rights Watch (HRW) stated that several powerful military and party leaders threatened less powerful delegates, and agents of the intelligence service, the National Directorate of Security (also known as Amniat-e-Melli), spied on and delivered threats to delegates.

Human rights sources indicated that political intimidation and violence in the CLJ registration process was a problem. However, other reports, including those prepared by the U.N., suggest that intimidation was localized and did not significantly impact the outcome of elections. In October, HRW reported allegations of violence and intimidation against regional representatives and delegates continued. HRW stated that, in Badakshan and Ghor, candidates withdrew their support, "after a senior commander, allied with former President Burhanuddin Rabbani, allegedly said 'Avoid nominating yourself, otherwise we will kill you and throw your corpse into the Kokcha river.'" At year's end, no investigation or arrests had been made in connection with these threats.

No action was taken against those reportedly responsible for post-battle executions of prisoners in 2001.

In 1998, the U.N. found several mass graves connected with the massacre of Taliban fighters near Mazar-i Sharif in 1997, which contained evidence consistent with mass executions. At year's end, mass killings from 1997 and 1998 had not been fully investigated.

During the year, there were instances of factional forces killing civilians during the fight against Taliban supporters. In addition to the security forces and the coalition forces, there are many groups throughout the country that are armed, including militias and civilians. During the year, battles between rival tribes and local commanders resulted in numerous civilian casualties. During the early part of the year,

unknown numbers of persons reportedly were killed in fighting between forces loyal to General Dostum and General Atta in the northern part of the country. In October, a ceasefire between the forces loyal to General Dostum and General Atta was reached which included the cantonment of heavy weapons.

The ICRC estimated 7,097 Afghans had been killed or wounded by landmines between 1998 and this year. According to NGOs, approximately 44 persons were killed by landmines in the northern province during the year (see Section 1.g.).

Rebel forces, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed a large number of civilians during their attacks. There were reports that Taliban fighters and allied militias summarily executed persons and NGO workers. Attacks on international NGOs and their local counterparts increased significantly (see Sections 1.g. and 4).

There were numerous bombings during the year. For example, on July 1, 17 persons were injured when a bomb exploded at a mosque in Kandahar. On August 13, 15 persons were killed when a bomb exploded in a bus around Kandahar. No one claimed responsibility for any of these acts. In addition, there have been a number of attacks on international organizations, international aid workers, and foreign interests and nationals (see Section 4).

In many areas, the lack of an effective police force, poor infrastructure and communications, instability, and insecurity made it difficult to investigate unlawful killings, bombings, or civilian deaths, and there were no reliable estimates of the numbers involved.

There was no further investigation or action taken in the following cases in 2002: The April bombing of Vice President and Defense Minister Mohamed Fahim's car, in which several persons were killed; the September car bomb in which 35 persons were killed in Kabul; and the February and July killings of Vice President and Public Works Minister Haji Abdul Qadir and Civil Aviation Minister Abdul Rahman.

No action was taken against those reportedly responsible for post-battle executions of prisoners in 2001.

During the year, TISA and coalition partners made efforts to bring to justice those persons responsible for the most serious abuses committed during the 23-year civil war. The Afghan Independent Human Rights Commission (AIHRC) established a Transitional Justice Unit to address the most recent and serious cases. The investigations continued to proceed slowly during the year due to lack of resources and insecurity in the country.

*b. Disappearance.*—Abductions and disappearances occurred during the year. In July, the Government investigated a report that three policemen were taken from Herat's central police district and held without charge for several months. The AIHRC alleged that the three were beaten while in custody. In this instance, the Herat provincial security authorities were implicated in the disappearance. The investigation was ongoing at year's end. In December, there were reports that local Shindand district commander Amanullah Khan abducted a commander of Herat's 21st Division, based in Shindand. The investigation was ongoing at year's end. In August, the Government investigated a report that three policemen had been arrested, tortured, and abducted from jail. The Herat Chief of Criminal Justice said that the prisoners were suspected smugglers. There was no information on the whereabouts of the three policemen by year's end. No suspects were identified by year's end for the alleged disappearance of several potential witnesses to the deaths of Taliban prisoners in November 2001.

There continued to be reports of abduction by Taliban, allied militias, and unknown gunmen. For example, in November, gunmen abducted a driver for a mine-clearance agency in Ghazni. His whereabouts remained unknown at year's end.

The whereabouts of most of the women and girls that were kidnapped or abducted by the Taliban between 1998 and 2001 remained unknown at year's end. In addition, the whereabouts of a number of persons arrested for political reasons during the rule of the Taliban remained unknown at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1964 Constitution, in effect under the Bonn Agreement, prohibits such practices, and torture did not appear to be systematic throughout the country, but there were reports of abuses. Some provincial authorities were believed to have used torture against opponents and Prisoner of War (POWs), although specific information generally was lacking.

In July, HRW released a report titled "Killing You is a Very Easy Thing for Us" which described numerous cases of local militia arresting, beating, and holding people for ransom, especially in the southeastern part of the country. The report cited a case in early April in which a resident of Jalalabad reported that local police beat his cousin while in custody. The resident said his cousin was "brought to Darunta

Dam [a hydro-electric dam on the western side of Jalalabad], and he told us that they held him over the side of the dam by his feet and threatened him to make him sign a paper admitting that he had committed a crime." In August, a Ministry of Interior investigation into disappearances in Herat found signs of recent torture with electric cables on the feet, legs, and ears of some prisoners.

In 2002, HRW alleged that some local police authorities in Herat routinely employed electric shock on detainees. HRW also reported that some Herat security officials beat prisoners who were hung upside down. In May 2002, Herat Governor Ismail Khan's security forces arrested Mohammad Rafiq Shahir, and police reportedly beat Shahir so severely that cuts and bruises were still visible during the Emergency Loya Jirga in June 2002 (see Section 3).

Prison conditions remained poor; there reportedly were many other secret or informal detention centers (see Section 1.d.). Prisoners lived in overcrowded, unsanitary conditions in collective cells and were not sheltered from severe winter conditions. Prisoners reportedly were beaten, tortured, or starved. According to TISA officials, there were 612 prisoners at Kabul City prison at year's end. In March, the justice ministry assumed control of prison management from the interior ministry. Most NGOs noted this change would facilitate an improvement in prison conditions since the Taliban's fall from power. In May, AI reported that the Mazar-i-Sharif was holding up to 20 prisoners in rooms designed for six. In 2002 the Physicians for Human Rights (PHR) reported on the "deplorable conditions" at Shiberghan Prison. The PHR found severe overcrowding, non-existent sanitation, exposure to winter cold, inadequate food, and no medical supplies for the 3,500 prisoners. Dysentery, pneumonia, and yellow jaundice were epidemic. According to the PHR report, the cells in Shiberghan were constructed to house 10 to 15 prisoners, but they held 80 to 110 men during the year.

With the assistance of NGOs and the U.N. during the year, the TISA was organizing programs for the renovation and humanization of prisons. For example, the AIHRC established a "complaints" department within the Ministry of Justice and eight interagency commissions visited prisons in April to assess prison conditions. Further, in May, the Minister of Justice called a donors meeting to discuss moving prisoners from the Welayat detention center to Pul-i-Clarki prison, where two wings of the prison were under renovation; however, no prisoners were moved at year's end.

A number of regional leaders, particularly Ismail Khan in Herat and General Dostum in Shiberghan, maintained secret or unofficial prisons that most likely held political detainees. Herat prison held 600 to 700 prisoners. Shiberghan prison held approximately 3,500 inmates, including Taliban fighters and a number of Pakistanis (see Section 1.d.).

The TISA permitted the International Committee of the Red Cross (ICRC) to visit all prisons which it controlled and the ICRC conducted such visits during the year; however, fighting and poor security for foreign personnel limited the ability of the ICRC to monitor prison conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The 1964 Constitution, in effect under the Bonn Agreement, prohibits such practices. Legal and law enforcement institutions existed but operated unevenly throughout the country. During the year, justice was administered on an ad hoc basis according to a mixture of codified law from earlier periods, Shari'a law, and local custom. Arbitrary arrest and detention are serious problems. Human Rights groups reported that local police authorities extorted bribes from civilians in return for their release from prison or to avoid arrest. Judicial and police procedures varied from locality to locality. Procedures for taking persons into custody and bringing them to justice followed no established code. Practices varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. Limits on lengths of pretrial detention were not respected.

Private prisons were a problem.

In Kanadaha, Chief of Police Akram acknowledged "private prisons" as a significant challenge (see Section 1.c.). AI reported that the Afghan intelligence agency, National Security Directorate, ran at least two prisons and there were unconfirmed reports of private detention facilities around Kabul and in northern regions of the country. Representatives of international agencies were unable to gain access to these prisons during the year. In July, HRW reported numerous cases of soldiers and police arresting, beating, and holding persons for ransom, and the existence of "private prisons" in Kabul city, and in Laghman, Paktia, and Nangarhar Provinces. According to HRW, "residents of Nangarhar, U.N. staff, and even government officials described soldiers and police regularly arresting people, often on the pretext that they were suspected of being members of the Taliban, beating them, and ransoming them to their families for money." U.N. humanitarian officials reported that

they had documented cases of arbitrary or illegal detention of villagers throughout Nangarhar, as well as in neighboring Kunar and Laghman provinces. In addition, HRW reported it had received information about arbitrary arrests and detentions by troops under Governor, currently Minister of Public Works, Gul Agha Shirzai in Kandahar, Mohammad Atta and Rashid Dostum in northern Afghanistan, and Ismail Khan in Herat.

The generally poor security conditions severely impeded the judicial process. The country's law limited pretrial detention to 9 months; however, there were several documented cases where suspects were held over a year awaiting trial. There were credible reports that some detainees were tortured to elicit confessions while awaiting trial.

There were several reports of troops loyal to Commander Ismatullah kidnapping and raping women in Laghman Province (see Section 5).

In the months preceding the 2002 Emergency Loya Jirga, Ismail Khan's officials reportedly arrested Loya Jirga candidates who were not his supporters. There were no similar reports during elections for the CLJ during the year.

The TISA made progress in the disarming of local militias. In November, in concert with coalition partners, 1,000 combatants were disarmed through a U.N. DDR program in Kunduz. In December, nearly 600 combatants turned in their weapons in the Gardez.

The TISA also made progress in training Afghan National Army (ANA) recruits. At year's end, reports indicated that the ANA had approximately 5,300 soldiers working with coalition forces.

There was no information available regarding forced exile.

*e. Denial of Fair Public Trial.*—The Bonn Agreement—specifically the Judicial Commission—affords for the establishment of a domestic justice system in accordance with Islamic principles, international standards, the rule of law, and local legal traditions. However, with no functioning nationwide judicial system, many municipal and provincial authorities relied on some interpretation of Islamic law and traditional tribal codes of justice. In 2002, the Government inaugurated the Judicial Commission, and President Karzai appointed two women and various ethnic minorities to it. The judiciary operated with minimal training.

The administration and implementation of justice varied from area to area and depended on the inclinations of local authorities. In the cities, courts decided criminal and civil cases. There reportedly was a lower court and a higher court in every province. The Supreme Court was located in Kabul. During the year, the Supreme Court was expanded from 9 to 137 judges. The Supreme Court also established a National Security Court that will try terrorist and other cases, although by year's end, it was unclear how the new National Security Courts will function in practice. In cases involving murder and rape, convicted prisoners generally were sentenced to execution, although relatives of the victim could instead choose to accept other restitution or could enforce the verdict themselves. Decisions of the courts reportedly were final. The courts reportedly heard cases in sessions that lasted only a few minutes. According to AI, some judges in these courts were untrained in law and, at times, based their judgments on a combination of their personal understanding of Islamic law and a tribal code of honor prevalent in Pashtun areas. In rural areas, local elders and shuras were the primary means of settling criminal matters and civil disputes. Pressure from armed groups, public officials, and the family of the accused, as well as widespread reports of corruption and bribery, threatened judicial impartiality.

By year's end, TISA had made progress in creating a legal basis for the justice sector, but it still faced serious challenges in recruiting and training enough qualified judges, prosecutors, and defense lawyers. However, the TISA continued its education program to upgrade the qualifications and training of judicial personnel. Numerous judicial personnel received overseas training to qualify them for capacity building in the new judicial system.

In general, defendants did have the right to an attorney and they were permitted attorneys in some instances.

In the rural areas, administration of justice normally is done by tribal elders. They allegedly conducted hearings according to Islamic law and tribal custom. In such proceedings, allegedly the accused have no right to legal representation, bail, or appeal. In even more remote areas, tribal councils levied harsher, unsanctioned punishments, including flogging or death by shooting or stoning. For example, in Jowzjan province elders sentenced a woman to the death penalty. Subsequently, the AIHRC intervened and the woman was not put to death. AI reported that tribal elders resolved murder cases by ordering the defendant to provide young girls in marriage to the victims' family, in exchange for the murder.

A number of regional leaders were suspected of holding political prisoners, but there were no reliable estimates of the numbers involved.

There were no developments in the September 2002 case of Abdullah Shah who was convicted of mass murder and sentenced to death. Shah did not have legal representation during the appeal.

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—The 1964 Constitution, in effect under the Bonn Agreement, states that, “No one, including the State can enter or search a residence without the permission of the resident or the orders of a competent court.” However, armed groups forcibly invaded and looted the homes and businesses of civilians. These gunmen reportedly acted with impunity, due to the absence of a responsive police force or legal protection for victims. In addition, it was unclear what authority controlled the actions of the local commanders, who patrolled the streets of cities and towns outside the areas controlled by the ISAF. In the north, local commanders, particularly Jumbesh commander Lal, targeted Pashtuns, abused female members of families, confiscated property, and destroyed homes. In Takhar Province, local commanders prevented the return of Pashtun families to their villages, while north of Kunduz Province, Pashtuns were prevented from cultivating their lands.

There were reports of forcible conscription in the north by forces loyal to Jumbesh leader General Dostum.

Government forces demolished homes and forcibly removed populations from and around the homes of high government officials and other government facilities, without any judicial review. In September, police officers, led by Kabul Chief of Police Salangi, destroyed the homes of more than 30 families in Kabul. AIHRC reported that since June, it had investigated and registered approximately 300 cases of police arbitrarily destroying homes.

Kabul police authorities placed women under detention in prison, at the request of family members, for defying the family’s wishes on the choice of a spouse. AI reported that 60 women were in Herat jail for defying their family’s wishes at year’s end.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—TISA security forces reportedly used excessive force during their fight against Taliban and al-Qa’ida remnants, including looting, beating, and torture of civilians. Violence and instability hampered relief and reconstruction efforts in various parts of the country and led to numerous human rights abuses. Primary limitations for the delivery of assistance remained logistical and centered on the difficulties in moving relief goods overland to geographically remote areas. Continued lawlessness and sporadic fighting in northern areas also impeded assistance efforts.

The Government and government-allied coalition forces carried out raids and attacks on alleged militant settlements particularly in southeastern regions. These raids and bombings reportedly resulted in the deaths of civilians. For example, on December 10, an air and ground assault by coalition forces in the eastern part of the country reportedly killed six children and two adults. Military spokesmen said Islamic guerrillas had stored weapons in the village. Coalition forces issued a statement of regret for the incident, which noted that noncombatants were in a compound known to be used by terrorists.

Intimidation or violence directed at NGO workers, including threats, accusations, kidnapping, attacks, murder, rape of family members of local NGO staff, and armed robbery increased significantly during the year. For example, in September, two Afghan aid workers were shot and killed near Kandahar while working for Voluntary Association for Rehabilitation of Afghanistan, a local NGO which partners with UNHCR. Security forces arrested two suspects at year’s end. On November 16, gunmen shot and killed Bettina Goislard, a 29-year-old French UNHCR worker in Ghazni Province. Security forces arrested the assailants following the attack. At year’s end, several NGOs, including UNHCR, temporarily suspended assistance in some areas of the country. It was believed that the attackers acted with the assistance of Taliban remnants and al-Qa’ida terrorists (see Section 1.a.). There was no further information on the June 2002 rape of the NGO humanitarian assistance worker in Mazar-i Sharif at year’s end.

Some provincial governors extorted a “tax” from local NGOs. NGOs sometimes were forced to pay twice if district leaders were from different provincial authorities. Despite issuing a number of resolutions agreeing to cooperate and improve security conditions, senior factional leadership managed to take action only in a minority of cases and often with little commitment.

Fighting in the northern part of the country led to continued displacement of Pashtuns and others from Faryab, Jawzjan, and Badghis Provinces. In April, continued fighting between nomadic Kuchis and locals in Badghis over pasture rights re-



sulted in the death of 60 persons. In Takhar Province, local commanders prevented the return of Pashtun families to their villages, while north of Kunduz Province, Pashtuns were prevented from cultivating their lands. In Paktia Province, 20 persons reportedly were killed and 40 injured over a land dispute between rival tribes in September. Sporadic fighting and lawlessness remained a hindrance to assistance efforts in the north throughout the year.

During the year, continued internal conflict resulted in instances of the use of excessive force that caused the deaths of civilians, property damage, and the displacement of residents. In October, military activity between the private militias of General Abdul Rashid Dostum and Commander Atta Mohammad intensified, and all sides of the fighting were responsible for violations of humanitarian law. The Government and coalition forces brokered a ceasefire. During the year, Ismail Khan and Amanullah Khan continued to fight, resulting in civilian casualties. In August, President Karzai decreed that officials could no longer hold both military and civil posts and removed Ismail Khan from his role as military commander of western Afghanistan. He remained the governor of Herat Province at year's end.

Independent investigations of alleged killings were hindered by the unwillingness of local authorities to allow investigators to visit the areas in question. The Council of the North (General Dostum, Mohammad Atta, and Mohammad Saidi) issued a statement in 2002 declaring that it was ready to cooperate with an investigation of the mass gravesite at Dasht-i Leili by professional and technical specialists drawn from the U.N. and coalition countries. However, local authorities suggested that there was no guarantee of security for investigators. By year's end, no investigation had taken place.

In 2002, Northern Alliance forces reportedly killed at least 120 prisoners at the Qala-i Jangi Fort, allegedly during the suppression of a riot. There were no developments in the 2002 investigation of bodies of Taliban prisoners in Dasht-i Leili. U.N. experts found evidence of summary executions and death by suffocation.

There were credible reports that both the Taliban and the Northern Alliance used child soldiers (see Section 5).

The U.N. estimated that there were 5 to 7 million landmines and more than 750,000 pieces of unexploded ordnance throughout the country, planted mainly during the Soviet occupation. However, some NGOs estimated that there may be fewer than 1 million mines. The most heavily mined areas were the provinces bordering Iran and Pakistan. The landmines and unexploded ordnance caused deaths and injuries, restricted areas available for cultivation, and impeded the return of refugees to mine-affected regions. The Red Cross estimated that 200,000 persons were killed or maimed by landmines over the last two decades of warfare. In 2002, the Red Cross recorded 1,286 landmine deaths and numerous other deaths were believed to have gone unreported. Injuries continued to occur during the year from landmines previously laid by Northern Alliance forces, Taliban fighters, and fighters during the Soviet occupation.

With funding from international donors, the U.N. organized and trained mine detection and clearance teams, which operated throughout the country. Nearly all areas that were cleared were in productive use, and more than 1.5 million refugees and IDPs returned to areas cleared of mines and unexploded ordnance. Nonetheless, the mines and unexploded ordnance were expected to pose a threat for many years. U.N. agencies and NGOs instituted a number of educational programs and mine awareness campaigns for women and children in various parts of the country. Continued warfare, as well as prolonged and severe drought, also resulted in massive, forced displacement of civilians.

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

*a. Freedom of Speech and Press.*—The 1964 Constitution, in effect under the Bonn Agreement, somewhat provided for freedom of speech and of the press; however, some senior officials attempted to intimidate journalists and influence their reporting. Government intimidation and surveillance of journalists continued to inhibit open, public discussion of political issues. There were reports of self-censorship by journalists. All information must follow Shari'a law, and a publication could be suspended when the article on "forbidden content" was violated. However, the independent media were active and differing political views publicly were reflected to some extent. The State owned at least 35 publications and almost all of the electronic news media. All other newspapers were published only sporadically and for the most part were affiliated with different provincial authorities. Some government officials through political party ties maintained their own communications facilities.

During the year, the Government maintained departments that were pre-disposed to crack down on journalists. Members of the intelligence service, National Direc-

torate of Security, reportedly staked out journalists' homes, followed them on the street, visited their offices, and delivered threats to stop publishing critical articles.

While some independent journalists and writers published magazines and newsletters, according to Reporters Without Borders, circulation largely was confined to Kabul and many were self-censored. In practice, many persons listened to the dozen international stations that broadcast in Dari or Pashto. The BBC, Voice of America, Radio Liberty, and Radio Free Afghanistan were available throughout the country. In the countryside, local radio and television stations were under the control of the local authorities.

Journalists were subjected to harassment, intimidation, and violence during the year. In June, police interrogated and arrested Saveed Mirhassan Mahdawi and Ali Payam Sistany, editor-in-chief and deputy editor of the weekly newspaper Aftaab, after the newspaper published an article that criticized senior leaders of the Northern Alliance, called for a secular government, and questioned the morals of Islamic leaders. Authorities banned the weekly Aftaab and copies of the publication were withdrawn from newsstands in Kabul after their arrest. On June 25, the two journalists were released; however, the charges of blasphemy were pending at year's end.

According to credible sources, reporters were the target of threats and intimidation from government-related militias during the year. For example, commanders in Jalalabad and Gardez threatened journalists with death for publishing reports about local security problems. In April, Ismail Khan's security forces in Herat arrested and beat a radio journalist for asking questions about women's rights during the opening ceremony for the new office of the AIHRC.

A number of journalists were killed during the intensified fighting late in 2001. In April, five suspects were arrested for suspected involvement in the killing of four journalists in November 2001.

There were a few reports that government forces prohibited music, movies, and television on religious grounds. In January, the Supreme Court banned cable television, calling its content offensive to the moral values of Islamic society. Following an April inquiry by the Afghan Ministry of Information and Culture, the Government eased the ban on most news and sports cable broadcasters—such as BBC, Al-Jazeera, and CNN—but prohibited cable operators from airing Western movie and music channels. At year's end, the government continued to debate which foreign and domestic cable operators will receive broadcast licenses. The Government did not restrict the ownership of satellite dishes by private citizens. However, authorities in Paghman and Shakar Dara arrested and beat musicians and persons dancing. Further, the Government banned the appearance of women singers on television or radio (see Section 5). However, televisions, radios, and other electronic goods were sold freely, and music was played widely.

There were approximately 150 commercial and governmental Internet cafes in the country, 15 of which were in government offices. Poor condition of telephone lines often made Internet connectivity problematic.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The 1964 Constitution, in effect under the Bonn Agreement, states that citizens have the right to assemble without prior permission and to form political parties; however, tenuous security and likely opposition from local authorities seriously inhibited freedom of assembly and association outside of Kabul during most of the year. On October 11, the TISA passed a Political Parties Law that obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are inline with the principles of Islam. In Kabul, a spectrum of organizations and political parties operated.

Police used harassment and excessive force against demonstrators during the year. For example, in May, Kabul police arrested and beat several students for protesting against nepotism in Kabul University's grading system.

No action was taken against security forces who forcibly dispersed demonstrations or meetings in 2002 or 2001.

The Government allows for freedom of association; however, there were reports of harassment by local officials during the year. For example, in Herat, Ismail Khan's officials harassed and interfered with the Professionals' Shura, the Herat Literary Society, and the Women's Shura.

At year's end, NGOs and international organizations continued to report that local commanders were charging them for the relief supplies they were bringing into the country (see Sections 1.g. and 4).

*c. Freedom of Religion.*—The 1964 Constitution, in effect under the Bonn Agreement, states that Islam is the "sacred religion of Afghanistan" and states that reli-

religious rites of the state shall be performed according to the Hanafi doctrine. The Constitution also states that "non-Muslim citizens shall be free to perform their rituals within the limits determined by laws for public decency and public peace." The Government continued a policy of religious tolerance during the year; however, custom and law required affiliation with some religion.

Reliable sources estimated that 85 percent of the population were Sunni Muslim, and most of the remaining 15 percent were Shi'a. Shi'a, including the predominately Hazara ethnic group, were among the most economically disadvantaged persons in the country. Relations between the different branches of Islam in the country were difficult. Historically, the minority Shi'a faced discrimination from the majority Sunni population. The Shi'a minority advocated a national government that would give them equal rights as citizens. There were small numbers of Hindus and Sikhs. There also were small numbers of Ismailis living in the central and northern parts of the country. Ismailis were Shi'a but consider the Aga Khan their spiritual leader.

Licensing and registration of religious groups do not appear to be required by the authorities in any part of the country. The small number of non-Muslim residents may practice their faith but may not proselytize. Blasphemy and apostasy were punishable by death. In the spring, a journalist in Mazar-i Sharif was accused in a local newspaper affiliated with the Jamiat-i-Islami Party of insulting Islam in an article she had written about the formation of the country's next constitution. The journalist, Mariya Sazawar, was accused of writing that Islamic rules were oppressive to women. The local religious scholars recommended that she be sentenced to death. In March, a local court acquitted her; allegations of blasphemy were not confirmed.

The parts of the country's educational system that survived more than 20 years of war placed considerable emphasis on religion. However, since the fall of the Taliban, public school curriculums have included religious subjects, but detailed religious study was conducted under the guidance of religious leaders. There is no restriction on parental religious teaching.

Before the December 2001 collapse of the Taliban, repression by the Taliban of the Hazara ethnic group, which is predominantly Shi'a Muslim, was particularly severe. Although the conflict between the Hazaras and the Taliban was political and military as well as religious, and it was not possible to state with certainty that the Taliban engaged in its campaign against the Hazaras solely because of their religious beliefs, the religious affiliation of the Hazaras apparently was a significant factor leading to their repression.

Militants sometimes harassed foreign missionaries and other religious oriented organizations. For example, after an attack in late September that killed two employees of the Voluntary Association for Rehabilitation of Afghanistan, a Taliban spokesman accused the organization of preaching Christianity (see Section 1.g.).

For a more detailed discussion see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The 1964 Constitution, in effect under the Bonn Agreement, provides for these rights for men; however, in practice, their ability to travel within the country was hampered by sporadic fighting, brigandage, landmines, a road network in a state of disrepair, and limited domestic air service. Despite these obstacles, many men continued to travel relatively freely, with buses using routes in most parts of the country. The law also provides that women are required to obtain permission from a male family member before having an application for a passport processed. In some areas, women were forbidden to leave the home except in the company of a male relative.

Commercial trade was impeded as local commanders and criminals continued to demand road tolls and at times closed roads. Taxi, truck, and bus drivers complained that militia and police personnel operated illegal checkpoints and extorted them for money and goods. In September, President Karzai called for an end to all checkpoints; however, warlords largely ignored his order.

There were estimates that up to 220,000 persons were displaced internally. However, over 30,000 IDPs returned to their homes during the year. During the year, the Government worked closely with the UNHCR and with NGO's to provide for the repatriation of refugees from all parts of the country. By year's end, 2.5 million Afghan refugees had been repatriated with UNHCR assistance since March 2002. During the year, some refugees from Afghanistan voluntarily repatriated themselves. UNHCR estimates that more than 2 million Afghan refugees remained in Pakistan, Iran, and other neighboring countries at year's end. In January, representatives of the Pakistan Government, the TISA, and UNHCR signed a tripartite repatriation agreement providing for the return of Afghan refugees from the country. Women and children constituted 75 percent of the refugee population. The majority of refugee returnees have settled in urban areas, which placed additional strain on the

cities' already overburdened infrastructures. There were further population movements from rural to urban areas due to drought, insecurity, and inadequate assistance in rural areas. Sporadic fighting and related security concerns, as well as the drought, discouraged some refugees from returning.

According to credible sources, since the collapse of the Taliban regime in the northern part of the country, ethnic Pashtuns throughout the country have faced widespread abuses including killings, sexual violence, beatings, and extortion. Pashtuns reportedly were targeted because their ethnic group was closely associated with the Taliban regime. According to U.N. estimates, approximately 60,000 Pashtuns remain displaced because of the violence. In 2002, the UNHCR issued public reports that contained allegations by ethnic Pashtuns entering Pakistan that they were fleeing human rights abuses in the northern section of the country. There were no developments during the year in the commission assigned to look into human rights problems faced by the Pashtuns in the north.

There was no available information on policies regarding refugees, asylum, provision of first asylum, or the forced return of refugees.

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

There was a peaceful transfer of power from the Afghanistan Interim Authority to the TISA during the 2002 Emergency Loya Jirga. The Government allowed citizens the right to change their government through the 2002 Emergency Loya Jirga elections that were deemed free and fair; however, there were some reports of intimidation and interference in the Loya Jirga process. President Karzai selected a cabinet of 5 vice presidents and 30 ministers. The Loya Jirga deferred a decision on the creation of a national legislature. A Constitutional Loya Jirga was held in December, and a new Constitution was approved in January 2004. Presidential elections were scheduled for June 2004. The Bonn Agreement stipulated that national elections must take place by June 2004, which the country is now preparing for.

The district representatives elected 344 delegates out of a total of 502 who participated in the CLJ. Sixty-four women delegates were elected through a separate woman election for district representatives. President Karzai also appointed 50 delegates, of which 25 women, bringing the total to 89 women at the CLJ. Forty-four delegates were elected from among refugees, IDPs, Kuchis, and Hindus and Sikhs. Two delegates were elected from persons with disabilities.

On December 15, 502 delegates representing 32 provinces of the country began debating a draft constitution unveiled in November. Ratification of the draft constitution will create the framework for the country's first direct national elections, scheduled for June 2004. The draft constitution, which was elaborated by the commission, was debated by public consultation as well as within the Government. Citizens had the opportunity to question senior leaders during the CLJ. However, some observers criticized the proceedings for alleged vote buying and intimidation. According to HRW, local authorities used fraud and intimidation to get their supporters elected to the CLJ "Grand Assembly." However, some of these reports were later determined to be false or exaggerated. Other delegates, according to HRW, expressed alarm at the intrusive presence of agents from the Government's intelligence service.

A number of 2002 Emergency Loya Jirga delegates reported receiving threats after speaking out against the participation of warlords in the gathering. For example, in Jalalabad, HRW received reports that the eastern region commander, Hazrat Ali, ordered a politically motivated arrest of a suspected opponent.

Citizens had the opportunity to question senior leaders during the 2002 Loya Jirga. Inside and outside the Loya Jirga, political workers handed out posters and literature. Men and women were able to engage in discussions freely. U.N. observers estimated that 1,200 out of the 1,500 elected delegates turned out to witness the proceedings. Unlike in previous years, the Government encouraged the leaders of all ethnic minorities to engage in meaningful political dialogue with opponents.

*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. Some of these were based in neighboring countries, mostly Pakistan, with branches inside the country; others were based in the country. The focus of their activities was primarily humanitarian assistance, rehabilitation, health, education, and agriculture. However, the lack of security and instability in the north and southeast severely reduced NGO activities in these areas. During the year, there were continued attacks on aid groups, including the killing of two inter-

national staff workers, the firing on NGO vehicles, kidnapping of international contractors working on the Kabul-to-Kandahar road, and attacks on offices (see Section 1.g.). For example, ICRC and other NGOs were forced to temporarily suspend their programs in the south after the killing of NGO worker Ricardo Munguia (see Section 1.g.).

Several international NGOs, including the International Human Rights Law Group (IHRLG) and HRW, were run by local employees who monitored the situation inside the country. IHRLG ran a series of legal education seminars for local attorneys and judges.

The Afghan Independent Human Rights Commission, a government entity, continued its role in addressing human rights problems within the country. The Commission was composed of 11 appointed members. The Commission generally acted independently of the Government, often voicing strong criticism of government institutions and actions. During the year, the AIHRC established 7 field offices outside Kabul which began accepting and investigating complaints of human rights abuses. During the year, the AIHRC received a total of 2,500 complaints and petitions for assistance on human rights abuses countrywide; In 2002, the Commission collected over 500 complaints.

There was no development in the 2002 investigation of the possible mass gravesites in the northern part of the country (see Section 1.g.).

Security conditions and instability, including factional fighting in the north and Taliban activities in the southeast impeded NGO assistance activities (see Sections 1.g. and 2.d.).

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

The 1964 Constitution, in effect under the Bonn Agreement, states that "The people of Afghanistan, without any discrimination or preference, have equal rights and obligations under the law." At year's end, local custom and practices generally prevailed in much of the country. Discrimination against women was widespread. However, its severity varied from area to area, depending on the local leadership's attitude toward education for girls and employment for women and on local attitudes. Historically, the minority Shi'a faced discrimination from the majority Sunni population. As the presence of persons with disabilities became more widespread, there was a greater acceptance of persons with disabilities.

*Women.*—Most in the international and domestic community noted improvement in the status of women since the Taliban's fall from power, despite the persistence of certain areas of concern. The central Government named several women to cabinet positions and other areas of responsibility. The Ministers of Health and Women's Affairs, as well as the Chairwoman of the Afghan Independent Human Rights Commission were women. Women in a number of places regained some measure of access to public life, education, health care, and employment; however, the lack of education perpetuated during the Taliban years and limited employment possibilities continued to impede the ability of many women to improve their situation. According to HRW, "Almost every woman and girl interviewed said that her life had improved since the Taliban were forced from power."

During the year, 45 women leaders from across the country devised the Afghan Women's Bill of Rights, a document that demanded equal treatment. The Committee also pushed for a measure that guarantees that each province elect two women representatives to the lower house of Parliament, rather than the one representative initially provided for.

Women actively participated in the Drafting Committee of the Constitutional Commission set up prior to the CLJ and in the presidential elections. Seven out of the 35 members were women. During the year, Massouda Jalal voiced her intention to challenge President Karzai in the presidential elections scheduled for June 2004. Jalal had challenged and lost to Karzai for President during the ELJ in mid-2002.

Women also actively participated in the December Constitutional Loya Jirga (see Section 3). Women were able to question leaders openly and discussed inter-gender issues during the CLJ. 89 women were elected or appointed as delegates to the CLJ, constituting approximately 20 percent of the 502 delegates. However, some officials attempted to intimidate female participants. For example, during the CLJ, a delegate from Farah Province, Malalai Joya, received death threats for speaking against mujahideen leaders who held positions in the CLJ. After she questioned why some CLJ delegates with jihadi affiliation were selected as committee chairman, dozens of angry delegates rushed the stage and demanded that she be expelled. She participated fully in the remainder of the Loya Jirga, was provided security protection by the CLJ organizers, and female police officers from the Ministry of Interior, and spoke freely with the local and international press after the incident. Further, some women delegates denounced their colleagues in the CLJ for attempting to shut them

out of leadership positions. However, one woman served as Deputy Chairwoman of the CLJ and chaired several sessions of the CLJ, and others held positions of responsibility in the working groups.

On July 26, the President established the Interim Election Commission to register voters and implement other preliminary steps in preparation for the June 2004 elections. The Interim Commission has six members, two of whom are women. Special programs have been implemented that target women voters, to further educate them on the importance of voting and political participation.

As lawlessness and sporadic fighting continued in areas outside Kabul, violence against women persisted, including beatings, rapes, forced marriages, and kidnappings. Such incidents generally went unreported, and most information was anecdotal. It was difficult to document rapes, in particular, in view of the social stigma that surrounds rape. Information on domestic violence and rape was limited. In a climate of secrecy and impunity, it was likely that domestic violence and rape against women remained a serious problem.

Throughout the country, approximately 100 women were held in detention facilities. Many were imprisoned at the request of a family member. Some of those incarcerated opposed the wishes of the family in the choice of a marriage partner. Others were accused of adultery. Some faced bigamy charges from husbands who granted a divorce only to change their minds when the divorced wife remarried. Other women faced similar charges from husbands who had deserted them and reappeared after the wife had remarried. In 2002, Kabul's Police Chief said that the police would continue to arrest women if their husband or family brought a complaint to the authorities.

The law also provides that women are required to obtain permission from a male family member before having an application for a passport processed.

Women in the north, particularly from Pashtun families, were the targets of sexual violence throughout the year. According to human rights sources, Uzbek, Tajik, and Hazara commanders perpetrated many of the attacks in the north and west. Local commanders, particularly in the north, used rape as a tool of intimidation against the international and local NGO community. There were credible reports of soldiers and commanders loyal to Pashtun warlords raping girls, boys, and women in provinces in the southeastern part of the country.

There also were reports that minority women sometimes were subjected to forced marriage, which sometimes resulted in self-immolations. Although statistics were not available, hospital doctors reported that these self-immolations were increasingly common among young women in the western part of the country. In September, a fatwa was issued which allowed a woman to marry again if her husband was missing more than 4 years. Reports of suicide among women were often related to forced marriages. There were reports of death threats against women activists.

Discrimination against women in some areas was particularly harsh. Some local authorities excluded women from all employment outside the home, apart from the traditional work of women in agriculture; in some areas, women were forbidden to leave the home except in the company of a male relative (see Section 2.d.). In 2002, President Karzai decreed that women have the right to choose whether to wear the burqa. However, credible sources reported that women and older girls could not go out alone and that, when they did go out, they wore a burqa for fear of harassment or violence. Most said this was because armed men were targeting women and girls. In Jalalabad and Laghman Province, government officials also were policing other aspects of women's appearance. Government-owned television banned the appearance of women singers on television or radio (see Section 1.a.). The curbs on women singing on television date to 1992, when a government of mujahideen replaced a communist regime.

A report released by the International Organization for Migration claims that trafficking was an increasing problem. Human rights violations related to trafficking take the form of forced labor, forced prostitution, and sexual exploitation of children (see Section 6.f.).

Government regulations prohibit women who are married from attending high school classes and during the year, the education ministry ordered all regions to enforce this rule. During the year, thousands of young women were expelled from school because they were married. Deputy education minister Sayed Ahmad Sarwari was quoted as estimating more than 2 or 3 thousand married women were expelled during the year. Supporters of the legislation say it protected unmarried girls in school from hearing "tales of marriage" from their wedded classmates.

In areas outside Kabul, local authorities reportedly continued to exert strong pressure on women to conduct and dress themselves in accordance with a conservative interpretation of Islam and local customs.

Healthcare remained a major issue for women who continued to be denied access to adequate medical facilities due to cultural barriers and basic lack of availability of resources. According to Management Sciences for Health, nearly 40 percent of the 756 basic primary-health facilities in 2002 had no female workers, a major deterrent for women because societal barriers discouraged them from seeking care from male health workers. In the same health survey, it was determined that only 10 percent of the country's hospitals had equipment to perform cesarean sections. In most regions, there was less than 1 physician per 10,000 persons. Only 11 of the 32 provinces had obstetric care facilities. Health services reached only 29 percent of the population and only 17 percent of the rural population. The mortality rate was 1,600 per 100,000 live births nationwide.

A Back-to-School campaign launched by the Ministry of Education and coalition supporters led to the enrollment of 4.2 million children in school. A number of incentives were in place to encourage girl's enrollment in education. UNICEF reported there has been an increase of 37 percent in girl's enrollment from 2002 to year's end. Southern provinces also show a net increase of about 30 percent, despite higher levels of insecurity and conflict.

Nevertheless, the lack of teachers, materials, and security concerns remained deterrents to girls' education. In some parts of the country, access to education was further impeded by violent fundamentalism in which schools, teachers, students and others were threatened or physically attacked.

Approximately 85 percent of women were illiterate, and in rural areas, illiteracy rates among women often were nearly 100 percent. The Government, in concert with coalition support, sponsored non-formal education training targeted at 75,000 trainees, reaching more than 38,000 women and adolescent girls participating in skills training, adult literacy and life skills.

*Children.*—Local administrative bodies and international assistance organizations took action to ensure children's welfare to the extent possible; however, the situation of children was very poor. Approximately 45 percent of the population was made up of children age 14 or under. One in 10 children suffered from acute malnutrition. The infant mortality rate was 250 out of 1,000 births; the mortality rate for children under the age of 5 was 25 percent. A Management Sciences for Health study also found that only about one-fourth of all health facilities offer basic services for children, including immunization, antenatal care, postpartum care, and treatment of childhood diseases. An UNICEF study also reported that the majority of children were highly traumatized and expected to die before reaching adulthood. According to the study, some 90 percent have nightmares and suffer from acute anxiety, while 70 percent have seen acts of violence, such as the killing of parents or relatives.

While most girls throughout the country were able to attend school, the U.N. reported that, in some areas, a climate of insecurity persisted. From August 2002 to June, there were more than 30 attacks on girls and boys schools in Ghazni, Kabul, Kandahar, Logar, Sar-e-Pul, Wardak, Zabul, Jawzjan, and Laghman causing minor injuries and building damage. On September 28, two girls' schools in Balkh Province were set on fire. The school was badly damaged; however, no one was injured in the attack.

There were credible reports that both the Taliban and the Northern Alliance used child soldiers. In previous years, Northern Alliance officials publicly said that their soldiers must be at least 18 years of age, but press sources reported that preteen soldiers were used in Northern Alliance forces. In May, President Karzai issued a decree that prohibited the recruitment of children and young persons under the age of 22 to the Afghan National Army (see Section 6.d.).

*Persons with Disabilities.*—The Government took no measures to protect the rights of persons with mental and physical disabilities or to mandate accessibility for them. In January, hundreds of persons with disabilities protested against the State, claiming that the State was not doing enough to care for them. In addition, they demanded the resignation of the Minister of the Disabled, Abdullah Wardak, and accused him of not disbursing foreign aid meant for them. President Karzai met with the protesters, and TISA agreed to raise a monthly stipend for persons with disabilities from \$2 to \$5 (208 AFA).

There reportedly has been increased public acceptance of persons with disabilities because of their increasing prevalence due to landmines or other war-related injuries. An estimated 800,000 persons suffered from disabilities requiring at least some form of assistance. Although community-based health and rehabilitation committees provided services to approximately 100,000 persons, their activities were restricted to 60 out of 330 districts, and they were able to assist only a small number of those in need (The CLJ delegate numbers were increased to 502 to allow two delegates with disabilities to join the proceedings).

*Section 6. Worker Rights*

*a. The Right of Association.*—The Bonn Agreement revived the 1964 Constitution's broad provisions for protection of workers and a mixture of labor laws from earlier periods; however, little is known about labor laws, their enforcement, or practices. Labor rights were not defined beyond the Ministry of Labor, and, in the context of the breakdown of governmental authority, there was no effective central authority to enforce them. The only large employers in Kabul were the governmental structure of minimally functioning ministries and local and international NGOs.

*b. The Right to Organize and Bargain Collectively.*—Current law is not fully in compliance with internationally recognized workers rights to form free trade unions. The country lacks a tradition of genuine labor-management bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Wages were determined by market forces, or, in the case of government workers, dictated by the Government.

There were no reports of labor rallies or strikes.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The 1964 Constitution, in effect under the Bonn Agreement, prohibits forced or bonded labor, including by children; however, little information was available regarding forced or compulsory labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—According to labor laws, children under the age of 15 were not allowed to work more than 30 hours per week. However, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Children from the age of 6 often worked to help support their families by herding animals in rural areas and by collecting paper and firewood, shining shoes, begging, or collecting scrap metal among street debris in the cities. Some of these practices exposed children to the danger of landmines.

The TISA was not a party to the ILO Convention 182 on Child Labor. However, according to the Ministry of Labor and Social Affairs, the country followed ILO standards regarding child labor.

*e. Acceptable Conditions of Work.*—According to labor laws, the average workweek for laborers was 40 hours. However, there was no available information regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many workers apparently were allotted time off regularly for prayers and observance of religious holidays. Most persons worked in the informal sector.

*f. Trafficking in Persons.*—There was no legislation prohibiting trafficking in persons. However, in November, President Karzai approved the establishment of the Commission for the Prevention of Child Trafficking and pledged to establish a National Action Plan to combat trafficking. A 2002 U.N. report on Women and Human Rights reported increasing anecdotal evidence of trafficking in Afghan girls to Pakistan, Iran, and the Gulf States. Some girls reportedly were kept in brothels used by Afghans. The whereabouts of many girls, some as young as 10, reportedly kidnapped and trafficked by the Taliban remained unknown.

The U.N. July report also noted that many poor families were promising young girls in marriage to satisfy family debts.

There were a number of reports that children, particularly from the south and southeast, were trafficked to Pakistan to work in factories. UNICEF cited unconfirmed reports of capturing and abduction of women and children in the southern part of the country.

Although prosecutions of traffickers increased, and the Government devoted greater attention to trafficking in persons during the year, prosecution of perpetrators continued to be inconsistent. In October, 42 children trafficking victims were rescued and taken to a shelter operated by a local NGO. Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. Trafficking victims, especially those who were exploited sexually, also faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

## BANGLADESH

Bangladesh is a parliamentary democracy, with broad powers exercised by the Prime Minister. Khaleda Zia, leader of the Bangladesh Nationalist Party (BNP), became Prime Minister (PM) following parliamentary elections in October 2001, deemed to be free and fair by international and domestic observers. The BNP formed a four-party alliance government with Jamaat-e-Islami (JI), Bangladesh



Jatiya Party (BJP), and Islami Oikko Jote (IOJ). Two major parties dominate the political scene, the BNP and the Awami League (AL). Political competition is vigorous, and violence is a pervasive feature of politics. The 2001 elections, supervised by a nonparty caretaker government (CG), took place in a climate of sporadic violence and isolated irregularities. The major parties continued to boycott Parliament when in the opposition, claiming that they had little opportunity to engage substantively on legislative and national issues. The higher levels of the judiciary displayed a significant degree of independence and often ruled against the Government; however, lower judicial officers were reluctant to challenge government decisions and suffered from corruption. The Official Secrets Act of 1923 protected corrupt government officials from public scrutiny, hindering transparency and accountability at all levels.

The civilian authorities maintained effective control of the security forces. The Home Affairs Ministry controls the police and paramilitary forces, which have primary responsibility for internal security. The military, primarily the Army, is responsible for external security but also occasionally has been given domestic security responsibilities. Security forces were rarely disciplined, even for the most egregious actions. Police were often reluctant to pursue investigations against persons affiliated with the ruling party, and the Government frequently used the police for political purposes. There was widespread police corruption and lack of discipline. Members of the security forces committed numerous serious human rights abuses.

The country had a primarily agricultural and market-based economy and a population of approximately 138.4 million. The Government owned most utility companies, many transport companies, and many large manufacturing and distribution firms. The projected economic growth rate for the fiscal year was 5.2 percent, which fell short of the estimated 7 percent needed to reduce significantly the poverty that afflicts 30 percent of the population. Wages and benefits have kept pace with the relatively low rate of inflation. Economic conditions in the country were primarily impacted by a multitude of structural weaknesses the Government had not adequately addressed, and general strikes, often politically motivated, took a heavy toll on the economy. Efforts to improve governance through reform were largely unsuccessful, and often blocked by bureaucratic intransigence, vested economic interests, endemic corruption, and political polarization.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Security forces committed a number of extrajudicial killings. The police; the paramilitary organization, Bangladesh Rifles (BDR); the auxiliary organization, Ansar; and the army used unwarranted lethal force. The police often employed excessive, sometimes lethal, force in dealing with opposition demonstrators, and the police routinely employed physical and psychological torture during arrests and interrogations. Prison conditions were extremely poor and were a contributing factor in some deaths in custody. Police corruption remained a problem. Nearly all abuses went unpunished, and the climate of impunity remained a serious obstacle to ending abuse and killings. In February, Parliament adopted legislation shielding security forces from any legal consequences of their action, which included numerous abuses during the countrywide anti-crime drive from October 16, 2002, to January 9. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. Violence, often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. Press reports of vigilante killings by mobs were common.

There were no reports of rape in official custody during the year, but 31 cases of rape by either police or other officials were recorded. In addition, there were credible reports that police facilitated or were involved in trafficking in women and children. Human rights groups and press reports indicated that vigilantism against women for perceived moral transgressions occurred in rural areas, often under a fatwa (a proclamation from an Islamic leader), and included punishments such as whipping. Rejected suitors, angry husbands, or those seeking revenge sometimes threw acid on a woman's face.

The Government arrested and detained persons arbitrarily, and used the Special Powers Act (SPA) and Section 54 of the Code of Criminal Procedure (CrPC), which allowed for arrest without a warrant and preventive detention. In 2002, the Government replaced the Public Safety Act (PSA), which lacked bail provisions, with the Speedy Trial Act (STA), which provided for quicker disposal of cases and bail. The lower judiciary was subject to executive influence and suffered from corruption. A large judicial case backlog existed, although wider use of mediation in civil cases quickened the administration of justice. Lengthy pretrial detention was a problem. Police searched homes without warrants, and the Government forcibly relocated ille-

gal squatter settlements. Virtually all journalists practiced some self-censorship. Attacks on journalists and efforts to intimidate them by government officials, political party activists, and others increased. The Government limited freedom of assembly, particularly for political opponents, and on occasion, limited freedom of movement.

The Government generally permitted a wide variety of human rights groups to conduct their activities, but it brought a number of nongovernmental organizations (NGOs) under intense scrutiny. Societal discrimination against disabled persons, indigenous people, and religious minorities was a problem. The Government limited worker rights, especially in the Export Processing Zones (EPZs), which are exempt from the major labor laws, and was ineffective in enforcing those workers' rights in place. Child labor and abuse of child workers remained widespread and were serious problems. Abuse of children and child prostitution were problems. Violence and discrimination against women remained serious problems, as did trafficking in women and children for the purpose of prostitution and at times for forced labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed a number of politically motivated and extrajudicial killings. The police, the BDR, the Ansars, and the army used unwarranted lethal force.

During the year, 81 persons died as a result of the use of lethal force by the police and other security forces, and another 113 persons died in prison and police custody during the year (see Section 1.c.). Nearly all abuses went unpunished, and the resulting climate of impunity remained a serious obstacle to ending abuse and killings. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative.

On February 23, the Parliament adopted legislation to shield security forces from legal consequences for all their acts during the countrywide joint security forces "Operation Clean Heart" anti-crime drive, which caused an estimated 50 deaths and involved an unknown number of torture victims. The Joint Drive Indemnity Act barred people from seeking justice through the courts for the deaths and human rights violations that occurred during the drive, which lasted from October 16, 2002 through January 9. On April 13, the High Court issued a show cause notice to the government regarding the legality of the Indemnity Act, but there were no developments at year's end.

On July 4, Gorai village (Tangail District) police arrested Mobarak Hossain and reportedly demanded payment of \$400 (taka 20,000). When his family could not pay, Mobarak's mother stated that she witnessed police beat her son in the police station. The following day, Mobarak's brothers were told that he had committed suicide by hanging. Hospital doctors found no evidence of hanging. The official autopsy report recorded the death as suicide. Three policemen were withdrawn from duty following the incident. Mobarak's wife filed a case against police officials with a magistrate's court, and a judicial inquiry was ongoing at year's end.

In a similar incident on the evening of October 23, police arrested Shumon in the Khilgaon section of Dhaka city. He was taken into police custody after allegedly attempting to commit a robbery. No charge was filed against him, and the owner of the house where the robbery supposedly took place later said he was forced by police to implicate Shumon. When Shumon's family went to the jail, the second officer in charge demanded \$500 (taka 30,000) for their son's release. Shumon's family was unable to raise the entire amount on such short notice. When they went to the jail the next morning, Shumon's parents found him lying on the floor so severely beaten he could not stand. When Shumon's father contacted the officer in charge, the officer demanded an additional \$1,700 (taka 100,000) to release Shumon on bail. The officer became angry when Shumon's father could not give him the money, and began to beat Shumon in plain view of his parents. Eventually Shumon fell unconscious and was transferred to Dhaka Medical College Hospital, where he died the next afternoon. The officer in charge was relieved of his duty, and Shumon's family filed cases against both him and the second officer. On November 4, a three-member investigation committee reported that Shumon died as a result of a mob beating, and that there was no evidence to support his parents' claim of police extortion.

In October 2002, during "Operation Clean Heart," according to a newspaper report, army personnel assaulted, tortured, and killed Abul Hossain Litu at his poultry farm. After Litu's wife filed murder charges against the army forces, a lower court ordered police to investigate the charges. The Joint Drive Indemnity Act made this case null and void. Litu's wife filed a petition with the High Court questioning the constitutionality of the act.

Violence, often resulting in deaths, was a pervasive element in the country's politics (see Sections 1.c. and 3). Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. According to human rights organizations, more than 436 persons were killed and 6,281 injured in politically motivated violence throughout the year (see Sections 1.c., 1.d., and 2.a.). Unlike in previous years, there were no reports of deaths from violence related to general strikes.

After charges were filed in 2002 regarding the 1999 killing of BNP activist Sajal Chowdhury, the High Court stayed the proceedings based on a petition from the main defendant, a former AL Member of Parliament (M.P.), claiming that the Government was not seriously pursuing the case.

There were no developments in the case of the 1975 killing of Sheikh Mujibur Rahman. The appeals process was stalled because three of the 7-member appellate panel of the Supreme Court refused to hear the case, and two other judges were recused due to their participation in the hearing at the High Court level.

On December 3, the Government announced appointment of special public prosecutors to conduct the trial in the case of four of the eight persons accused of perpetrating the November 1975 killings in jail of four senior AL leaders. The appointments were made on recommendations of the Deputy Leader of the opposition in parliament.

Press reports of vigilante killings by mobs were common. On April 30, 13 alleged robbers were lynched in Mymensingh, and during the week of December 6 villagers lynched over 40 alleged bandits in the Noakhali district. Press editorials and observers commented that the increasing mob violence reflected a breakdown of law and order and a popular perception that the criminal justice system did not function.

In November, garment workers launched a protest at a factory in Narayanganj District's industrial area. Police were called to the scene and one person, Kamaluddin, was killed during the altercation. Human rights and labor organizations alleged that many more garment workers were missing and presumed dead. A local NGO found a list posted after the event in the emergency ward of a hospital noting 94 persons injured by police and private security forces. Domestic and international organizations publicly called for an investigation, but none had been initiated at year's end.

Violence along the border with India remained a problem. According to press accounts and human rights groups, border violence claimed several hundred citizen lives during the last 6 years. Domestic human rights NGOs reported that Indian border forces killed as many as 44 citizens during the year.

*b. Disappearance.*—Disappearances were a problem. According to press accounts monitored by the Bangladesh Society for the Enforcement of Human Rights (BSEHR), a total of 910 people were kidnapped during the year. Some kidnapping was for profit. For example, on December 17, Bakhtiaruddin Chowdhury, a businessman in Chittagong, was abducted, and his captors demanded a ransom of \$17,125 (1 million taka). Choudhury was released within 24 hours of his abduction. According to press reports, Choudhury may have paid the ransom, but this was not possible to verify. In general, released victims were unwilling to admit to ransom payment for fear of further attack. Some abductions likely had political motives. For example, the July 24 kidnapping of BNP leader and prominent businessman Jamaluddin Choudhury from Chittagong remained unsolved. His abductors allegedly were linked to politicians and police.

The trial begun in 2002 concerning the alleged abduction and disappearance in 2000 of BNP official Nurul Islam concluded in December with Abu Taher, the main defendant, acquitted and five others given the death sentence. There were no developments in the trial begun in 2002 concerning the disappearance of Mintoo Ghosh.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and cruel, inhuman, or degrading punishment; however, police routinely employed physical and psychological torture as well as cruel, inhuman, and degrading treatment during arrests and interrogations. Torture may consist of threats and beatings, and the use of electric shock. According to the Bangladesh Rehabilitation Center for Trauma, there were 1,296 victims of torture and 115 deaths due to torture by security forces during the year (see Sections 1.a., 1.d., 2.a.). Victims were predominantly from the lowest end of the economic scale. The Government rarely charged, convicted or punished those responsible, and a climate of impunity allowed such police abuses to continue.

On June 16, three policemen came to the house of Babul, Purbapara Chunkutia village (Keraniganj), demanding payment of \$350 (taka 20,000). They accused him of being involved in illegal drug trade and pressed him to share his profit with them. When he denied dealing drugs, the policemen beat him. Because he attempted

to escape, policemen slapped and hit Babul's pregnant wife and her father with a baton. The three policemen were given temporary administrative duty following investigation.

According to BSEHR, outside of official custody there were 31 incidents of rape by law enforcement personnel or other officials during the year. For example, press accounts reported that a policeman of Jibon Nagor police station in Chuadanga district raped Rubina Khatun on September 11. In another incident, on October 18, a soldier on leave from the East Bengal Regiment allegedly raped a 14-year-old girl from Safaisree in Gazipur district. According to press accounts, police arrested the soldier, and the case was allegedly settled without a trial by a payment to the victim's family.

In addition, after women reported that they were raped, they frequently were detained in "safe custody" (in reality, confined in jail cells) where they endured poor conditions and were sometimes abused and raped again (see Section 5). Although the law prohibits women in safe custody from being housed with criminals, in practice, no separate facilities existed. In 2002, the Government began transferring women in safe custody to vagrant homes or NGO-run shelters, where available.

Police occasionally employed excessive force in dealing with opposition demonstrators. For example, on December 13 police clubbed a procession near Muktaghon in Dhaka causing injuries to some procession participants.

Police corruption remained a problem, and there were credible reports that police facilitated or were involved in trafficking in women and children (see Section 6.f.). In 2002, the Law Commission, an independent body, recommended amendments to Section 54 to curb police abuse. None of the recommendations had been adopted by the end of the year. In an effort to curb police abuses, the High Court April 7 issued a 15-point directive to amend the CrPC by mid-October. At year's end, this had not happened (see Section 1.d.). Extortion from businesses and individuals by law enforcement personnel and persons with political backing was common, and businessmen on several occasions went on strikes to protest the extortion.

Human rights groups and press reports indicated that vigilantism against women for perceived moral transgressions occurred in rural areas, often under a fatwa (see Section 2.c.), and included punishments such as whipping. During the year, 36 fatwa cases occurred. In these cases, five persons were lashed and others faced punishments ranging from physical assault to shunning of families by their communities.

Rejected suitors, angry husbands, or those seeking revenge sometimes threw acid on a woman's face (see Section 5).

Prison conditions were extremely poor and were a contributing factor in some custodial deaths. During the year, 90 persons died in custody (see Section 1.a.). All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of approximately 67,354 was nearly 300 percent of the official prison capacity of approximately 25,000. Prison population figures included 1,910 women. There were 276 persons in prison under 18 years of age. Of the entire prison population, 45,173 were awaiting trial, and 21,251 had been convicted. In most cases, cells were so crowded that prisoners slept in shifts. A new prison facility in Kashimpur, north of Dhaka, opened in 2001, although the first phase of construction had not been completed at year's end. There also were reports of rampant corruption and irregularities in the prisons. According to a 2002 newspaper report, a deputy inspector general (DIG) of prisons fled from Chittagong after receiving death threats because of his investigation of irregularities in the jail, where he confiscated two truckloads of unauthorized materials, including knives and liquor, intended for criminals incarcerated there.

Juveniles were required by law to be detained separately from adults; however, due to a lack of facilities, in practice many were incarcerated with adult prisoners. A High Court in April directed the Government to house accused juveniles apart from other prisoners and to transfer them to correctional homes expeditiously. The court also directed the Government to include child rights organization representatives on the list of non-official jail visitors. Women were detained separately from men, but faced the same extremely poor conditions. Pretrial detainees were not held separately from convicted prisoners. In general, the Government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross (ICRC). Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly, but did not release their findings. District judges occasionally also visited prisons, but rarely disclosed their findings.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that each person arrested shall be informed of the grounds for detention, provided access to a lawyer of his or her choice, brought before a magistrate within 24 hours, and freed

unless the magistrate authorizes continued detention. However, the Constitution specifically allows preventive detention, with specified safeguards, outside these requirements. In practice, authorities frequently violated these constitutional provisions, even in non-preventive detention cases.

The police force is organized nationally. Other security forces are charged with policing border areas and were asked to perform anti-crime drives. Police were often reluctant to investigate persons affiliated with the ruling party. The Government frequently used the police for political purposes and provided immunity to members of security forces. There was wide spread corruption and a severe lack of resources, training, and discipline. The Government established a battalion of better-equipped policemen, and developed some plans for overall police reform, but few concrete steps were taken to address the rampant problems.

The Government arrested and detained persons arbitrarily, as well as used national security legislation such as the SPA of 1974 to detain citizens without formal charges or specific complaints being filed against them. In an April 1999 ruling, a two-judge High Court panel criticized the police force for rampant abuse of detention laws and powers. There was no change in police methods since that ruling.

Under Section 54 of the CrPC (1898) and Section 86 of the Dhaka Metropolitan Police Ordinance (1976), individuals may be detained for suspicion of criminal activity without an order from a magistrate or a warrant. Some persons initially detained under Section 54 or 86 subsequently were charged with a crime, while others were released without any charge. According to Odhikar, a local human rights NGO, a total of 436 people were killed, approximately 6,281 people were injured, and 2,381 were arrested for political reasons (see Sections 1.a., 1.c, and 2.a.).

In January, 2 benches of the High Court Division of the Supreme Court declared 248 detentions illegal and ordered the release of the detainees. All the detained persons were arrested under Section 54 and were being held under the SPA. On April 7, the High Court issued a 15-point directive to the government to amend the CrPC within 6 months (from April 16). It included provisions such as making it illegal to hold someone under the SPA if he or she was arrested under Section 54, requiring the arresting officials to identify themselves to the arrestee, and allowing family or legal representatives to visit an individual being held under detention. In August, the Supreme Court accepted a government appeal of the directive, but ordered the Government to implement the April 7 judgment.

The Government frequently used Section 54 and 86 to harass and intimidate members of the political opposition and their families. Police sometimes detained opposition activists prior to and during demonstrations without citing any legal authority, holding them until the event was over. The large majority of detainees, however, were from the lowest end of the economic scale.

Under the SPA, the Government or a district magistrate may order a person detained for 30 days to prevent the commission of an act likely "to prejudice the security of the country." Other offenses subject to the SPA include smuggling, black market activity, or hoarding. The magistrate must inform the detainee of the grounds for detention within 15 days, and the Ministry of Home Affairs must agree with the grounds presented for detention within 30 days or release the detainee. The Government does not have to charge the detainee with a statutory crime. In practice, detainees sometimes were held for longer periods. Detainees may appeal their detention, and the Government may grant early release. During the year, the court ruled that the District Magistrate of Dhaka should be barred from signing any SPA detention orders and fined other District Magistrates for misusing the SPA.

An advisory board is supposed to examine the cases of SPA detainees after 4 months. In 2002, the High Court stated that the Government does not have the right to extend detention and that SPA detainees must be released after 30 days unless the advisory board recommends an extension. If the defendant in an SPA case is able to present his case before the High Court in Dhaka, the High Court generally ruled in favor of the defendant. However, many defendants either were too poor or, because of strict detention, were unable to obtain legal counsel and thereby moved the case beyond the magistrate level. Magistrates, subject to the administrative control of the Establishment Ministry, were less likely to dismiss a case (see Section 1.e.). Detainees are allowed to consult with lawyers, although usually not until a charge is filed; however, they are not entitled to be represented by a lawyer before an advisory board. Detainees may receive visitors. In the past, the Government has held incommunicado prominent prisoners for extended periods of time. There were no such reports during the year.

Historically, the vast majority of SPA detainees were released on orders from the High Court because the SPA cases were so weak and vague that the court had no alternative but to grant bail. In February 2002, police arrested under Section 54 10 leaders of the BCL near the residence of the AL president without warrant or

charges. All were subsequently released, but detained again several times under new SPA detention orders or newly filed criminal cases, not under Section 54. In December 2002, the High Court declared illegal the detention under Section 54 of A.F.M. Bahauddin Nasim, personal assistant to Sheikh Hasina, and ordered his release. In August 2002, the High Court declared illegal the SPA detention of former State Minister Dr. Mohiuddin Khan Alamgir and ordered his release on bail.

During the year, the Government used Section 54 and the SPA to arrest and detain many opposition activists, including former MPs Haji Selim and Kamal Ahmed Mujumder, as well as AL leader and activist Sayeed Kokon, and former General Secretary of the BCL, Ashim Kumar Ukil. In 2002, Parliament rescinded the Public Safety Act (PSA) enacted by the AL Government in 2000. A week after the repeal of PSA, Parliament passed the Law and Order Disruption Crimes Speedy Trial Act (STA) to remain in force for 2 years if not extended. It contains a provision for the trial in special courts of those accused of certain crimes from 30 to 60 days after arrest. Unlike the PSA, the STA has a bail provision with mandatory recording of the grounds for granting bail. As a safeguard against misuse of the law, it provided punishment for bringing false charges with jail terms from 2 to 5 years. In June 2002, in response to a writ filed by Lalmonirhat Bar Association President Matiuir Rahman, charged under the STA, the High Court requested the Government to explain why the STA should not be declared unconstitutional. The case remained pending in the High Court. In general, there were no allegations of widespread misuse of the STA.

A High Court ruling questioned the legality of Shariar Kabir's 2002 SPA detention involving a series of bomb explosions in Mymensingh cinema halls and directed the Government to pay compensation to Kabir as well as provide him with medical care. Kabir also was granted bail in December 2002 in connection with a case involving two foreign journalists associated with British TV. According to the CPJ, Kabir was released on January 7 (see Section 2.a.).

Some human rights groups expressed concern that the non-bailable period of detention was a tool for exacting personal vengeance. On July 6, the Government amended the CrPC to provide for deduction of the period an accused served in jail from the term of imprisonment ultimately decided by the court.

There were 713 foreign prisoners in jail awaiting repatriation during the year. Some foreign prisoners remained in prison after having served their term. In Dhaka City Jail, 19 foreign prisoners remained incarcerated after serving their term.

In June 2002, police arrested an 11-year-old boy and sent him to prison after a detained smuggler named the boy and other members of the boy's family as accomplices. The local chapter of a human rights organization filed a petition with the court to secure the boy's release. There were no developments in this case during the year. In a similar incident, a 14-year-old boy was released from prison in December after 2.5 years in custody. The child was arrested in a blanket sweep against criminals and was never charged with any offense.

In the past, the Government sometimes used serial detentions to prevent the release of political activists, but there were no reports of serial detention during the year.

It is difficult to estimate the total number of detentions for political reasons. Many activists were charged with crimes, and many criminals claimed to be political activists. Because of crowded court dockets and magistrates who were reluctant to challenge the Government, the judicial system did not deal effectively with criminal cases that may be political in origin. There was no independent body with the authority and ability to monitor detentions or to prevent, detect, or publicize cases of political harassment. Most such detentions appeared to last for several days or weeks. Defendants in most cases receive bail but dismissal of wrongful charges or acquittal may take years.

A recent report claimed at least 155 people were held in Dhaka Central Jail without trial or bail for varying lengths of time, with 1 person being held for more than 11 years. A legal aid organization filed a writ with the High Court on this issue, and the court ordered the Government to provide names of these people and the reasons for their detention. At year's end, the matter was pending with the Home Ministry and the Attorney General's office.

The Constitution does not address exile; however, the Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, under a longstanding "temporary" provision of the Constitution, the lower courts remained part of the executive and were subject to its influence. The higher levels of the judiciary displayed a significant degree of independence and often ruled against the Government in criminal, civil, and even politically controver-

sial cases. However, there was corruption within the legal process, especially at lower levels.

Victims of police abuse were generally reluctant to file cases against the police, as there was no independent body charged with investigation of criminal allegations against members of the police force.

The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. The lower courts consist of magistrates, who are part of the executive branch of the Government, and session and district judges, who belong to the judicial branch.

In 2001, the Supreme Court reaffirmed a 1997 High Court order to separate the judiciary from the executive. The ruling declared which elements of the 1997 order could be implemented without constitutional amendment and ordered the Government to implement those elements within 8 weeks. On May 26, the Supreme Court granted the Government its 15th extension for implementation of its directives, and on November 18 extended the deadline by another 4 months. Law Minister Moudud Ahmed commented that implementation would take more than 6 to 7 years.

The Supreme Court is divided into two sections: the High Court and the Appellate Court. The High Court hears original cases and reviews cases from the lower courts. The Appellate Court has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the High Court. Rulings of the Appellate Court are binding on all other courts.

Due to the judicial system's million-case backlog, the Ministry of Law in 2001 initiated a pilot program offering Alternative Dispute Resolution (ADR) in some civil cases. Citizens have the opportunity for their cases to be mediated by persons with a background in law before filing their cases. According to government sources, wider use of mediation in civil cases has quickened the administration of justice. In February, the Government approved draft legislation, and in July, Parliament codified the use of ADR and extended its use to Sylhet and Chittagong.

The law provides the accused with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal verdicts. Trials are public. State-funded defense attorneys rarely were provided, and there were few legal aid programs to offer financial assistance. Under the provisions of the PSA, STA, and the Women and Children Repression Prevention Act, special tribunals hear cases and issue verdicts. Cases under these laws must be investigated and tried within specific time limits, although the law is unclear regarding the disposition of the case if it is not finished before the time limit (see Section 1.d.).

A major problem of the court system was the overwhelming backlog of cases, and trials underway typically were marked by extended continuances while many accused persons remained in prison. These conditions and the corruption encountered in the judicial process effectively prevented many persons from obtaining a fair trial.

Transparency International estimated that more than 60 percent of the persons involved in court cases paid bribes to court officials.

The Government stated that it holds no political prisoners, but opposition parties and human rights monitors claimed that many political activists were arrested and convicted with criminal charges as a pretext for their political activities (see Section 1.d.). In March 2002, Home Minister Altaf Hossain Chowdhury said the Government had released 11,706 persons in politically motivated cases since the BNP came to power in 2001. In April 2002, the PSA Repeal Law came into effect and gave the Government authority to determine which cases filed under the SPA law would be withdrawn and which ones would be pursued (see Section 1.d.). NGOs did not have access to prisoners.

There are no military courts or other military tribunals separate from the military court system. There were no reports of civilians appearing before the military court system.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law requires authorities to obtain a judicial warrant before entering a home; however, police rarely obtained warrants, and officers violating the procedure were not punished. In addition, the SPA permits searches without a warrant. The Government, on occasion, forcibly resettled persons. In March 2002, a High Court bench stayed, for 3 months, a Ministry of Housing and Public Works order to dismantle slums in the Amtali section of Dhaka, and ordered the Government to explain why it should not be directed to resettle the slum residents. On December 21, the Housing and Building Research Institute bulldozed a shantytown in Kalyanpur with over 20,000 residents. Human rights groups and the slum's residents claimed they were not properly notified before the eviction drive.

The police Special Branch, National Security Intelligence, and the Directorate General of Forces Intelligence (DGFI) employed informers to report on and conduct surveillance on citizens perceived to be political opponents of the Government. Polit-

ical leaders, human rights activists, foreign NGOs, and journalists reported occasional harassment by these security organizations. In addition, foreign missionaries reported that internal security forces and others closely monitored their activities; however, no missionaries reported harassment during the year.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government did not respect these rights in practice.

Individuals cannot criticize the Government publicly without fear of reprisal. The Government attempted to impede criticism by prohibiting or dispersing political gatherings.

As in past years, journalists pressed for repeal of the Official Secrets Act of 1923. According to the Act, a citizen must prove why he or she needs information before the Government will provide it. The Act protected corrupt government officials from public scrutiny and hindered transparency and accountability of the Government at all levels.

The hundreds of daily and weekly publications provided a forum for a wide range of views. While some publications supported the overall policies of the Government, most newspapers reported critically on government policies and activities. In addition to an official government-owned wire service, there was one private wire service affiliated with overseas ownership.

Despite this proliferation of news articles, Reporters Without Borders (RSF) stated that, “Armed rebel movements, militias or political parties constantly endanger the lives of journalists. The state fails to do all it could to protect them and fight the immunity very often enjoyed by those responsible for such violence.”

Newspaper ownership and content were not subject to direct government restriction. However, the Government influenced journalists through financial means such as government advertising and allocations of newsprint imported at favorable tariff rates. The Government stated that it considered circulation of the newspapers, compliance with wage board standards, objectivity in reporting, and coverage of development activities as factors in allocating advertising. In the past, commercial firms often were reluctant to advertise in newspapers critical of the Government; however, this appeared no longer to be the case.

The Government owned and controlled virtually all radio and television stations with the exception of a few privately owned cable stations, such as Ekushey Television (ETV), ATN Bangla, Channel 2, NTV, and private broadcaster Radio Metrowave.

In August 2002, the Supreme Court, responding to a petition by two pro-BNP educators and a journalist, ordered ETV, the only full-fledged broadcast television station in the private sector, to be closed down. This was based on alleged irregularities in its license. No appeals are possible from this court. However, petitions were filed concerning the shutting down of ETV’s transmission and seizure of its equipment. These petitions were rejected by the High Court in September 2002. In May, ETV reapplied for license to operate, and on August 20, the High Court ordered the Bangladesh Telecom Regulatory Commission (BTRC) to take action on the ETV petition within 30 days, as well as to return the organization’s seized assets. On appeal, the Government was granted a 3-month deadline to replace the original 30-day requirement.

The activities of the Prime Minister occupied the bulk of news bulletins on both television and radio, followed by the activities of members of the Cabinet. Opposition party news received little coverage. As a condition of operation, both private stations were required to broadcast without compensation government news programs and national addresses by both the Prime Minister and the President. In 2001, Parliament approved two bills granting autonomy to state-run Bangladesh Television (BTV) and Bangladesh Betar (Bangladesh Radio). Passage of these laws did not ensure real autonomy for them, and the Government had not implemented the laws. Government intrusion into the selection of news remained a pervasive problem.

Journalists and others were subject to incarceration when private parties filed criminal libel proceedings against them. Ruling party M.P.s filed separate criminal libel suits against several newspapers after articles were published that the politicians viewed as false and defamatory. The journalists in all cases received anticipatory bail from the courts, and none of the cases moved to trial. Sedition charges remained pending, and those persons accused remained on bail.

A human rights group stated that over the course of the year, 65 journalists had been injured, including 41 assaults. There had been 10 attempted killings of journalists, 90 had received death threats, 19 had been arrested, 14 had been the target



of abusive lawsuits and prosecutions, and 5 had been abducted (see Section 1.a., 1.c., and 1.d.).

In a letter dated January 6 to the Prime Minister, the CPJ protested the detention of journalist Saleem Samad, charged under the SPA in late 2002 for “anti-state activities” after working with a documentary crew from Britain. Samad was ordered released by the High Court and was freed on January 18. According to the CPJ, Samad reported that while in detention his knees had been beaten repeatedly with a wooden baton when he denied police accusations. In the same letter to the PM, the CPJ protested the continued detention of Shahriar Kabir, charged also in the same case. According to the CPJ, Kabir was released on January 7 (see Section 1.d.). Also arrested from the British documentary crew in late 2002 were two British Television-affiliated foreign journalists, Zeba Naz Malik and Leopold Bruno Sorentino, and a citizen, Moniza Pricila Raj. The three, plus Samad, were charged with sedition, and the three were placed on 5-day remand. In a press briefing in December 2002, the Government stated that the two foreigners were held as NGO activists for their suspected involvement in “subversive” and “anti-state acts.” On December 11, the two foreign journalists were deported after issuing statements expressing their regret for the incident. Raj was granted ad interim bail in December 2002, but remained in prison an additional 4 days.

In September, the CPJ also wrote to the Prime Minister in September to protest the arrest and alleged police beating August 8 of Hiramondol, a correspondent for the Dainik Probarattan, a journal published in Kulna. Police reportedly beat Mondol with hockey sticks and rifles after he wrote an article accusing police of stealing valuable fish from local fishermen. Mondol was charged with extortion under the STA. According to the Khulna Press Club, police later released Mondol.

On November 29, police arrested Salah Uddin Shoaib Choudhury, editor of the weekly Blitz, as he was departing the country en route to Israel to participate in a conference with the Hebrew Writers Association. According to the CPJ, Choudhury was accused of having links to Israeli intelligence (see Section 2.d.). Choudhury remained in police custody and no charges had been filed at year’s end.

There were no developments in the 2002 assault of the Bengali-daily Jugantor’s correspondent Monirul Haider Iqbal, who was assaulted allegedly because of his stories on the illegal occupation of shrimp fields by supporters of the ruling coalition. There also were no developments in the 2002 alleged kidnapping of Shukur Ali, a reporter with Anirban. In 2002, the Bengali-language daily Dainik Uttarbanga Barta’s publishing license had been suspended but later was reinstated following the publication of an article that incorrectly listed the PM as the leader of the opposition.

In December 2002, Reuters released an article with a quote attributed to the Home Minister that stated the Mymensingh bombing attacks could be the work of Osama bin Laden’s al-Qa’ida network and that the Home Minister had ordered a national security alert. The Home Minister denied making the statement, and Reuters retracted the story. In December 2002, police arrested Reuters stringer Enamul Haque Chowdhury, charged him as the author of the article, and searched the Dhaka Reuters office. He was released from jail early in the year.

While some journalists were critical of the Government, most practiced some degree of self-censorship. Many journalists cited fear of possible harassment, retaliation, or physical harm as a reason to avoid sensitive stories. Government leaders, political party activists, and others frequently launched violent attacks on journalists and newspapers. Political parties and persons acting on their behalf conducted attacks both on media offices and on individual journalists targeted as a consequence of their news reporting. These crimes largely remained unsolved, and the perpetrators, often identified by name or party affiliation in press reports, were not held accountable in many cases. Attacks by political activists on journalists also were common during times of political street violence, and some journalists were injured in police actions.

Feminist author Taslima Nasreen remained abroad after being freed on bond while criminal charges were still pending against her for insulting religious (Muslim) beliefs. In October 2002, a court sentenced Nasreen in absentia to 1 year in jail for her “derogatory remarks about Islam” in a case filed in 1999 by a JI leader.

A government Film Censor Board reviews local and foreign films and has the authority to censor or ban them on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation, or plagiarism. The Board did not ban any locally produced films during the year. The Board banned the screenings of several imported English-language movies for their alleged pornographic content. Video rental libraries provided a wide variety of films to their borrowers, and government efforts to enforce censorship on these rental films were sporadic and ineffectual. The Government banned the July 28 issue of Newsweek be-

cause of an article on a German academic's research into the origins of the Koran. According to RWB, authorities said the article on the Koran could "hurt the religious sentiments of the country's Muslims."

Foreign publications were subject to review and censorship. Censorship most often was used in cases of immodest or obscene photographs, perceived misrepresentation or defamation of Islam, and objectionable comments about national leaders.

The Government did not restrict citizens' access to the Internet.

The Government limited academic freedom. Although teachers and students at all levels largely were free to pursue academic assignments, research on sensitive religious and political topics was forbidden.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, subject to restrictions in the interest of public order and public health; however, the Government frequently limited this right. Section 144 of the CrPC allows the Government to ban assemblies of more than four persons. According to 1 human rights organization, the Government imposed 58 such bans during the year. The Government sometimes used bans to prohibit rallies for security reasons, but many independent observers believed that such explanations usually were a pretext. Supporters of the ruling party frequently scheduled their own rallies at the same venue and time, thus providing the Government a basis for imposing a ban.

Various political parties called numerous general strikes during the year. Party activists enforced these strikes through threatened or actual violence against strike-breakers. Party activists mounted processions during the strikes. There were 6 full-day and 5 half-day strikes nationwide, as well as numerous local ones during the year. Police rarely interfered with ruling party processions on such occasions, but police often worked in tandem with ruling party activists to disrupt and discourage opposition processions. Although surveys indicated a majority of citizens were opposed to the use of such strikes as a political weapon, all of the major parties continued to use them.

The Constitution provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order, and the Government generally respected this right. Individuals were free to join private groups.

*c. Freedom of Religion.*—The Constitution establishes Islam as the state religion and also stipulates the right—subject to law, public order, and morality—to practice the religion of one's choice, and the Government generally respected this right in practice. Although the Government is secular, religion exerts a powerful influence on politics. The Government was sensitive to the Muslim consciousness of the majority (approximately 88 percent) of its citizens. It sometimes failed to protect minority groups, contributing to an atmosphere of impunity. Discrimination against members of the religious minority existed at both the governmental and societal level, but there was no clear evidence of government persecution, although religious minorities were disadvantaged in practice in such areas as access to government jobs and political office.

Religious organizations were not required to register with the Government; however, all NGOs, including religious organizations, were required to register with the NGO Affairs Bureau if they received foreign money for social development projects. The Government has the legal ability to cancel the registration of an NGO or to take other actions such as dissolving the executive committee of the NGO, freezing its bank accounts, or canceling projects. However, such powers rarely were used and did not affect NGOs with religious affiliations.

The Government allowed various religions to establish places of worship, to train clergy, to travel for religious purposes, and to maintain links with co-religionists abroad. The law permitted citizens to proselytize. However, strong social resistance to conversion from Islam meant that most missionary efforts by Christian groups were aimed at serving communities that had been Christian for several generations. Foreign missionaries were allowed to work in the country, but their right to proselytize is not protected by the Constitution. Some missionaries faced problems in obtaining visas or renewing visas, which must be renewed annually. Some foreign missionaries reported that internal security forces and others closely monitored their activities; however, no missionaries reported other government harassment during the year.

In 2001, the High Court ruled illegal all fatwas, or expert opinions on Islamic law. While the Court's intention was to end the extrajudicial enforcement of penalties by religious leaders, the 2001 ruling, which generated violent protests, declared all fatwas illegal (see Section 1.a.). Several weeks later, the Appellate Court stayed the High Court's ruling. No date was set for rehearing the issue. Only those muftis (reli-

gious scholars) who have expertise in Islamic law are authorized to declare a fatwa; however, in practice, village religious leaders sometimes made declarations on individual cases, calling the declaration a fatwa. Fatwas commonly dealt with marriage and divorce, or meted out punishments for perceived moral transgressions. Victims were sometimes lashed or shunned by their communities (see Section 1.c.).

Discrimination existed against Hindus and Christians. Many Hindus have been unable to recover landholdings lost since partition in 1947 because of discrimination in the application of the law, especially the Vested Property Act. In 2001, Parliament passed the Vested Property Return Act. This law required the Government to return land that was seized under the now-defunct Vested Property Act, a law that allowed "enemy" (in practice, Hindu) lands to be expropriated by the State. The Government was tasked to prepare a list of vested property holdings by October 2001, and claims were to have been filed within 90 days of the publication date. The Government had not published the list of vested properties by year's end.

In November 2002, the Parliament passed an amendment to the Vested Property Return Act allowing the Government unlimited time and the right to lease such properties until they are returned to their owners. The Government claimed that this provision would prevent the properties from being stolen.

Violence, including killings and injuries, occurred both before and after the 2001 election. There were reports of harassment of Hindus, including killings, rape, looting, and torture related to post-election violence. During the transition of power from the CG to the newly elected Government in 2001, BNP supporters raped at least 10 Hindu females in the island district of Bhola and looted several Hindu houses. On September 10, a Speedy Trial Tribunal in Barisal sentenced two persons to life in prison for the rape of one of these females. Incidents of rape and looting were also reported in the southwestern district of Bagerhat. The situation improved after representatives of the new Government visited the areas and deployed additional police to troubled locations. In February, an AL-backed Crime Against Humanity convention alleged "systematic persecution" of religious minorities, and called for the perpetrators of the persecutions to be brought to trial under local and international laws.

In late 2001, the High Court ordered the new Government to look into and report on attacks on religious minorities, and to demonstrate that it was taking adequate steps to protect minorities. The Government submitted its report later in 2002.

On November 19, 11 members of a Hindu family burned to death after arsonists set ablaze their home near the port city of Chittagong. The local human rights NGO Odhikar reported that the attack was not robbery, as police had initially claimed, but a planned assault on the family because of its Hindu faith. According to Odhikar, police took 3 hours to respond. In a separate incident of communal violence on November 22, police stopped a mob of about 5,000 attempting to destroy an Ahmadi mosque in Dhaka. After the attack, police filed two cases for destruction of police property against several activists associated with a nearby mosque, and a senior police official condemned the attack and said that destruction of Ahmadi property was against the law. In December, Anti-Ahmadi activists killed a prominent Ahmadi leader in Jessore and announced a January 23, 2004 deadline for the Government to declare Ahmadi non-Muslims or face serious agitation.

The April 2002 killing of Ganojyoti Mohasthobir, a monk at a Buddhist temple and orphanage at Rauzan in Chittagong District, remained under investigation at the end of the year. A verdict was delivered in the 2001 killing of Principal Gopal Krishna Muhuri of Nazirhat College in Chittagong after police filed a case in November 2002. Four defendants were given life sentences and four were given death sentences.

Religious minorities were disadvantaged in access to government jobs and political office. Selection boards in the government services often lacked minority group representation.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement within the country, foreign travel, emigration, and repatriation. In practice, the Government generally respected these rights, allowing citizens to move freely within the country and to travel abroad, to emigrate, and to repatriate. There were, however, instances in which the Government restricted these rights. According to the CPJ, Salah Uddin Shoaib Choudhury, editor of the weekly Blitz, was arrested November 29 at the Dhaka airport. He was about to depart for Israel to participate in a conference of the Hebrew Writers Association (see Section 2.a.). The movement of major opposition political leaders was restricted occasionally, and the Government did little to assist them. The country's passports are invalid for travel to Israel.

Approximately 300,000 Bihari Muslims live in various camps throughout the country. They have been in the camps since 1971 awaiting settlement in Pakistan. Biharis are non-Bengali Muslims who emigrated to what formerly was East Pakistan during the 1947 partition of British India. Most supported Pakistan during the country's 1971 War of Independence. They later declined to accept citizenship and asked to be repatriated to Pakistan. The Government of Pakistan historically has been reluctant to accept the Biharis. On May 5, 10 Bangladesh-born Bihari residents of Geneva Camp were granted voting rights when the High Court declared them citizens.

Since 1992, approximately 236,000 Rohingya (Muslims from the northern Burmese state of Arakan) have been repatriated voluntarily to Burma. An additional 22,700 have left the camps and are living among the local citizens. More than 19,000 refugees remained in 2 camps administered by the Government in cooperation with the U.N. High Commissioner for Refugees (UNHCR). Beginning in 1999, the UNHCR has urged the Government to allow any refugees who could not return to Burma to be allowed to work in the country, benefit from local medical programs, and send their children to local schools. The Government continued to refuse these requests, insisting that all Rohingya refugees must remain in the camps until their return to Burma. Refugees were forced to return to Burma where they fear persecution. There was a pattern of abuse of refugees. There were also claims of discrimination from the local population towards the Rohingya.

The rate of refugee repatriation accelerated dramatically with 3,231 refugees being returned to Burma during the year.

The 100,000-plus Rohingya who entered the country since 1991 with no formal documentation lived in precarious circumstances outside the camps. The Government denied asylum to the new arrivals by categorizing them as illegal economic migrants and turned back as many persons as possible at the border. According to UNHCR, at least some of them were fleeing persecution and were entitled to refugee status. Some unregistered persons, many of them having returned illegally after their official repatriation to Burma, lived in the camps and shared food with relatives who received rations based on the number of registered members of the camps. On a number of occasions, camp officials handed some of the unregistered persons over to the police, who sent them to prison under the Foreigners' Act. There were approximately 70 Rohingya refugees in local prisons in the Cox's Bazar area during the year.

The Constitution does not provide for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.S. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement but did not routinely grant refugee or asylum status. The Government granted temporary asylum to individual asylum seekers whom the UNHCR interviewed and recognized as refugees on a case-by-case basis. The Government also generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. At the request of UNHCR, in 2002, the Government allowed approximately 125 refugees and asylum seekers, including non-Rohingya Burmese, Somalis, Iranians, and Sri Lankans, to remain in the country pending durable solutions such as voluntary repatriation or resettlement to other countries. The Government rejected asylum petitions from one Indian and four Burmese nationals who were released from prison in February 2002 (see Section 1.d.).

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a multiparty, parliamentary democracy in which elections by secret ballot are held on the basis of universal suffrage. M.P.s are elected at least every 5 years. The Parliament has 300 elected members. Party leaders appoint candidates for elections; some candidates allegedly "purchase" nomination from party leaders with generous campaign contributions or personal "gifts."

Under a 1996 constitutional amendment, general parliamentary elections are presided over by a caretaker government, led by the most recently retired Chief Justice of the Supreme Court. If he cannot or is unwilling to accept this responsibility, another senior retired justice or other neutral figure presides over the caretaker government. A 1999 High Court ruling affirmed the constitutionality of the amendment; however, on July 21, another bench of the High Court questioned that judgment, calling the caretaker government amendment unconstitutional. The case was referred to the Chief Justice to resolve the conflicting rulings and remained pending at year's end.

Sheikh Hasina, leader of the AL, was PM until Parliament's term of office expired in July 2001. At that time, a caretaker government was installed until the next PM took office in October, 2001. Domestic and international observers deemed the eighth general election held in 2001 to be generally free and fair, despite sporadic violence and isolated irregularities; post-election violence was widespread. The AL president alleged "crude rigging" in the election. However, she eventually was sworn in as an M.P. and was subsequently elected the Leader of the Opposition in Parliament.

Elections for more than 4,000 Union Parishads (Councils), the lowest tier of local government, were held between January 25 and March 16. Elections were generally peaceful and free in most places, although violence and deaths marred some locations. Police confirmed 15 deaths and 105 injuries due to election violence; however, journalist accounts put the figures at between 50 and 80 deaths. Over 80 percent of registered voters participated.

In 1991, the Constitution was amended to change the country from a presidential system to a parliamentary one. The changes stipulated that an M.P. who resigned from his party or voted against it in Parliament automatically lost his seat. In practice, this provision solidified the control of Parliament by the Government and the PM. The PM usually decides on major governmental policies, with little or no involvement by Parliament, often riven by narrow partisanship.

In 2001, the caretaker government passed the Representation of the People Amendment Ordinance that addressed much-needed election reform issues. The ordinance gave more independence to the Election Commission, and required political parties to keep records of campaign contributions and expenses. It also codified rules in polling places for election observers, both international and domestic.

A parliamentary by-election was held August 21 in a peaceful and generally orderly manner. Voter turnout was 63 percent. The AL rejected the outcome; a BNP alliance candidate won.

There were 7 women in the 300-seat Parliament. Women were free to stand for Parliament. In 2001, the AL and the BNP agreed in principle to add at least 60 exclusively women's seats to the existing 300 in Parliament. However, neither the BNP nor the AL introduced this provision during the year.

Minority groups did not hold seats specifically reserved for minority groups (Hindus, Christians, Buddhists, Animists), nor did the indigenous people of the Chittagong Hill Tracts. Members of minority groups constituted approximately 17 percent of the population but held less than 3 percent of the Parliamentary seats.

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

A wide variety of domestic and international human rights groups generally operated independently and without Government restriction, investigating and publishing their findings on human rights cases. Prominent human rights NGOs included: Odhikar (Rights), Bangladesh Society for the Enforcement of Human Rights, Ain O Shalish Kendro (Law Mediation Center), Shishu Adhikar Forum (Civil Rights Forum), Adibashi Forum (Indigenous Peoples Forum), Bangladesh Rehabilitation Center for Trauma Victims (BRCT), and Naari Pokkho (On Women's Sides), Bangladesh Women Lawyers' Association, Bangladesh Mahila Parishad (Women's Council), and Justice and Peace Commission. While human rights groups were often sharply critical of the Government, they also practiced self-censorship, particularly on some politically sensitive cases and subjects.

Government officials were defensive about international criticism regarding human rights problems. However, the Government maintained a dialog on human rights issues with international organizations such as the U.N. Human Rights Commission and the ICRC; however, neither of these organizations visited the country during the year. Despite their election pledge and repeated public announcements, the Government did not enact legislation establishing an independent National Human Rights Commission. The previous government also failed to establish this commission despite repeated promises.

The Government took no action to appoint an ombudsman as announced in early 2002.

The Government pressured some individual human rights advocates by filing false allegations against them or by delaying reentry visas for international human rights activists. Missionaries who advocated on behalf of human rights faced similar problems. A few human rights activists reported harassment by the intelligence agencies.

In late 2002, the Government drafted a policy report regarding NGO operations inside the country, primarily aimed at restricting political activities by NGOs. De-

spite several statements of its impending release, the draft policy report was not released during the year.

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

The Constitution states "All citizens are equal before the law and are entitled to equal protection by the law;" however, in practice the Government did not strongly enforce laws aimed at eliminating discrimination. Women, children, minority groups, and persons with disabilities often confronted social and economic disadvantages. According to Human Rights Watch, considerable official and societal discrimination existed against those who provided HIV prevention services, and against high-risk groups likely to spread HIV/AIDS.

*Women.*—Domestic violence was widespread, although violence against women was difficult to quantify because of unreliable statistics and societal inhibitions about reporting such violence. Much of the reported violence against women was related to disputes over dowries. According to human rights organizations, there were 261 dowry-related killings during the year. In addition, 23 women committed suicide and 85 women were tortured following disputes over dowries.

The law prohibits rape and physical spousal abuse, but it makes no specific provision for spousal rape as a crime. During the year, 1,336 rapes were reported. Prosecution of rapists was uneven. Many rapes were unreported. In some cases, rape victims committed suicide to escape the psychological aftermath, including social stigma.

Laws specifically prohibit certain forms of discrimination against women, including the Dowry Prohibition Act, the Cruelty to Women Law, and the Women and Children Repression Prevention Act (see Section 1.d.). However, enforcement of these laws was weak. The Women and Children Repression Prevention Act provides special procedures for persons accused of violence against women and children. The law calls for harsher penalties, provides compensation to victims, and requires action against investigating officers for negligence or willful failure in duty. An amendment to this act was passed on July 20, weakening provisions for dowry crimes and attempting to address the issue of suicide committed by female victims of acts of "dishonor." According to government sources, the Social Welfare Department runs 6 vagrant homes and 1 training center for destitute persons, with a total capacity of 2,300 individuals. In addition, the Women Affairs Department ran six shelters, one each in the six divisional headquarters, for abused women and children.

In May 2002, the Department opened a Safe Custody center in Dhaka. The Bangladesh National Women Lawyers' Association (BNWLA) also had two shelters in Dhaka, and other NGOs ran smaller facilities to provide shelter to destitute persons and distressed women and children. However, this was insufficient to meet victims' shelter needs. As a result, the Government often held women who filed rape complaints in "safe custody," usually in prison. Safe custody frequently resulted in further abuses against victims, discouraged the filing of complaints by other women, and often continued for extended periods during which women were unable to gain release (see Section 1.c.).

Incidents of vigilantism against women—sometimes led by religious leaders (i.e., via fatwas)—at times occurred, particularly in rural areas. These included punishments such as the whipping of women accused of moral offenses (see Section 2.c.).

Acid attacks were a concern. Assaultants threw acid in the faces of women and a growing number of men, leaving victims horribly disfigured and often blind. Approximately 337 acid attacks occurred this year. Over one-half of the victims were female and one-third were children. The most common motivation for acid throwing attacks against women was revenge by a rejected suitor. Few perpetrators of the acid attacks were prosecuted. In March 2002, the Government enacted legislation to control the availability of acid and reduce acid violence directed towards women, but lack of awareness of the law and poor application limited its impact. The new Acid Crime Control Law provides for speedier prosecutions in special tribunals and generally does not allow bail.

There was extensive trafficking in women for the purpose of prostitution within the country and to other countries in Asia, and there were credible reports that police facilitated or were involved in trafficking (see Section 6.f.). Prostitution is legal for those over 18 years of age and with government certification.

Women remained in a subordinate position in society, and the Government did not act effectively to protect their basic rights. Literacy rates were approximately 29 percent for women, compared with 52 percent for men. In recent years, female school enrollment has improved. Approximately 50 percent of primary and secondary school students were female. Women often were ignorant of their rights because of continued high illiteracy rates and unequal educational opportunities.

Strong social stigmas and lack of means to obtain legal assistance frequently kept women from seeking redress in the courts. Many NGOs operated programs to raise women's awareness of their rights, and to encourage and assist them in exercising those rights. The Government also expanded incentives for female education by making education free for girls up to grade 12 (approximately age 18) and using a stipend system from grades 6 to 12. By comparison, boys received free education up to grade five.

The Muslim Family Ordinance codifies traditional Islamic law concerning inheritance, marriage and divorce for registered marriages. Marriages in rural areas sometimes were not registered because of ignorance of the law.

Employment opportunities were greater for women than for men in the last decade, largely due to the growth of the export garment industry in Dhaka and Chittagong. Approximately 80 percent of the 1.4 million garment sector workers were women. Women worked in the agriculture, fisheries, and livestock sectors, as manual laborers on construction projects, and in general manufacturing. Programs extending micro-credit to rural women improved their economic power. Pay was generally comparable for men and women performing similar work.

A local human rights organization reported that 60 maidservants died from torture at the hands of their employers during the year, and an additional 27 were abused but did not die.

According to a Public Administration Reforms Commission report in 2000, women held only 12 percent of government jobs, and only 2 percent of senior positions. The government policy to include more women in government jobs had only limited effect. In recent years, approximately 15 percent of all recruits into government service were women.

*Children.*—The Government undertook programs in the areas of primary education, health, and nutrition. Many of these efforts were supplemented by local and foreign NGOs. These joint efforts allowed the country to make significant progress in improving health, nutrition, and education; however, slightly more than one-half of all children were still chronically malnourished.

According to human rights groups, 575 children were abducted, nearly 1,300 suffered unnatural deaths, and over 3,100 children fell victim to serious abuses such as rape, sexual harassment, torture, and acid attack during the year.

According to the 2002 report of the Campaign for Popular Education, more than 80 percent of children between the ages of 6 and 10 years were enrolled in school. Enrollment of boys and girls was roughly equal. Approximately 70 percent of all children completed grade 5. The Government provided effective incentives for rural female children between the ages of 12 and 16 years to remain in school.

Because of widespread poverty, many children were compelled to work at a very young age. This frequently resulted in abuse of children, mainly through mistreatment by employers during domestic service and occasionally included servitude and prostitution; this labor-related child abuse occurred at all levels of society and throughout the country (see Sections 6.c. and 6.d.). Sometimes children were seriously injured or killed in workplaces (see Section 6.d.). Reports from human rights monitors indicated that child abandonment, kidnapping, and trafficking continued to be serious and widespread problems. There was extensive trafficking of children, primarily to India, Pakistan, and destinations within the country, largely for the purpose of prostitution and forced labor (see Section 6.f.).

According to a 2002 report published by the Government news agency BSS, there were approximately 400,000 homeless children, of which as many as 150,000 had no knowledge of their parents.

UNICEF estimated that there were 10,000 child prostitutes working in the country, but other estimates placed the figure as high as 29,000. The minimum age requirement of 18 for legal prostitution commonly was ignored by authorities and circumvented by false statements of age. Procurers of minors rarely were prosecuted, and large numbers of child prostitutes worked in brothels.

Few facilities existed for children whose parents were incarcerated.

*Persons with Disabilities.*—The law provides for equal treatment and freedom from discrimination for persons with disabilities; however, in practice, persons with disabilities faced social and economic discrimination. The Bangladesh Persons with Disability Welfare Act provides for equal rights for disabled persons. The act focuses on prevention of disability, treatment, education, rehabilitation and employment, transport accessibility and advocacy. For the first time, the Government appointed a few disabled persons to official positions during the year.

According to the National Forum of Organizations Working With the Disabled, an umbrella organization consisting of more than 80 NGOs working in various fields of disability, approximately 14 percent of the country's population had some form

of disability. The economic condition of most families limited their ability to assist with the special needs of a person with disabilities, and superstition and fear of persons with disabilities sometimes resulted in their isolation.

Government facilities for treating persons with mental handicaps were inadequate. Several private initiatives existed in the areas of medical and vocational rehabilitation, as well as employment of persons with disabilities.

*Indigenous People.*—Tribal people have had a marginal ability to influence decisions concerning the use of their lands. The 1997 Chittagong Hill Tracts (CHT) Peace Accord ended 25 years of insurgency in the CHT, although law and order problems and accusations of human rights violations continued. The Land Commission that was to deal with land disputes between tribal individuals and Bengali settlers lacked a legal basis until 2001 and did not function effectively in addressing critical land disputes. Tribal leaders also expressed disappointment at the lack of progress in providing assistance to those who left the area during the insurgency.

Shantu Larma, the former insurgent leader, held talks with the PM in December, building upon several similar sessions in 2002, to discuss implementation of the Peace Accord, setting up of district courts in the three hill districts, and instituting ways to improve law and order. Nevertheless, since September there was an upsurge in violence in the CHT. According to the Red Cross/Red Crescent, more than 270 houses were burned to the ground, 3 Buddhist temples ransacked, 1 person killed, and 10 people wounded in early-September violence. The army quickly restored order, and the PM agreed to help the homeless victims.

Extortion and kidnapping for ransom were rampant in the CHT. In 2001, three foreign engineers were abducted at gunpoint from a road in Rangamati District in the CHT. After their release, one of the hostages told a newspaper reporter that an abductor had confided that the motive was more to obtain money for the benefit of the Chakama people than to make a political statement. Donor-assisted development activities in the CHT came to a halt following this incident.

In 2002, a mission comprising government representatives and donor agencies under the coordination of the United National Development Program carried out an 11-day assessment of the CHT security situation and the possibility of renewed development assistance. In its report, the mission said kidnappings and extortion of development workers had continued, mostly due to regional party conflicts and extortion rackets. The mission report further stated that the security situation throughout most of the region was good enough to resume development assistance. However, tribal and non-tribal differences, unresolved issues relating to land, elections, and the law and order situation all continued to create tension and the potential for conflict.

Tribal people in other areas also reported problems of loss of land to Bengali Muslims. In 2001, the Forestry Department inaugurated an eco-park on the lands inhabited by the predominantly Christian Khasi tribals in Mouluvibazar. Although indigenous Khasis had lived on these lands for generations, the Government did not recognize their ownership. The Government claimed ownership and stated that the Khasis were occupying the land illegally. The Government did not undertake any activities to implement the eco-park project during the year, but the project has not been officially cancelled.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to join unions and, with Government approval, the right to form a union; however, the Government did not always respect this right in practice. The total work force was approximately 58 million persons, of whom 1.8 million belonged to unions, most of which were affiliated with political parties. There were no reliable labor statistics for the large informal sector, in which the vast majority (75 to 80 percent) of citizens worked.

According to the law, a workplace must have 30 percent union participation for union registration. Would-be unionists technically are forbidden to engage in many activities prior to registration, and legally are not protected from employer retaliation during this period. Labor activists protested that this requirement severely restricted workers' rights to organize, particularly in small enterprises and the private sector, and the International Labor Organization (ILO) requested the Government to amend the 30 percent provision. The ILO also requested that the Government amend provisions that bar registration of a union composed of workers from different workplaces owned by different employers. An estimated 15 percent of the approximately 5,450 labor unions were affiliated with 25 officially registered National Trade Union (NTU) centers. There were also several unregistered NTUs.

Unions were highly politicized, and unions were strongest in state-owned enterprises and in such institutions as the government-run port in Chittagong. Civil



Service and security force employees were forbidden to join unions because of their highly political character. Teachers in both the public and the private sector were not allowed to form trade unions.

The Registrar of Trade Unions may cancel registration of a union with the concurrence of the Labor Court, but no such actions were known to have taken place during the year. There were provisions in the Industrial Relations Ordinance for the immunity of registered unions or union officers from civil liability. Enforcement of these provisions was uneven. In past illegal work actions, such as transportation blockades, police officers arrested union members under the SPA or regular criminal codes.

There were no restrictions on affiliation with international labor organizations, and unions and federations maintained a variety of such links. Trade unionists were required to obtain government clearance to travel to ILO meetings, but there were no reports that clearances were denied during the year.

The ILO Committee of Experts Report on Freedom of Association noted in this year's report certain exclusions from the Industrial Relations Ordinance, restrictions regarding membership in unions and election of union officials, restrictions on activities of public servants' associations, restrictions on the right to organize and bargain collectively in export processing zones (EPZs), and restrictions on the right to strike. Regarding a 2002 complaint against the Government by the Bangladesh Diploma Nurses Association concerning alleged harassment and persecution of the Association's President and 10 members for trade union activities, the ILO's Committee on Freedom of Association requested the Government to ensure that Ms. Taposhi, the Association's President, be reinstated in her job and that the warnings to the other 10 members regarding trade union activities should be withdrawn from their files. According to the International Confederation of Free Trade Unions (ICFTU), the High Court issued a stay order against Taposhi's dismissal, and she was reinstated in her job.

*b. The Right to Organize and Bargain Collectively.*—Under the Industrial Relations Ordinance, there is considerable leeway for discrimination by employers against union members and organizers. In practice, private sector employers usually discouraged any union activity, sometimes working in collaboration with local police.

The Registrar of Trade Unions rules on discrimination complaints. In a number of cases, the Labor Court ordered the reinstatement of workers fired for union activities. However, the Labor Court's overall effectiveness was hampered by a serious case backlog. Alternative dispute resolution techniques began to be used to decrease the backlog.

Collective bargaining by workers is legal on the condition that unions legally registered as collective bargaining agents by the Registrar of Trade Unions represent them. Collective bargaining occurred occasionally in large private enterprises such as pharmaceuticals, jute, or textiles, but because of high unemployment, workers did not practice collective bargaining due to concerns over job security. Collective bargaining in small private enterprises generally did not occur. The ICFTU has criticized the country for what it viewed as legal impediments that hampered such bargaining.

The right to strike is not recognized specifically in the law, but strikes were a common form of workers' protest and are recognized as a legitimate avenue for addressing unresolved grievances in the Industrial Relations Ordinance of 1969. In addition, opposition political parties used general strikes to pressure the Government to meet political demands. Some employees organized in professional associations or unregistered unions went on strike during the year. Wildcat strikes were illegal but occurred, and wildcat strikes in the transportation sector were particularly common.

In November, police fired on and killed at least one and injured dozens of protesting garment workers at the Pantex Factory in Narayanganj. The workers, however, were not union members nor were they technically on strike. In October, police harassed and beat striking diploma nurses (see Section 6.a.).

The Essential Services Ordinance permits the Government to bar strikes for 3 months in any sector it declares essential. In May, the Ordinance was imposed on the Bangladesh Petroleum Corporation. During the year, the Government continued to impose the Ordinance, originally applied in 2002, to the Power Development Board, the Dhaka Electric Supply Authority, Bangladesh Biman Airline, and the Chittagong Port Authority.

During the year, the Government announced it would not allow collective bargaining authority in jute mills during production time. In the past, the Government had applied this ban to national airline pilots, water supply workers, and shipping employees. The ban may be renewed for 3-month periods. The Government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the Labor Court.

Mechanisms for conciliation, arbitration, and labor court dispute resolution were established under the Industrial Relations Ordinance. Workers have the right to strike in the event of a failure to settle. If the strike lasts 30 days or longer, the Government may prohibit it and refer the dispute to the Labor Court for adjudication, although this has not happened in recent years. The ILO criticized the provisions of the Industrial Relations Ordinance that require three-quarters of a worker's organization to consent to a strike and that grant the Government authority to prohibit a strike at any time.

The country's five EPZ's are exempt from the application of the Employment of Labor (Standing Orders) Act, the Industrial Relations Ordinance, and the Factories Act, thereby excluding workers in the zones from protection for their rights to organize and bargain collectively, and from coverage by laws governing wages, hours, and safety and health standards. While substitutes for some of the provisions of these laws are implemented through EPZ regulations, unions for the 128,915 workers are prohibited in the zones.

In 2001, the ILO in 2001 deplored the lack of progress and discrepancies between legislation and certain ILO Conventions, including freedom of association and collective bargaining. During the year, the ILO Committee of Experts report noted that there were particular problems with voluntary bargaining in the private sector, a lack of legal protection against acts of interference, and a denial of protection against anti-union discrimination and the right to bargain collectively.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, the Government did not enforce this prohibition effectively. The Factories Act and Shops and Establishments Act established inspection mechanisms to enforce laws against forced labor, but these laws were not enforced rigorously, partly because resources for enforcement were scarce. There was no bonded or forced labor in large-scale enterprises; nevertheless, numerous domestic servants, including many children, worked in conditions that resembled servitude and many suffered physical abuse, sometimes resulting in death. There continued to be numerous reports of violence against domestic workers. In the past, the Government brought criminal charges against employers who abused domestic servants. Many impoverished families settled instead for financial compensation. Trafficking of women and children was a problem (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Because of widespread poverty, many children began to work at a very young age. According to the Government's National Child Labor Survey published on November 19, the Government estimated that approximately 3.2 million children between the ages of 5 and 14 years worked. Working children were found in 200 different types of activities, of which 49 were regarded as harmful to children's physical and mental well-being. Sometimes children were seriously injured or killed in workplaces.

Children often worked alongside other family members in small-scale and subsistence agriculture. Hours usually were long, the pay was low, and the conditions were sometimes hazardous. Many children worked in the beedi (hand-rolled cigarette) industry, and children under 18 years sometimes worked in hazardous circumstances in the leather industry or the brick-breaking industry. Children routinely performed domestic work. In the past, the Government brought criminal charges against employers who abused domestic servants. Under the law, every child must attend school through the fifth grade, or the age of 10 years. However, there was no effective mechanism to enforce this provision.

There was virtually no enforcement of child labor law enforcement outside the export garment sector. Penalties for child labor violations were nominal fines ranging from about \$4 to \$10 (taka 228 to taka 570). The Ministry of Labor had fewer than 110 inspectors to monitor 180,000 registered factories and establishments. These inspectors were charged with enforcing labor laws pertaining to more than 1.5 million workers. Most child workers were employed in agriculture and other informal sectors, where no government oversight occurred.

The Bangladesh Garment Manufacturers' and Exporters Association (BGMEA) conducted self-inspection of member factories with the declared intention of eliminating child labor in the garment sector. According to their findings, within the 3,340 garment factories, the team found 71 factories employing a total of 155 children. According to the ICFTU, there was a significant reduction of child labor in the garment industry; while 43 percent of exporting factories used child labor in 1995, by 2001, the figure had fallen 5 percent to 38 percent. The BGMEA fined each factory about \$100 (taka 5,700). Former child employees were also offered a small monthly stipend to help replace their lost income while attending UNICEF-sponsored schools.

The Non-Formal Education Directorate of the Government, international organizations, and some NGO partners sponsored programs to provide education to some working children in urban slum areas around the country. The Government has been a member of ILO-IPEC since 1994. ILO-IPEC programs include a \$6 million project to eliminate the worst forms of child labor in 5 targeted industries: Beedi production, matchmaking, tanneries, construction, and child domestic workers. As of December, 19,874 children had been removed from hazardous work; 19,508 were attending non-formal education training; 7,623 had been admitted to formal schooling; and 3,060 were receiving pre-vocational training. Employers from 51 beedi and brick breaking industries have declared their sites "child labor free."

*e. Acceptable Conditions of Work.*—There was no national minimum wage. Instead, the Wage Commission, which convenes every several years, sets wages and benefits industry by industry, using a range based on skill level. In most cases, private sector employers ignored this wage structure. For example, in the garment industry, many factories did not pay legal minimum wages, and it was common for workers of smaller factories to experience delays in receiving their pay or to receive "trainee" wages well past the maximum 3 months. In 2001, according to the ICFTU, 21.7 percent of textile workers in the country earned the minimum wage. Wages in the EPZs were generally higher than outside the zones. The declared minimum monthly wage for a skilled industrial worker was approximately \$63 (taka 3,400) for a worker in an EPZ and approximately \$49 (taka 2,650) for a worker outside an EPZ. This was not sufficient to provide a decent standard of living for a worker and family.

The law sets a standard 48-hour workweek with 1 day off mandated. A 60-hour workweek, inclusive of a maximum 12 hours of overtime, was allowed. The law was enforced poorly.

The Factories Act nominally sets occupational health and safety standards. The law is comprehensive but largely was ignored by employers. Workers may resort to legal action for enforcement of the law's provisions, but few cases actually were prosecuted. Enforcement by the Labor Ministry's industrial inspectors was weak, due both to the low number of labor inspectors, and to endemic corruption and inefficiency among inspectors. Due to a high unemployment rate and inadequate enforcement of the laws, workers demanding correction of dangerous working conditions or refusing to participate in perceived dangerous activities risked losing their jobs.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking was a serious problem. There was extensive trafficking in both women and children, primarily to India, Pakistan, and destinations within the country, mainly for the purpose of prostitution and in some instances for labor servitude. Some children also were trafficked to the Middle East to be used as camel jockeys. During the year, police made arrests for trafficking in young boys to the Middle East, and at year's end these cases were pending before the courts. In 2002, the Government of the United Arab Emirates made progress in stemming the trafficking of children to that country.

Trafficking in children for immoral or illegal purposes carries the death penalty or life imprisonment. However, few perpetrators were punished. Besides law enforcement agencies, a number of NGOs recovered and assisted victims of trafficking. The BNWLA rescued 61 trafficking victims, and 76 alleged traffickers were arrested and detained in prisons, and 16 traffickers were convicted during the year.

The number of persons arrested for trafficking was difficult to obtain as charges against traffickers usually were for lesser crimes, such as crossing borders without proper documents. A September 2002 newspaper report quoting statistics from the Center for Women and Children Studies (CWCS) said only 1 percent of trafficked children and 55 percent of kidnapped children were rescued between January 2000 and June 2002. According to CWCS, most trafficked boys were less than 10 years of age, while most trafficked girls were between 11 and 16 years of age.

The Government developed a set of policies and plans regarding the trafficking issue, and initiated a program across a number of ministries to address the problem. Arrests and prosecutions increased significantly, and the Government launched a major national anti-trafficking prevention campaign to increase awareness of the problem among vulnerable groups. Nevertheless, the Government's capacity to address this issue remained limited. Government projects included conducting awareness campaigns, research, lobbying, and rescue and rehabilitation programs. While the Government provided support for returning trafficking victims, government-run shelters were generally inadequate and poorly run.

A joint project between the Government and NORAD, the Norwegian Government aid organization, was a platform for developing a national strategy to address traf-

ficking problems. Despite constraints such as lack of birth and marriage records at the village level, some trafficking cases were prosecuted. There was also some success in increasing shelter capacity and developing rehabilitation programs.

The exact number of women and children trafficked was unknown, but human rights monitors estimated that more than 20,000 women and children were trafficked annually from the country for the purpose of prostitution. Most trafficked persons were lured by promises of good jobs or marriage, and some were forced into involuntary servitude outside of the country. Parents sometimes willingly sent their children away to escape poverty. Unwed mothers, orphans, and others outside of the normal family support system were also susceptible. Traffickers living abroad often arrived in a village to "marry" a woman, only to dispose of her upon arrival in the destination country, where women were sold by their new "friends" or "husbands" into bonded labor, menial jobs, or prostitution. Criminal gangs conducted some of the trafficking. The border with India was loosely controlled, especially around Jessore and Benapole, making illegal border crossings easy.

The number of child prostitutes was difficult to determine. The minimum age of 18 for legal prostitution commonly was ignored by authorities, and was circumvented easily by false statements of age. Procurers of minors rarely were prosecuted, and large numbers of child prostitutes worked in brothels. Trafficking in women for purposes of prostitution carries a sentence varying from 10 years in prison to the death penalty. Human rights monitors credibly reported that police and local government officials often ignored trafficking in women and children for prostitution, and were easily bribed to look the other way (see Sections 1.c. and 5).

There were credible reports that police facilitated trafficking of women and children. When perpetrators were caught trafficking persons across the border, police involvement was low level, consisting primarily of falsifying documents with statements like "passport fraud" rather than "trafficking." Perpetrators ranged from organized criminals to employment agencies. The law stipulated a maximum sentence of life imprisonment for persons found guilty of trafficking a child into prostitution.

Many NGOs and community-based organizations were working on the trafficking problem through prevention efforts, research, data collection, documentation, advocacy, awareness creation and networking, crossborder collaboration, legal enforcement, and rescue, rehabilitation and legislative reform. For example, Action Against Trafficking and Sexual Exploitation of Children, a national anti-trafficking network, worked to link NGOs and government agencies by establishing a resource center to disseminate data and to provide technical support to grassroots organizations. The Association for Community Development conducted workshops and outreach programs to reach potential victims of trafficking before they were victimized. Over the past 3 years, because of the cooperation among NGOs and others involved, including the Government, a common, unified umbrella program has been established to address the trafficking problem.

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## BHUTAN

Bhutan is a hereditary monarchy. King Jigme Singye Wangchuck governs with the support of a National Assembly, a Cabinet, a Council of Ministers (the Royal Advisory Council), and the Monastic Body, a 3,500-member body that is headed by 4 representatives with the consent of the King. There is no written constitution to protect fundamental political and human rights; however, during the year a draft constitution was debated by the National Assembly. In recent years, the Government has adopted some measures to increase the power of the National Assembly. Citizens voted for 105 out of the 150 representatives in the National Assembly in 2002. Since ascending to the throne in 1972, the King has continued the efforts toward social and political modernization begun by his father. The judiciary is not independent of the King, but it is overseen by the National Judicial Commission.

The Royal Bhutan Police, assisted by the Royal Bhutan Army (including those assigned to the Royal Body Guard), and a national militia maintain internal security. Some members of the security forces were responsible on occasion for some human rights abuses.

The economy was predominantly government-controlled. It was based on agriculture and forestry, which provided the main livelihood for 80 percent of the population and account for approximately half of the gross domestic product (GDP); the population was approximately 700,000. Hydroelectric power production and tourism are key resources, although the Government limits tourism. Tourism is limited by a requirement that tourists pay fixed, all inclusive prices, which cover lodging, food, transportation, and sightseeing before visiting the country. The Government claimed

this policy to restrict tourists is intended to preserve the country's infrastructure and limited resources. Visas are required of all persons other than Indian nationals. Unemployment for the population is a problem. Income distribution remained unequal, with approximately 10 percent of the population receiving about 70 percent of the national income.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The King exercised strong, active, and direct power over the Government. The Government prohibits political parties, and none operate legally. Unlike in previous years, there were no reports of arbitrary arrest, or detention. Judges serve at the King's pleasure; however, a National Judicial Commission was established during the year to review judicial reform and process appointments to the bench. The authorities infringed on citizens' privacy rights. The Government repeatedly restricted freedom of speech, press, assembly, and association. Freedom of religion is limited. NGOs and human rights organizations are illegal. Approximately three-fourths of population was composed of Buddhists with cultural traditions akin to those of Tibet. The remaining one-fourth of the population, ethnic Nepalese, most of whom are Hindus, live primarily in the country's southern districts. Government policies in the late 1980s and early 1990s caused approximately 100,000 ethnic Nepalese to leave, sometimes forcibly. Many went to refugee camps in Nepal, where they remained. A significant refugee problem persisted.

According to the U.N. High Commissioner for Refugees (UNHCR), over 100,000 ethnic Nepalese refugees from Bhutan have been living in 7 camps in southeastern Nepal since the early 1990s; upwards of 15,000 reside outside of the camps in the Indian states of Assam and West Bengal. The Government maintained that some of those in the camps never were citizens, and therefore have no right to return and that others had "voluntarily emigrated" and forfeited their citizenship. The Government continued its negotiation with the Government of Nepal on repatriation of ethnic Nepalese in the refugee camps. Refugee verification began in March 2001 at the Khudunabari camp and by December 2001, all the residents had been interviewed. In June, the Joint Verification Team (JVT) released the verification results for the Khudunabari camp as follows: 2.4 percent of the total camp population were identified as eligible Bhutanese citizens, with the absolute right of return, 70.55 percent were "voluntary migrants," and would have to apply for citizenship in Bhutan if they chose to return, 24.2 percent were found to be "non-nationals" and could not return, and 2 percent were found to be criminals and would have to face charges if they returned to the country. The next Ministerial Joint Committee meeting is expected to occur in 2004. The Government restricted worker rights.

#### RESPECT FOR HUMAN RIGHTS

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

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

*b. Disappearance.*—There were no reports of politically motivated disappearances. There were incidents of women and girls being kidnaped by terrorist groups for the purposes of rape and servitude during the year (see Sections 5, 6.c., and 6.f.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The laws proscribe torture and abuse in general; however, there were reports that the security forces ignored these provisions in the past.

Prison conditions reportedly were spartan. Visits by the International Committee of the Red Cross (ICRC) and the opening of a prison in Thimphu contributed to improving conditions of detention.

The Government and the ICRC signed the 5-year Memorandum of Understanding in 1998, and during the year, extended the ICRC prison visits program for 1 more year. The ICRC conducted two prison visits during the year, and was allowed unhindered access.

*d. Arbitrary Arrest, Detention, or Exile.*—Under the law, police may not arrest a person without a warrant and must bring an arrested person before a court within 24 hours, exclusive of travel time from place of arrest. However, arbitrary arrest and detention remained problems.

Legal protections were incomplete, due to the lack of a fully developed criminal procedure code and to deficiencies in police training and practice. The initiation of ICRC prison visits and the establishment of an ICRC mail service between detainees and family members helped to alleviate reports of incommunicado detention of prisoners. Of those detained in connection with political dissidence and violence in southern areas in 1991–92, 70 continued to serve sentences after conviction by the

High Court, according to the ICRC. Reports indicated that six or seven of those detained in 1991–92 were released during the year.

In 2001, security forces arrested Damber Singh Pulami, reportedly a member of the Youth Organization of Bhutan (the youth wing of the banned Bhutan People's Party) who had entered the country from his refugee camp in Nepal to check on the internal resettlement of non-Nepalese to the south. In May 2001, Pulami was arrested and charged in connection with extortion, kidnapping, murder and subversive activities. At year's end, Non Governmental Organization (NGOs) reported that Pulami was in prison.

There were no new developments in the case of Rongthong Kunley Dorji, leader of the Druk National Congress and United Front for Democracy in Bhutan, who was arrested in India in 1997, following the issuance of an extradition request by Bhutanese authorities. Dorji's extradition case was pending in the Indian courts at year's end.

Human rights groups alleged that arrest and abuse of refugees returning to the country without authorization continued to occur but went unreported by the Government.

The law neither provides for nor prohibits forced exile. Although the Government officially does not use formal exile, many political dissidents freed under government amnesties stated that they were released on the condition that they depart the country, but the Government denied this. Many of them subsequently registered at refugee camps in Nepal and some relocated to India.

*e. Denial of Fair Public Trial.*—There is no written constitution and while the judiciary is overseen by the National Judicial Commission, is not independent of the King. The King commanded a 39-member committee to draft a constitution in 2001, intended to establish a constitutional monarchy (see Section 3). During the year, the constitution was considered and debated by the National Assembly. The judicial system consists of three branches, the Sub-Divisional Court, the District Court, and a High Court. Only the King can pardon or commute a sentence. Judges were appointed by the King on the recommendation of the Chief Justice and may be removed by the King. There is no uniform system of qualifications for judicial appointments.

The Office of Legal Affairs (OLA) conducted state prosecutions, drafted and reviewed legislation, and rendered legal counsel. The OLA is composed of a Legal Services Division (which eventually was to become the Ministry of Law and Justice) with domestic, international, and human rights sections; and a Prosecution Division, with a criminal section and a civil section.

Citizens generally had the right to a fair trial. Criminal cases and a variety of civil matters were adjudicated under a legal code established in the 17th century, revised in 1958 and 1965, and codified in 2001. State-appointed prosecutors filed charges and prosecuted cases for offenses against the State. In other cases, the relevant organizations and departments of government filed charges and conducted the prosecution. Defendants have the right to be presented with written charges in languages that they understood, and be given time to prepare their own defense. However, according to some political dissidents, this practice was not always respected. There were reports that defendants received legal representation at trial, and that they could choose from a list of 165 government-licensed and employed advocates to assist with their defense; however, it was not known how many defendants actually received such assistance. Village headmen, who had the power to arbitrate disputes, constitute the bottom rung of the judicial system. Twenty-three new lawyers completed their overseas training and reportedly may have returned to the country during the year. Magistrates, each with responsibility for a block of villages, could review their decisions. Magistrates' decisions can be appealed to district judges, of which there was one for each of the country's 20 districts. The High Court in Thimphu is the country's Supreme Court.

Defendants have the right to appeal to the High Court and may make a final appeal to the King, who traditionally delegated the decision to the Royal Advisory Council. Trials were supposed to be conducted in open hearings, except for family law and cases involving juveniles. Courts decisions were not published and public access to the country's laws was limited. The National Library houses the legal codes in the national language, but other copies or volumes were not available to the public. There was a legal requirement that citizens pay for their own legal counsel; however, many citizens were unable to afford representation and thus in practice did not receive legal assistance in court.

Questions of family law, such as marriage, divorce, and adoption, traditionally are resolved according to a citizen's religion: Buddhist tradition for the majority of the population and Hindu tradition for the ethnic Nepalese.

Some or all of the approximately 70 prisoners serving sentences for offenses related to political dissidence or violence, primarily by ethnic Nepalese during 1991–92, may be political prisoners (see Section 1.e.).

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The laws do not provide for these rights. According to human rights groups, police regularly conducted house-to-house searches for suspected dissidents without explanation or legal justification. The Government requires all citizens, including minorities, to wear the traditional dress of the Buddhist majority in all public places, and strictly enforced this law for visits to Buddhist religious buildings, monasteries, or government offices; in schools, and when attending official functions and public ceremonies; however, some citizens commented that enforcement of this law was arbitrary and sporadic (see Section 5).

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

*a. Freedom of Speech and Press.*—The Government restricted freedom of speech, and to a lesser extent freedom of the press. The country's only regular publication is Kuensel, a weekly newspaper with a circulation of 15,000. It also reports stories on a daily basis through its on-line edition. Kuensel was formerly government-run, and human rights groups have stated that government ministries reviewed editorial material and suppressed or changed content. According to the Government, Kuensel was independent and was funded entirely through advertising and subscription revenue. Its board consists of senior civil servants and private individuals. Kuensel was published in English, Dzongkha, and Nepali languages, and it supported the Government but did occasionally report criticism of the King and of government policies in the National Assembly. Unlike in the previous year, there were no reports that journalists who worked for Kuensel were subjected to threats and harassment by the ministers. The Government maintained that there were no restrictions on individuals starting new publications, but that the market was too small to support any. Foreign newspapers and magazines were available, but readership was in the hundreds and primarily limited to government officials.

The Government allowed television broadcasts of locally produced and foreign programs. There were 50 cable providers in the country with more than 15,000 subscribers. A large variety of programming was available, including CNN and BBC. The Government did not censor cable content. The radio station is government owned.

The Government did not restrict use of the Internet; however, the Government did regulate all “pornographic” material.

In May, the Royal Bhutan University opened in Thimphu and was comprised of 10 colleges. There was little information on academic freedom throughout the country.

*b. Freedom of Peaceful Assembly and Association.*—The law does not provide for freedoms of assembly and association, and the Government restricted these rights in practice. Citizens may engage in peaceful assembly and association only for purposes approved by the Government. NGOs and political parties were illegal under the law. Although the Government allowed civic and business organizations, there were no legally recognized political parties. The Government regarded parties organized by ethnic Nepalese exiles—the Bhutan People's Party (BPP), the Bhutan National Democratic Party, and the Druk National Congress—as “terrorist and antinational” organizations and declared them illegal. These parties, which seek the repatriation of refugees and democratic reform, did not conduct activities inside the country.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, the Government restricted this right in practice and Buddhism was the state religion. Approximately two-thirds of the population practiced either Drukpa Kagyupa or Nyingmapa Buddhism.

The Government subsidized monasteries and shrines of the Drukpa sect and provided aid to approximately one-third of the Kingdom's 12,000 monks. The Government also provided financial assistance for the construction of Drukpa Kagyupa and Nyingmapa Buddhist temples and shrines. NGOs reported that permission from the Government to build a Hindu temple was required but rarely granted. There were no Hindu temples in Thimphu, despite the migration of many ethnic Nepalese to Thimphu. Citizens of other faiths, mostly Hindus, enjoyed freedom of worship. Followers of religions other than Buddhism and Hinduism generally were free to worship in private homes but may not erect religious buildings or congregate in public. Proselytization is illegal, and dissidents living outside the country claim that the Government prohibits conversions. The Government denied the dissidents' claims, and asserted that any citizen is free to practice openly any religion.

The King has declared major Hindu festivals as national holidays, and the royal family participates in them. Foreign missionaries are not permitted to proselytize, but international Christian relief organizations and Jesuit priests were active in education and humanitarian activities. The Government restricted the import into the country of printed religious matter; only Buddhist religious texts may be imported. According to dissidents living outside of the country, only Buddhist religious teaching was permitted in the schools. Applicants for government services sometimes were asked their religion before services were rendered. All government civil servants were required to take an oath of allegiance to the King, the country, and the people. The oath does not have religious content, but was administered by a Buddhist lama (see Section 5).

For a more detailed discussion see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens traveling in border regions were required to show their citizenship identity cards at immigration check points, which in some cases were located at a considerable distance from what is in effect an open border with India. By treaty, citizens may reside and work in India. In addition, ethnic Nepalese say they were frequently denied security clearance forms, which is a prerequisite for obtaining a passport form and which was biased against ethnic Nepalese. The ethnic Nepalese said that since the forms are based on the security clearance of their parents, it frequently excluded children of ethnic Nepalese.

The country was not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol (see Section 5). The Government stated that it recognizes the right to asylum in accordance with international refugee law; however, the Government has not formulated a policy regarding refugees, asylees, first asylum, or the return of refugees to countries in which they fear persecution. The issue of 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*

Citizens do not have the right to change their government. The country is a monarchy with sovereign power vested in the King. However, during 2001 a draft constitution was written which was debated in the National Assembly during the year. The drafting committee was chaired by the Chief Justice of the High Court and was, according to the Government, composed of representatives of the Monastic body, the people, the judiciary, and the Royal Government.

In August, the National Assembly elected a new Council of Ministers to a 5-year term. In 2001, the National Assembly elected 10 Royal Advisory Councilors. In August, the National Assembly included 4 Ministers for a total of 10. There were elected or partially elected representatives at the local, district, and national levels, and the Government claimed to encourage decentralization and citizen participation. These elections were conducted in much the same way as National Assembly elections. The National Assembly has the power to remove ministers whom the King appoints, but it never has done so. Political authority ultimately resided in the King, and decision-making involves only a small number of officials. Officials subject to questioning by the National Assembly routinely made major decisions, but the National Assembly was not known to have overturned any decisions reached by the King and government officials.

Political parties do not exist legally. The Government has banned parties established abroad by ethnic Nepalese, Sarchops, or Eastern Bhutanese (see Section 2.b.).

The National Assembly had 150 members. Of these, 105 were elected by citizens, 10 were selected by a part of the Buddhist clergy, and the remaining 35 were appointed by the King to represent the Government. The National Assembly, which met irregularly, had little independent authority. However, there were efforts underway to have the National Assembly meet on a more regular basis, and in recent years the King and the Council of Ministers have been more responsive to the National Assembly's concerns. The procedures for the nomination and election of National Assembly members state that in order to be eligible for nomination as a candidate, a person must be a citizen; be at least 25 years of age; not be married to a foreign national; not have been terminated or compulsorily retired for misconduct from government service; not have committed any act of treason against the King, the populace, and country; have no criminal record or any criminal case pending against him; have respect for the nation's laws; and be able to read and write in Dzongkha.



Each National Assembly constituency consists of a number of villages. Each village was permitted to nominate one candidate but must do so by consensus. There was no provision for self-nomination, and the law states that no person may campaign for the candidacy or canvass through other means. If more than one village within a constituency puts forward a candidate, the district development committee conducts an election, and the candidate obtaining a simple majority of votes cast was declared the winner. The law allows individuals over the age of 18 the right to vote. The law does not make clear how a candidate is selected if none achieves a simple majority. However, it does state that in case of a tie among the candidates in the election, selection shall be made through the drawing of lots. The candidate whose name is drawn shall be deemed to be elected.

Human rights activists claimed that the only time individual citizens have any involvement in choosing a National Assembly representative was when they were asked for consensus approval of a village candidate by the village headman. The name, put to villagers for consensus approval by the headman, is suggested by district officials, who in turn take their direction from the central Government. Consensus approval took place at a public gathering. Human rights activists stated that there was no secret ballot.

The National Assembly enacted laws, approved senior government appointments, and advised the King on matters of national importance. Voting was by secret ballot, with a simple majority needed to pass a measure. The King may not formally veto legislation, but may return bills for further consideration. In general, the King had enough influence to persuade the Assembly to approve legislation that he considered essential or to withdraw proposals he opposed. The Assembly may question government officials and force them to resign by a two-thirds vote of no confidence; however, the National Assembly never has compelled any government official to resign.

All cabinet ministers are nominated by the King and are elected by the National Assembly. Ministers terms are limited to 5 years, after which they must pass a vote of confidence in the National Assembly in order to remain in office. The National Assembly, by a two-thirds vote of no confidence, can require the King to abdicate and to be replaced by the next person in the line of succession. The King removed himself as chairman of the Council of Ministers in 1998. Cabinet Ministers who receive the most votes rotate the position on a yearly basis. The chairman of the Council of Ministers serves as Prime Minister and head of government. At year's end, Home Minister Jigme Thinley served as Chairman and Prime Minister.

The Monastic Body, comprised of 3,500 monks, was financed by an annual government grant and was the sole arbiter on religious matters in the country. The body also played an advisory role in the National Assembly, the Royal Advisory Council, and with the King. The King almost consistently deferred to the body's pronouncements on religious matters and many decisions affecting the state.

There were 15 women in the National Assembly. There were 2 women in the High Court, 23 percent of civil service employees were women, and women held more than 30 percent of positions at the Ministry of Foreign Affairs.

There were 105 elected people's representatives in the National Assembly. All major ethnic groups were represented in the National Assembly, including 14 ethnic Nepalese. However, NGOs complained of the disproportionate representation of ethnic Nepalese.

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

There were no legal human rights NGOs in the country. The Government regarded human rights groups established by ethnic Nepalese exiles—the Human Rights Organization of Bhutan, the People's Forum for Human Rights in Bhutan, and the Association of Human Rights Activists-Bhutan—as political organizations and did not permit them to operate in the country.

ICRC representatives conducted a biannual prison visit, and the Government allowed them unhindered access to detention facilities, including those in southern districts inhabited by ethnic Nepalese.

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

The law does not prohibit discrimination on the basis of race, sex, disability, language, or social status. In the past, the Government committed many abuses against the ethnic Nepalese, which led to the departure of 100,000 of them. At the time, the Government claimed that it was concerned about the rapid population growth of and political agitation by the ethnic Nepalese. The Government claimed that ethnic and gender discrimination in employment was not a problem. It claimed that ethnic Nepalese filled 16 percent the civic service or government employment, which

was less than their proportion of the total population. Bhutanese human rights groups active outside the country claimed that ethnic Nepalese actually make up approximately one-third of the country's population, and that the Government underreported their number.

*Women.*—The law does not specifically prohibit domestic violence against women; however, such crimes are generally covered by the provisions of criminal law. There was no evidence that rape or spousal abuse were extensive problems. However, NGOs reported that many women did not report rape either because of the cultural issues or because they were unaware of the legal options.

The Rape Act contained a clear definition of criminal sexual assault and specified penalties. In cases of rape involving minors, sentences range from 5 to 17 years. In extreme cases, a rapist may be imprisoned for life. There were few reported instances of sexual harassment.

Women were accorded respect in the traditions of most ethnic groups. Women participated freely in the social and economic life of the country. Approximately 43 percent of enrollment in school was female. Inheritance law provides for equal inheritance among all sons and daughters, but traditional inheritance practices, which vary among ethnic groups, may be observed if the heirs choose to forego legal challenges. Dowries were not customary, even among ethnic Nepalese Hindus. Among some groups, inheritance practices favoring daughters reportedly accounted for the large numbers of women who owned shops and businesses and for an accompanying tendency of women to drop out of higher education to go into business. However, female school enrollment has been growing in response to government policies. Women in unskilled jobs generally were paid slightly less than men. Women constituted approximately 30 percent of the formal work force.

In questions related to family law, including divorce, child custody, and inheritance disputes, were adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women was 18 years. The application of different legal practices based on membership in a religious or ethnic group often resulted in discrimination against women. Polygamy is allowed, provided the first wife gives her permission. Polyandry is permitted but did not often occur. Marriages may be arranged by the marriage partners themselves as well as by their parents. Divorce was common. The law requires that all marriages must be registered; it also favors women in matters of alimony.

The National Women's Association of Bhutan has been active since 1981 and has tried to encourage women to improve improve their living standards and socio-economic status.

*Children.*—The Government demonstrated its commitment to child welfare by rapid expansion of primary schools, healthcare facilities, and immunization programs. For example, the King established the Youth Development Fund in 1998 to provide assistance for ongoing and new youth activities and programs. The Government provided free and compulsory primary school education, and primary school enrollment increased 9 percent per year since 1991, with enrollment of girls increasing at an even higher rate. In 2001, the participation rate for children in primary schools was estimated at 72 percent, with the rate of completion of 7 years of schooling at 60 percent for girls and at 59 percent for boys. There is no law barring ethnic Nepalese children from attending school. However, most of the 75 primary schools in southern areas heavily populated by ethnic Nepalese that were closed in 1990 remained closed. The closure of the schools acted as an effective barrier to the ability of the ethnic Nepalese in southern areas to obtain a primary education. Exile groups claimed that Nepalese students scoring highly on national exams were not always given the same advantages as other students (such as the chance to study abroad at government expense), particularly if they were related to prominent dissidents or refugees.

*Persons with Disabilities.*—The law does not specifically protect the rights of the country's persons with disabilities nor mandate access to building; however, there was no evidence of official discrimination toward persons with disabilities.

*National/Racial/Ethnic Minorities.*—In the late 1980s, concern over the increase in the population of and political agitation among ethnic Nepalese prompted aggressive government efforts to assert a national culture, to tighten control over southern regions, to control illegal immigration, to expel ethnic Nepalese, and to promote national integration. Discriminatory measures continued during the year. Measures include a requirement that a security clearance be obtained for jobs and promotions in government service and to obtain passports. The law also requires that the national dress be worn for official occasions and as a school uniform, the teaching of Dzongkha as a second language in all schools, and an end to instruction in Nepali as a second language.

During the mid- and late-1980s, citizenship became a highly contentious matter. Requirements for citizenship first were formalized in the Citizenship Law of 1958, which resulted in the denaturalization of many ethnic Nepalese. The 1985 law required that both parents be citizens in order to confer citizenship on a child, and that persons seeking to prove citizenship through their own or their parents' residency in 1958 be able to prove residency in the country at that time. In many cases, persons were unable to produce the documentation necessary, such as land tax receipts from 1958, to show residency. The law permits residents who lost citizenship under the 1985 law to apply for naturalization if they can prove residence during the 15 years prior to that time. The Government declared all residents who could not meet the new citizenship requirements to be illegal immigrants. Beginning in 1988, the Government expelled large numbers of ethnic Nepalese through enforcement of the new citizenship laws.

The Citizenship Act provided for the revocation of the citizenship of any naturalized citizen who "has shown by act or speech to be disloyal in any manner whatsoever to the King, country, and people of Bhutan." The Home Ministry later declared in a circular that any nationals leaving the country to assist "antinationalists," and the families of such persons, would forfeit their citizenship. Human rights groups alleged that these provisions were used widely to revoke the citizenship of ethnic Nepalese who subsequently were expelled from or otherwise departed the country. In response to the perceived repression, ethnic Nepalese protested, sometimes violently. The protests were led by the BPP, which advocated full citizenship rights for ethnic Nepalese and democratic reforms. Characterizing the BPP as a "terrorist" movement backed by Indian sympathizers, the authorities cracked down on its activities and ordered the closure of local Nepalese schools, clinics, and development programs after several were raided or bombed. There were credible reports that many ethnic Nepalese activists were beaten and tortured while in custody, and that security forces committed acts of rape. There were credible reports that during the late 1980s and early 1990s, militants, including BPP members, attacked and killed census officers and other officials, and engaged in bombings.

Local officials reportedly took advantage of the climate of repression to coerce ethnic Nepalese to sell their land below its fair value and to emigrate, while others abandoned their land in fear. Beginning in 1991, ethnic Nepalese began to leave southern areas of the country in large numbers and to take refuge in Nepal. According to the UNHCR, there were 100,000 ethnic Nepalese refugees in 7 refugee camps in eastern Nepal as of December. An additional 15,000 refugees, according to the UNHCR estimates, were living outside the camps in Nepal and India. Ethnic Nepalese political groups in exile complained that the revision of the country's citizenship laws denaturalized and forced into exile tens of thousands of former residents of the country. They claimed that many ethnic Nepalese whose families have been in the country for generations were expelled because they were unable to document their claims to residence. The Government denied this and asserted that a three-member village committee may certify in writing that a resident is a citizen in cases where documents cannot be produced.

Since 1994, there have been a series of negotiations between Nepal and Bhutan to resolve the Bhutanese refugee problem. The Government continued its negotiation with the Government of Nepal on repatriation of ethnic Nepalese in the refugee camps. Refugee verification began in March 2001 at the Khudunabari camp and by December 2001, all the residents had been interviewed. In June, the JVT released the verification results for the Khudunabari camp as follows: 2.4 percent were identified as genuine Bhutanese, with the absolute right of return, 70.55 percent were "voluntary migrants," and would have to apply for citizenship in Bhutan if they chose to return, 24.2 percent were found to be "non-nationals" and could not return, and 2.85 percent were found to be criminals and would have to face charges if they returned to Bhutan.

The country continued its negotiations on repatriation with Nepal, but refugee groups were concerned that at the present rate, verification would take several years. The 15th round of Nepal-Bhutan Ministerial Joint Committee (MJC) Meeting scheduled for September was cancelled, and the countries' delegates met on the sidelines of the U.N. General Assembly Session in September to discuss the refugee problem. The next MJC Meeting is expected to be held in 2004.

The UNHCR monitored the conditions of the Bhutanese refugees in camps in eastern Nepal and provided for their basic needs. However, in 2002, there were reports by refugee women and children that some of the Bhutanese refugee workers at the camps had committed sexual assault. The UNHCR responded by conducting an investigation and the Government of Nepal provided more police protection to the camps. In September, Human Rights Watch released a report titled "Trapped by Inequality: Bhutanese Refugee Women in Nepal" which examined the response

of the UNHCR and the Government of Nepal to rape, domestic violence, sexual and physical assault, and trafficking of girls and women from refugee camps. The report said that Nepal's system of refugee registration discriminated against women by distributing rations through male heads of households. Further, the report noted that 35 refugee women and girls were missing from the camps.

The Government contended that many of the documents presented by refugees in the camps were fraudulent. NGOs claimed that these assertions by the Government represented an attempt to eliminate the majority of the refugees from qualifying as citizens.

In 1998, the Government expanded its program of resettling Buddhist Bhutanese from other regions of the country on land in the southern part of the country vacated by the ethnic Nepalese living in refugee camps in Nepal. Human rights groups maintained that this action prejudiced any eventual outcome of negotiations over the return of the refugees to the country. The Government maintained that citizens who are ethnic Nepalese from the south sometimes were resettled on more fertile land in other parts of the country. The failure of the Government to permit the return of ethnic Nepalese refugees has tended to reinforce societal prejudices against this group, as has the Government's policy on the forced retirement of refugee family members in government service and the resettlement of Buddhists on land vacated by expelled ethnic Nepalese in the south.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law does not allow workers to form or join unions and there were no labor unions. The Government maintained that, with very little industrialization, there was little labor to be organized. The total labor force was approximately 412,000 persons, and 279,000 worked in rural areas. During the year, a Ministry of Labor was established to analyze the country's labor situation and to provide vocational training.

*b. The Right to Organize and Bargain Collectively.*—The law does not authorize collective bargaining or the right to strike, and the Government was not a member of the International Labor Organization (ILO). Industry accounted for approximately 25 percent of the GDP, but employed only a minute fraction of the total work force. The country lacked a large pool of ready labor; for major projects, such as road works, the Government brought in hired laborers from India.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor and there were no reports that such practices occurred. However, mandatory national service was practiced. Agricultural workers were required to work in state service for 15 days per year. NGOs stated that this practice was administered selectively. For instance, NGOs believe the practice often selected poor agricultural workers at the height of their harvesting season. There was no evidence to suggest that domestic workers were subjected to coerced or bonded labor.

*e. Status of Child Labor Practices and Minimum Age for Employment.*—There is no minimum age for employment; however, the minimum age of 18 was established "in all matters of the state." Children often do agricultural work and chores on family farms. The law does not specifically prohibit forced and bonded labor by children, but there were no reports that such practices occurred. The country has not ratified ILO Convention 182 on the worst forms of child labor; however, as a state party to the U.N. Convention on the Rights of the Child, the Government supported the provisions contained therein.

*e. Acceptable Conditions of Work.*—A circular that went into effect in 1994 established wage rates, rules and regulations for labor recruiting agencies, and the regulations for payment of worker's compensation. Wage rates were revised periodically, and range upward from a minimum of roughly \$2.50 (100 ngultrums) per day plus various allowances paid in cash or kind. This minimum wage provided a decent standard of living for a worker and family. The workday was defined as 8 hours with a 1-hour lunch break; regular days of leisure must be granted by employers. Work in excess of this must be paid at one and one-half times normal rates.

The largest salaried work force was the government service, which has an administered wage structure last revised in 1988 but supplemented by special allowances and increases. The last such increase was in 1999. Civil Service regulations require equal pay for equal work for men and women. According to the latest Census of Manufacturing Industries, only 38 industrial establishments employed more than 50 workers. The Government favored family-owned farms. Land laws prohibits a farmer from selling his or her last 5 acres and requires the sale of holdings in excess of 25 acres. This, along with the country's rugged geography, resulted in a predominantly self-employed agricultural workforce. Workers are entitled to free medical

care within the country. Persons who could not receive adequate care within the country were flown to other countries (usually India) for treatment. Workers are eligible for compensation for partial or total disability, and in the event of death their families are entitled to compensation. Existing labor regulations do not grant workers the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## INDIA

India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) leads a multi party coalition, heads the Government. President A.P.J. Abdul Kalam, who was elected in 2002 by an electoral college consisting of Members of Parliament and members of state assemblies, is Head of State and also has special emergency powers. State Assembly elections held in December in Mizoram, Delhi, Rajasthan, Madhya Pradesh, and Chhattisgarh were considered to be generally free and fair; however, there were reports of some violence. The judiciary is independent; however, the judiciary was underfunded, overburdened, and NGOs alleged that corruption influenced court decisions.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support through the use of paramilitary forces throughout the country. The Union Ministry for Home Affairs controls most of the paramilitary forces, the internal intelligence bureaus, and the nationwide police service; it provides training for senior police officers of the state-organized police forces. The armed forces are under civilian control. Members of the security forces committed numerous serious human rights abuses; however, some officers from the security forces were held accountable for their actions during the year.

The country was in transition from a government-controlled to a largely market-oriented economy. The private sector was predominant in agriculture, most non-financial services, consumer goods manufacturing, and some heavy industrial sectors. Economic liberalization and structural reforms begun in 1991 continued, although momentum slowed. The country's economic problems were compounded by a population growth rate of 1.7 percent annually and a population of more than 1.2 billion. Income distribution remained very unequal, with the top 20 percent of the population receiving 46.1 percent of national income and the bottom 20 percent receiving 8.1 percent. According to a government survey, 16.6 percent of the urban population and 18.6 percent of the rural population lived below the poverty level.

The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Significant human rights abuses included: Extrajudicial killings, including faked encounter killings, custodial deaths throughout the country, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; widespread exploitation of indentured, bonded, and child labor; and trafficking in women and children.

These abuses were generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems were most visible in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics, the refusal of security forces to obey court orders, and terrorist threats have disrupted the judicial system. In the Northeast, there was no

clear decrease in the number of killings, despite negotiated ceasefires between the Government and some insurgent forces and between some tribal groups.

Terrorist attacks remained problems. The concerted campaign of execution-style killings of civilians by Kashmiri and foreign-based militant groups continued and included several killings of political leaders and party workers. Separatist guerrillas were responsible for numerous, serious abuses, including killing of armed forces personnel, police, government officials, and civilians; torture; rape; and other forms of brutality. Separatist guerrillas also were responsible for kidnapping and extortion in Jammu and Kashmir and the northeastern states. The Government accused the terrorist organizations Lashkar-e-Tayyiba (LeT) and Jaish-e-Muhammad (JeM) of responsibility for carrying out many of the attacks on civilians and military personnel. The Government has also expanded construction of a security barrier along the International Border and Line of Control (LoC), causing difficulties for Kashmiris and Pakistanis. The Government claimed that the barrier was necessary to prevent terrorism, but the construction process also affected farming and other activities of nearby residents.

Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year's end.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Arbitrary and unlawful deprivations of life by government forces (including deaths in custody and faked “encounter” killings) continued to occur frequently in the State of Jammu and Kashmir and in several northeastern states, where separatist insurgencies continued. Security forces offered bounties for wanted militants. Extrajudicial killings of criminals and suspected criminals by police or prison officers also occurred in a number of states. Militant groups active in Jammu and Kashmir, several northeast states, and parts of Andhra Pradesh, killed members of rival factions, government security forces, government officials, and civilians.

There were significantly fewer attacks by militants in Jammu and Kashmir during the year; however, it continued at the level of the late 1990s, according to the Home Ministry (Kashmir has been at the center of a territorial dispute between India and Pakistan since the two nations gained their independence in 1947; both claim Kashmir.) In Jammu and Kashmir, according to the Home Ministry, security forces killed 1,526 militants during the year, compared with 1,747 militants killed during the same period in 2002. In addition, human rights groups alleged that during the year security forces killed a number of captured non-Kashmiri militants in Jammu and Kashmir. Kashmiri separatist groups claimed that in many instances “encounters” were faked and that security forces summarily executed suspected militants and civilians offering no resistance. Human rights activists alleged that the security forces were under instructions to kill foreign militants, rather than attempt to capture them alive, in the case of security encounters with non-Kashmiri terrorists who infiltrated into Jammu and Kashmir illegally.

According to press reports and anecdotal accounts, persons killed in disputed encounters typically were detained by security forces, and their bodies, often bearing multiple bullet wounds and marks of torture, were returned to relatives or otherwise were discovered shortly afterwards. For example, in May, Mohammed Ashraf Malik was taken into custody by the Rashtriya Rifles (RR) allegedly for assisting the guerrillas. Several days later, the RR unit advised Malik's family to collect his remains from the forest, claiming that he had stepped on a landmine. By year's end, an inquiry had been ordered in this case.

There reportedly was no action taken against members of the security forces responsible for the following killings in Jammu and Kashmir: The January 2002 “encounter” killing of Ali Muhammad Bhat, and the March 2002 alleged custody killing of Mubarak Shah in Dushar Gool.

The National Human Rights Commission (NHRC) asked the Uttar Pradesh government to pay \$10,000 (500,000 Rs) to the family of Dr. Sonali Bose, a graduate student shot by the police in July 2002 in an alleged case of mistaken identity.

The Jammu and Kashmir state government took numerous initiatives to hold violators of human rights accountable. In June, the Government announced that 118 of the security forces had been punished for having committed human rights violations, including 44 Border Security Force (BSF) members, 47 from the Central Reserve Police Force (CRPF), and 27 police officers. A Senior Superintendent of Police was suspended by the Jammu and Kashmir government for allegedly falsifying the

DNA samples of five civilians killed in fake encounters in Chattisingpora, Anantnag District in March 2000; he was appealing his case at year's end. A ministerial subcommittee headed by the Deputy Chief Minister had recommended severe punishment for three police officers and two doctors for tampering with the evidence.

According to local press reports, the number of persons killed in encounter deaths varied widely throughout the country. In March, the Home Ministry reported that there were 116 complaints of alleged encounter deaths in 2000–2001, and 92 complaints of alleged encounter deaths from 2002 until year's end. In 2002, the NHRC called for all alleged encounter deaths to be investigated immediately and asked state governments to compensate the families of the victims. The NHRC's call in 2002 for all alleged encounter deaths to be investigated immediately was not heeded, and no such body was formed during the year. The NHRC issued instructions to all state governments to take appropriate preventive measures and recommended that compensation of \$22,000 (1,600,000 Rs) be paid to the families of persons killed in such cases from 1993 until year's end. In most cases reported during the year; however, \$7,350 (500,000 Rs) was the amount awarded.

In addition, the NHRC issued guidelines to state governments with the goal of helping to prevent encounter deaths. However, members of the security forces rarely were held accountable for these killings. The NHRC may ask for a report from a state government, but does not have the statutory power to investigate such allegations. Human rights activists maintained that the Government increasingly substituted financial compensation to victims' families for punishment of those found guilty of illegal conduct. In some cases, victims or victims' families distrusted the military judicial system and petitioned to transfer a particular case from a military to a civil court. The authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC.

The security forces also killed many civilians during military counterinsurgency operations in Jammu and Kashmir. A December Amnesty International (AI) paper indicated that security forces had reportedly killed over 250 civilians during the year. According to the Home Ministry, security forces killed 28 civilians from April 1 until June 30, and the NHRC recommended payment of compensation in 11 of these cases.

The Armed Forces Special Powers Act and the Disturbed Areas Act remained in effect in several states in which active secessionist movements exist, namely, in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, which, according to human rights groups, allowed security forces to operate with virtual impunity in areas under the act. The Armed Forces Special Powers Act provides search and arrest powers without warrants (see Section 1.d.).

Accountability remained a serious problem in Jammu and Kashmir. Security forces committed thousands of serious human rights violations over the course of the 14-year conflict, including extrajudicial killings, disappearances, and torture (see Sections 1.b. and 1.c.). Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. Punishments ranged from reduction in rank to imprisonment for up to 10 years. In a December letter to Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed, AI wrote "the state government needs to be seen to make the security forces more accountable for their actions."

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see Section 3). According to the Jammu and Kashmir Director General of Police, shootings, explosions, and suicide attacks killed more than 2,714 persons during the year. More than 836 civilians, 384 security personnel, and 1,494 militants were killed in politically motivated violence during the year. Supporters of different political parties, and supporters of different factions within one party, frequently clashed with each other and with police during the election.

Country-wide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgencies (see Sections 1.b., 1.c., 1.d., and 1.g.). Human rights groups alleged that police often faked encounters to cover up the torture and subsequent killing of both militants and noncombatants.

The number of persons killed and injured in militant violence in the northeastern states was significant but was much lower than the numbers killed in similar violence in Jammu and Kashmir. The Home Ministry reported that during the first half of the year, more than 738 militant attacks occurred in the Northeastern states resulting in 503 casualties and 437 kidnappings, while 271 militants surrendered. Numerous incidents of encounters involving security forces and militant organizations such as the United Liberation Front of Assam (ULFA), the National Demo-

cratic Front of Bodoland (NDFB), and the United People's Democratic Solidarity (UPDS) continued.

The trial in the case of People's War Group (PWG) guerrillas charged with the 2001 killing of human rights activist Purushotham was ongoing at year's end. During the year, the trial in the case of persons charged with the 2001 killing of human rights activist Azam Ali was concluded, and the defendants were found not guilty.

As evidence that encounters often were faked by police, human rights groups cited the refusal of police officials to turn over the bodies of suspects killed. The bodies often were cremated before families could view them. In July, the NHRC reported that an encounter death occurred after the Andhra Pradesh police detained two suspected PWC members. No further action was taken by year's end.

During the year, in Andhra Pradesh, the Disturbed Areas Act was not in force. Human rights groups alleged that security forces were able to operate with virtual impunity under the act. They further alleged that Andhra Pradesh police officers trained and provided weapons to an armed vigilante group known as the "Green Tigers," whose mission was to combat the Naxalite group in the state. Little was known about the size, composition, or activities of this group.

Court action in cases of extrajudicial killings were widely criticized as slow and inconsistent. For example, there was no action taken, nor was any likely, for persons responsible for the 1996 killings of Jalil Andrabi and Parag Kumar Das.

Police frequently used excessive force indiscriminately against demonstrators, killing citizens (see Section 2.b.).

Although the Supreme Court in July 2002 ordered regular checks on police stations to ascertain the incidence of custodial violence against persons, the government and local authorities failed to comply in the overwhelming majority of police stations throughout the country; however, the checks were conducted in a very small number of police stations in Madhya Pradesh and West Bengal.

Deaths in custody were common both for suspected militants and other criminals. According to the NHRC, there were 1,305 reported deaths in custody nationwide during 2001, the latest year for which data were available. In December, the Jammu and Kashmir Chief Minister reported that there were 8 custodial deaths in Jammu and Kashmir during the year, compared to 11 in 2001. Many died from natural causes aggravated by poor prison conditions (see Section 1.c.).

There were reports of deaths in custody that resulted from alleged torture or other abuse. For example, in January, 28-year-old Ramesh died in police custody in Karnataka, allegedly after having been tortured. Human rights organizations questioned the legality and severity of the police actions. Two policemen were suspended but were not arrested or charged.

In June, the Jammu and Kashmir state government dismissed a deputy superintendent of police for his role in the 1999 custodial deaths of three persons.

The NHRC focused on torture and deaths in custody by directing district magistrates to report all deaths in police and judicial custody to the commission and stating that failure to do so would be interpreted as an attempted coverup. Magistrates appeared to be complying with this directive, although states varied in their adherence to NHRC directives on custodial deaths.

During the year, some state governments took some measures regarding custodial deaths. In May, the Jammu and Kashmir Human Rights Commission directed the central government to pay \$10,000 (500,000 Rs) to the parents of Hilal Ahmed Nasti who died in custody. Following NHRC guidelines, the Government announced plans to address deficiencies in the prison system and establish a committee to draft a model prisons manual. The committee circulated its draft to all state governments/union territories for their input, but has not given a timeline for final publication.

In Bihar, the NHRC recorded 144 custodial deaths in its 2001–2002 reporting period. According to the NHRC, the Bihar government had not adequately responded to NHRC directives and reports addressing police training and accountability. However, the Bihar Inspector General of Prisons reportedly stated that of the 144 cases, only 15 were "unnatural deaths." Human rights sources claimed that the number was higher. The NHRC Chairperson stated that Bihar had the second highest number of human rights violations in the country, but it had not yet formed a State Human Rights Commission.

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants were members of police auxiliary units consisting of former separatists who surrendered to government forces, but who retained their weapons and paramilitary organization. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort. Allegations of violations by the Special Operations Group (SOG), special anti-insurgency police units which in the past have operated outside



the law, continued throughout the year. For example, on November 12, the SOG entered the home of Bashir Ahmad Sheikh, who was allegedly killed in an "encounter" in July, and beat his mother and sisters. In March, Jammu and Kashmir Chief Minister Mufti Muhammed Sayeed told the Legislative Assembly that the SOG was disbanded; however, at year's end, there has been no sign that disbandment of the SOG had taken place. SOG members who earlier acted independently had been subordinated to regular police units. Fifty-three members of the SOG had been charged with human rights violations and 25 were removed from duty but have not been arrested or charged with any crime. In December, there were reports of protests in several districts in Jammu and Kashmir after former SOG members were appointed to positions in the uniformed police. Countermilitants searched persons at roadblocks (see Section 2.d.) and guarded large areas of the Kashmir Valley. The Government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these groups. According to journalists in Srinagar, as many as 1,200 countermilitants continued to operate in Jammu and Kashmir, particularly in the countryside.

In the seven northeastern states, insurgency and ethnic violence was a problem. The main insurgent groups in the northeast included two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security forces in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups was secession. Their stated grievances against the Government ranged from charges of neglect and indifference to the widespread poverty of the region and to allegations of active discrimination against the tribal and nontribal people of the region by the central Government (see Section 5). During the year, talks continued between various insurgent groups and central and state government officials. In January, the Government and the National Socialist Council of Nagaland Isaac and Muivah (NSCN-IM) continued talks extending the unilateral August 2001 cease-fire. In February, the Assamese government, the Bodo Liberation Tigers (BLT) and the Government signed a tripartite agreement to create the Bodoland Territorial Council, an autonomous self-governing body. Further talks were held in December between NSCN-IM leaders and the Government to discuss integration of Northeastern states into "greater Nagaland."

Surrenders by militants in the northeast, often under government incentive programs, continued during the year. Surrendered militants usually were given a resettlement and retraining allowance and other assistance. According to human rights activists and journalists, a few surrendered militants were allowed to retain their weapons and were working for the police as anti-PWG officers, residing in police camps and barracks. Human rights groups alleged that police used former militants to kill Naxalites and human rights activists with close links to the PWG, although police attributed such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year. In February, the Home Ministry held several rounds of talks with the state government of Andhra Pradesh and a representative of the PWG Group. In June 2002, the group withdrew from those talks following a police encounter.

In Tripura, the systematic surrender of arms by a faction of NLFT insurgents and NLFT fringe groups continued, due to the increased security pressure and to infighting within NLFT insurgent ranks.

The killings of ULFA leaders' family members by unknown persons during the year renewed concerns about the situation in Assam. For example, in January 2002, unidentified assailants shot and killed three relatives of two ULFA militants, including two relatives of ULFA deputy commander in chief Raju Baruah. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of the ongoing violence (see Section 2.d.).

Militant groups continued to attack civilians. For example, in August unknown persons killed 52 persons by detonation of a car bomb in Bombay.

In Manipur 15 civilians, 34 militants and 15 security force personnel were killed in clashes with the militants during the year. In January, one child was killed and one person was injured when the border security forces allegedly fired into a home. In July, two security force members were killed and Chief Minister O. Ibibi Singh was shot allegedly by the People's Liberation Army in Manipur. Nobody was arrested in connection with this incident. In Manipur, 18 militant groups reportedly were active, including outlawed Meitei organizations.

In Tripura, the Chief Minister reported 1150 separatist-related deaths from 1999 until 2003. Of the 1150 killings, 193 took place during the year. For example, on May 7, 19 non-tribal villagers were killed by tribal militants in Tripura. NGOs speculated that the All India Tripura Tiger Force was responsible.

The South Asia Terrorism Portal reported that 17 persons were killed in clashes with militants in Nagaland during the year. Throughout the year, talks continued between various Naga separatists and central and state government officials, and human rights groups observed that violence had decreased; however, violent clashes between NSCN-IM and police officers continued. For example, in April security forces shot and killed one NSCN-IM member and arrested two others. On July 31, the Government extended for an additional year the ceasefire with militants; however, the Government's continued negotiations with Naga separatists over a ceasefire caused significant unrest in neighboring states.

In the north-central states of Bihar, Jharkhand, Orissa, and West Bengal, clashes between police officers and the PWG continued. The police sometimes responded with violence. For example, on September 8, 11 police personnel and a civilian were killed in a landmine explosion allegedly set by the PWG in Bihar. Twenty years of guerrilla-style conflict between state authorities and Naxalites led to serious human rights abuses committed by both sides.

Killings of security force members by militants in Jammu and Kashmir declined to 381 during the year, according to the Home Ministry.

During the year, militant groups in Jammu and Kashmir targeted civilians, members of the security forces, and politicians. According to the Home Ministry, militants had killed 808 civilians during the year, compared with 967 in 2002. For example, in April several soldiers were killed by militants in Srinagar when a bomb detonated at the entrance of the state-run television and radio station.

Authorities prosecuted militants engaged in violence. For instance, in January, one person was convicted for the December 2000 killing of a soldier and two civilians at Delhi's Red Fort. The trial of seven others continued at year's end. In October, the Delhi High Court acquitted two Kashmiri defendants, S.A.R. Geelani and Afsan Guru, of complicity in the December 2001 terrorist attack on the Indian Parliament. At the same time, the court upheld the death sentence for two additional defendants charged in connection with this attack.

Nearly 41 persons were killed in violence related to the February Nagaland elections (see Sections 1.g. and 4).

Religious and ethnically motivated violence caused numerous deaths, and there were reports that Government agents encouraged this behavior (see Sections 2.c. and 5).

Mob lynchings of tribal people occurred in many states (see Section 5).

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances due to action by government forces; however, there were numerous disappearances during the year.

According to a December AI report, unexplained disappearances continued during the year. According to an AI report released in 2000, there have been between 700 and 800 unsolved disappearances in Kashmir since 1990. In June, the Jammu and Kashmir state government announced that 3,931 persons remained missing in the state since 1990. This figure contrasts with that given by the Association of Parents of Disappeared Persons, which puts the number at more than 8,000. In April, the Jammu and Kashmir judiciary established that 500 of these were disappearances in custody.

According to AI, in May, the NHRC asked the Chief Secretary of Jammu and Kashmir for specific information on the systems used by the state government to record and investigate allegations of enforced or involuntary disappearances. In addition, the Commission requested the number of such allegations recorded and the measures taken to prevent their occurrence. It recommended compensation relief for 719 persons who disappeared, and relief was paid for 61.

In the northeastern states, the Government was unable to provide complete statistics for the number of persons held under special security laws, but acknowledged that 43 persons were in detention under the National Security Act as of 1998. Although the Government allowed the Terrorist and Disruptive Practices (Prevention) Act (TADA) to lapse in 1995, one human rights organization credibly reported in 2002 that more than 1,000 persons remained in detention awaiting prosecution under the law, and cases opened under TADA continued through the judicial system. Several thousand others are held in short-term (1-day to 6 months' duration) confinement in transit and interrogation centers.

There were no developments in the June 2002 custodial disappearance of Manzoor Ahmad Dar.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long term unacknowledged detention in interrogation centers and transit camps that nominally were intended only for short term confinement. Human rights

groups feared that many of these unacknowledged prisoners were subjected to torture and extrajudicial killing (see Sections 1.a. and 1.c.).

The Government maintained that screening committees administered by the state governments provided information about detainees to their families. However, other sources indicated that families were able to confirm the detention of their relatives only by bribing prison guards. In November 2002 the state government of Jammu and Kashmir responded to this problem by installing a screening system to review old detention cases and released numerous detainees (see Section 1.d.). For example, after the Joint Screening Committee in Jammu and Kashmir recommended the release of 24 persons, 17 persons were released. In June, 92 persons were released under the state's 1978 Public Safety Act.

In Punjab, the pattern of disappearances prevalent in the early 1990s has ended; however, hundreds of police and security officials were not held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94. In June, the Committee for Coordination of Disappearances in Punjab (CCDP), a Punjab-based human rights organization, completed its 634-page report documenting 672 of the "disappearance" cases currently pending before the NHRC. The Central Bureau of Investigation (CBI) claimed to be pursuing actively charges against dozens of police officials implicated in the "mass cremations" in which police in Amritsar, Patti, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. The militants were believed to have been abducted, extrajudicially executed, and cremated without the knowledge or consent of their families. Although 6 years have passed since the Supreme Court ordered the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district, by year's end, no significant progress was made in identifying the cremated bodies or bringing to justice those responsible for the killings.

In July, a key witness in the trial of Punjab police officials who killed human rights monitor Jaswant Singh Khalra was arrested and charged with alleged rape.

No action has been taken against the approximately 100 police officials who were under investigation for abuses committed while suppressing the violent insurgency in Punjab.

There were credible reports that police throughout the country often did not file legally required arrest reports. As a result, there were hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, countering that there were no records of arrest.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. Sometimes kidnapped persons later were killed (see Sections 1.a. and 1.g.). In February, militants beheaded two civilians they had kidnapped. There were 211 reported kidnappings in the northeastern states during 2002. For example, on February 24, unknown assailants abducted and killed Kishore Reang, the elder brother of a candidate in Kanchanpur. In July, unknown assailants abducted Rafiqul Islam in Tahirpur. He was subsequently freed from a hotel in Dimapur in September after his father refused to pay a ransom.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture, and confessions extracted by force generally are inadmissible in court; however, authorities often used torture during interrogations. In other instances, authorities tortured detainees to extort money and sometimes as summary punishment.

The U.N. Special Rapporteur on Torture has reported that the security forces systematically tortured persons in Jammu and Kashmir to coerce confessions to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants.

In a 1996 report, the U.N. Special Rapporteur on Torture noted that methods of torture included beating, rape, crushing the leg muscles with a wooden roller, burning with heated objects, and electric shocks. Because many alleged torture victims died in custody, and others were afraid to speak out, there were few firsthand accounts, although marks of torture often were found on the bodies of deceased detainees. For example, in February, there were protests in the villages of Handwara and Tral, after a Rashtriya Rifles unit detained two villagers, allegedly tortured them for 2 days and then released them. There were no reports of action taken in any of these cases. Unlike in 2001, the Home Ministry again did not extend an invitation to the U.N. Special Rapporteurs on Torture and on Extrajudicial Killings.

The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody (see Section 1.a.). New Delhi's Tihar jail was notorious for the mistreatment of prisoners, with approximately 10 percent of custodial deaths nationwide occurring there. Police and

jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses under the Penal Code, the Government often failed to hold them accountable. According to AI, torture usually takes place under two scenarios: In the course of regular criminal investigations, and following unlawful and arbitrary arrests. For example, during criminal investigations, police frequently resorted to torture to extract information from suspects while in custody.

There was no action taken, nor was any action likely to be taken, against the police officers responsible for the 2002 torture of a 37-year-old man from Chennai.

The family of the 14-year-old girl allegedly abducted, tortured, and raped for 6 days by Patiala police in Punjab in 2001 filed a report with the state authorities to press for prosecution of the responsible police officer. No action was taken by the state government at year's end.

There also were incidents in which police beat journalists (see Section 2.a.), demonstrators (see Section 2.b.), and Muslim students (see Section 2.c.). Police also committed abuses against tribal people (see Section 5).

The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police and the likelihood that many rapes were unreported due to a sense of shame and a fear of retribution among victims. However, legal limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. In January 2002, a tribal woman alleged that she was raped by the head constable in Vaniyambadi Police Station in Tamil Nadu after being arrested on theft charges. The case was pending in the Chennai High Court at year's end.

During the year, the state government arrested three BSF members and ordered an inquiry into the 2002 case of the 17-year-old girl allegedly raped by three BSF force personnel in Pahalgam. The three accused were arrested, and the BSF commenced a Staff Court of Inquiry. The inquiry continued at year's end.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see Section 1.g.). It was not included in NHRC statistics because it involved the military forces, over which the NHRC does not have direct investigative authority.

Human rights training for new recruits, middle ranks, and long-serving officers continued at the National Police Academy. The training has raised police awareness of human rights, and there was some decrease in police use of physical force. According to the NHRC, complaints of police harassment and abuse generally declined over a 3 year period. In April, the Home Ministry reported that from 2002 until April, there were 28,765 complaints lodged against police, compared with 29,964 in 2001-2002, and 32,123 in 2000-2001. Some militant groups in the northeast used rape as a tactic to terrorize the populace; however, no cases were known to be reported during the year.

According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Sections 5, 6.c., and 6.f.).

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty in filing complaints because local police were issued instructions not to open a case without permission from higher authorities. In addition, the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990 provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted . . . against any person in respect of anything done or purported to be done in exercise of the powers of the act." This provision allowed the security forces to act with virtual impunity.

In Punjab, cases of torture were inadequately prosecuted, and victims frequently refused to accept compensation out of fear of retribution. Allegations by human rights activists that victims were hounded and harassed by government agents were common.

The Government occasionally used excessive force in putting down demonstrations (see Section 2.b.). There was no known action during the year, nor was any action likely to be taken, against the police officers responsible for the July 2002 beating of villagers who were forcibly evicted from their homes in Madhya Pradesh.

The Government also occasionally used excessive force against tribal people. There reportedly were no developments in the investigation of the October 2002 shooting of three tribal persons in Orissa.

Police corruption undermined efforts to combat trafficking in women and children (see Section 6.f.).

Religiously motivated violence led to a number of deaths and injuries as well as damage to property (see Section 2.c.).

Prison conditions were harsh and life threatening. Prisons were severely overcrowded, and the provision of food and medical care frequently was inadequate. In July, hundreds of prisoners at the Gopalgary District Jail in Bihar went on hunger strike to protest the poor sanitation, meager food supply, and severe overcrowding.

Severe overcrowding in prisons was common. For example, the Divisional Jail in Bihar had a planned capacity of 55 prisoners but held 753 inmates. Prisons operated above capacity because more than 60 percent of the prison population were persons awaiting hearings (see Section 1.d.). For example, the Government reported that New Delhi's Tihar jail held four times as many prisoners as its capacity at year's end. The Government announced plans to address the overcrowding in prisons by building four additional prisons; however, no further action had been taken by year's end.

The 1,157 deaths in judicial custody reported to the NHRC in March included a large proportion of deaths from natural causes that in some cases were aggravated by poor prison conditions (see Section 1.a.). A study in 2002 conducted by the NHRC found that tuberculosis was the cause of death in most deaths in judicial custody. With the country's high incident of HIV/AIDS and tuberculosis, prison overcrowding was a serious health threat. There were reports that some prisoners died in custody from HIV/AIDS related illnesses.

Deaths in police custody, which typically occurred within hours or days of initial detention, more clearly implied violent abuse and torture. However, in January 2001, the NHRC requested that the Commission be informed of any custodial death within 2 months and that a post-mortem report, magisterial inquest, and a video of the post-mortem be provided to the NHRC.

NGOs were allowed to work in prisons, within specific governmental guidelines. In Kerala and Karnataka, the state governments selectively cleared NGOs to visit prisons. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns. In February, the Government disclosed plans to supplement state funds to effect prison reforms. Noting that Orissa demonstrated a particular need for assistance, the Home Ministry reported that it had provided \$5,000 (233,078 Rs) for the modernization of the prison administration between 1993 and 2002.

Women were housed separately from men. By law, juveniles must be detained in rehabilitative facilities; however, at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

Human rights NGOs, family members, and lawyers were allowed access to some detention facilities; however, International Committee of the Red Cross (ICRC) visited detention facilities in Jammu and Kashmir (see Section 4). Fifteen states and union territories have authorized the NHRC to conduct surprise check-ups on jails. The NHRC's "Special Rapporteur and Chief Coordinator of Custodial Justice" helped implement its directive to state prison authorities to perform medical check-ups on all inmates.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, in areas where there are separatist insurgencies, the Government did not observe these prohibitions.

NGOs and human rights activists alleged that the police often committed human rights violations with impunity and that corruption was pervasive. The NHRC reported that the majority of complaints received were against the police. The Malimath Committee on Judicial Reform issued a report during the year that proposed some police reform, which has yet to be implemented.

The Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by legal counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge. Detention conditions remained poor.

The Constitution provides that arrested persons have the right to be released on bail. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory. In most cases, bail was set between \$11.00 (\$500 Rs) and \$4,000 (\$200,000 Rs).

Authorities in Jammu and Kashmir continued to keep in detention persons who had been arrested under TADA in the past, despite the fact that the Act lapsed in 1995. In February, the Jammu and Kashmir state Supreme Court overturned the controversial ruling of a TADA court that had acquitted three militants in the mur-

der of Kashmiri Pandit human rights activist H.N. Wanchoo in 1992. Human rights activists estimated that 351 persons remained in custody under the TADA at year's end. In 2002, the Jammu and Kashmir governments established a committee to review detainees' cases and by year's end, the committee released approximately 17 persons. TADA courts used abridged procedures. For example, defense counsel was not permitted to see witnesses for the prosecution, who were kept behind screens while testifying in court. Also, confessions extracted under duress were admissible as evidence.

However, authorities continue certain cases of persons arrested under TADA before the law lapsed in 1995. For example, in February, government agents detained Simranjit Singh Mann under TADA in New Delhi on making "an inflammatory speech in April 1991 appealing for a separate state of Khalistan." No further information was available. In September, a special court in New Delhi acquitted Kashmiri separatist Yasim Malik of charges filed in 1992 under the TADA for allegedly "aiding and abetting terrorist activities in the [Kashmir] Valley."

The Prevention of Terrorism Act (POTA), enacted in March 2002, replaced the Prevention of Terrorism Ordinance (POTO) in 2001. POTA allows for the detention without charge for 3 months, and 3 more months if allowed by a special judge, deems not disclosing information to the authorities about terrorist activities an offense, and provides extensive new powers to ban organizations and seize their assets. The act is similar to TADA in its provisions for detentions, summary trials, and the use of testimony obtained under duress. In addition, POTA provides for special courts to try offenses, places the burden of proof at the bail stage on the accused, allows confessions made to a police officer admissible as evidence, extends the period of remand from 15 to 60 days, and sets mandatory sentences for terrorism-related offenses. Human Rights Front, a local Jammu and Kashmir NGO, reported that over 106 cases were registered under POTA by the end of March, 3 of whom were women and an undisclosed number of children. In July, the Government disclosed that 702 persons had been arrested under POTA since its enactment. Human rights groups alleged that the governments have invoked POTA selectively and on dubious grounds against the political opponents of the ruling parties and persons belonging to the minority communities. For example, in January, police arrested Imran Rehman Khan under POTA for a bus attack in December 2002. Authorities claimed that he was linked to LeT terrorist group. In March and June 2002, Yasin Malik was arrested under POTA and the Jammu and Kashmir Public Safety Act (PSA). He was released in November 2002; however, he still faced charges under POTA at year's end.

In December, the Supreme Court upheld the constitutional validity of the POTA and held that journalists and lawyers have no right to withhold information regarding a crime under the pretext of professional ethics. The court also ruled that under POTA mere "moral support" for a terrorist organization did not constitute an offense under the Act. Despite this ruling, POTA was used to arrest members of various organizations and opposition political parties on charges of publicly expressing support for the banned LTTE terrorist group. For example, in March the Tamil Nadu government reported that 42 persons were detained under the POTA, four of whom were arrested for expressing support for the LTTE.

In October, the Delhi High Court upheld the death sentence for two of the militants who attacked the Indian Parliament in December 2001. The court also acquitted two of the defendants for their role in the attack (see Section 1.d.).

In March, the Government issued a directive to form a POTA review committee to examine the use of the law in various states and prepare a report of findings and recommendations. In October, the government gave statutory powers to the POTA Review Committee for redress of complaints by individuals. The POTA Review Committee reviewed cases, and its findings were binding on the government and interrogating police officers. The Committee had not issued a final report by year's end.

The National Security Act (NSA) permits police to detain persons considered to be security risks anywhere in the country (except for Jammu and Kashmir). The authorities may detain a suspect without charge or trial for as long as 1 year on loosely defined security reasons. NSA does not define "security risk." The state government must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances).

The Government was not able to provide figures on how many persons were detained nationwide under the NSA, but in 1997 there were 1,163 such persons. According to press accounts during the year, there were no persons detained under NSA in the northeast, but in New Delhi an alleged narcotics trafficker was arrested under the NSA. The man allegedly lured young children into the narcotics business

and then used them as couriers. Human rights groups alleged that preventive detention may be ordered and extended under the act purely on the suggestion of the detaining authority and after an advisory board review. No court may overturn such a decision.

The PSA, a law that applies only in Jammu and Kashmir, permits the detention of persons without charge and without judicial review for up to 2 years. In addition, detainees do not have access to family members or legal counsel. The Government estimated that approximately 514 persons remained in custody under PSA or related charges at year's end, and 412 were in police custody under other charges. In June, 92 prisoners detained under the PSA were released. In February, the Government released Syed Ali Shah Geelani, who had been detained under the PSA and the Officials Secrets Act (see Section 2.a.) since June 2002. Geelani's two sons-in-law, also arrested in June 2002, were released during the year.

The Armed Forces Special Powers Act (AFSPA) of 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura, and a version of this law was in effect in Jammu and Kashmir. Under this Act, the Government has the power to declare any State or Union Territory a "disturbed area;" allows security forces to fire on any person if it is considered "necessary for maintenance of law and order;" the authorities can arrest any person "against whom reasonable suspicion exists" with no obligation to inform the detainee of the grounds for arrest; and the authorities are given immunity from prosecution for any acts committed by them in relation to the Act.

Unlike previous years, there were no reports that police detained members of teacher's unions and other activists groups on suspicion of illicit membership.

A program of prison visits by the ICRC was designed in part to help assure communications between detainees and their families. According to the Home Ministry's annual report, the ICRC visited 53 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and Kashmiris held elsewhere in the country. However, the ICRC was not authorized to visit interrogation centers or transit centers, nor did it have access to regular detention centers in the northeastern states (see Sections 1.c. and 4). During the year, the ICRC stated that it continued to encounter difficulties in maintaining systematic access to people detained in Jammu and Kashmir.

The court system was extremely overloaded, resulting in the detention of thousands of persons awaiting trial for periods longer than they would receive if convicted. Prisoners were held for months or even years before obtaining a trial date. As of July 2002, there reportedly was a backlog of over 13 million cases in the lower courts, while high courts had a backlog of 3.5 million cases. The Supreme Court had 23,000 pending cases. The NHRC reported that 75 percent of the country's total inmates were unconvicted prisoners awaiting completion of trial.

Several detainees complained to government officials that they were detained without charge, some for many months, while police investigated their connection with Naxalites. In August, the NHRC reported that it had issued notice to the Orissa and Andhra Pradesh Government to order an investigation into the large numbers of innocent people arrested by local police on suspicion of being Naxalites.

In 2000, the Government announced that it would fund the creation of 1,734 additional courts during 2000–2005. At year's end, 1,205 of these courts had been set up.

There were no political detainees reported during the year.

Exile was prohibited and there were no reports of forced exile during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, serious problems remained. The judiciary was backlogged and understaffed in most parts of the country, and in Jammu and Kashmir, the judiciary has long been subject to threats and intimidation by guerillas and by security forces to obey court orders. The judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts. The highest court is the Supreme Court, which has jurisdiction over constitutional issues. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and until the age of 65 on the Supreme Court.

The judicial system was extremely overburdened. In general, the judiciary enforced the right to a fair trial; however, there was a large backlog of cases, and as a result, some courts barely functioned. The Criminal Procedure Code provides that trials be conducted publicly in most cases, but it allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly. Defendants have the right to choose counsel inde-

pendent of the Government. There were effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to indigent defendants.

Muslim personal status law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The Government does not interfere in the personal status laws of the minority communities, including those that discriminate against women.

In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed antimilitant actions; and because of the frequent refusal by security forces to obey court orders. Jammu and Kashmir were reluctant to hear cases involving terrorist crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged terrorists in the Jammu High Court during the year; many more accused militants had been in pretrial detention for years. The number of militants in pretrial detention is in the hundreds; however, the exact number is unknown. During the year, the Government announced plans to release 274 such detainees, as a result of court orders. By year's end, only 24 militants had been released under instructions of the government-appointed Review Committee.

Criminal gangs in all four southern states were known to attack rivals and deny free access to justice. In some cases, accused persons were attacked while being escorted by police to the courts.

To remedy the severe overcrowding in the judicial system, the Government asked the government-appointed Malimath Committee to identify possible improvement. In April, AI reported that the recommendations of the Malimath Committee "represent an extremely narrow interpretation of the problems which ail the system and a set of solutions which ignore fundamental human rights safeguards." Further, AI believes "the reports recommendations will increase the risk of torture for those in police detention, severely weakening safeguards for fair trial and reduce legal protections for women."

The U.N. Special Rapporteur on the Independence of the Judiciary was not invited to visit the country during the year.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. The police must obtain warrants for searches and seizures. In a criminal investigation, the police may conduct searches without warrants to avoid undue delay, but they must justify the searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The Government Enforcement Directorate (ED), which was mandated to investigate foreign exchange and currency violations, searched, interrogated, and arrested thousands of business and management professionals annually, often without search warrants. However, the ED's efforts ultimately resulted in very few convictions.

The Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in case of public emergency or "in the interest of the public safety or tranquility." Every state government has used these powers, as has the central Government.

The Information Technology Act grants the police powers to search premises and arrest individuals without a warrant. Under the Act, the maximum sentences for failing to provide information to the Government on request and transmitting "lascivious" material were 1 year and 5 years respectively. The Act also requires Internet cafes to monitor Internet use and inform the authorities (see Section 2.a.). At year's end, the government had not circulated rules for implementation of this law.

The Government did not restrict citizens' personal appearance; however, in Jammu and Kashmir and Manipur, militants attempted to enforce female dress codes. The Kanglei Yawon Kanna Lup, a militant group in Manipur, announced a dress code for the state's women that bans the wearing of saris, salwar kameez, and trousers. The group threatened to punish with death women who violated the code, and it urged women to wear the traditional Phanek and Chador on all occasions but allowed girls to wear salwars as school uniforms. In the Rajouri region of Kashmir, the militant groups Jamiat-ul-Mujahideen and Shariati Nefazi Islami ordered Muslim women to wear burqas, and three women were killed for not obeying these orders (see Sections 2.c. and 5).



*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Government forces committed numerous serious violations of humanitarian law in the State of Jammu and Kashmir. Between 400,000 and 700,000 army and paramilitary forces were deployed in Jammu and Kashmir, although the Government did not release official figures. The population in the Kashmir Valley suffered disproportionately from the anti-insurgency campaign of the security forces. Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel enjoyed extraordinary powers, including authority to shoot on sight suspected lawbreakers, and to destroy structures suspected of harboring militants or arms.

The Home Ministry was unable to estimate how many civilians were killed in crossfire by security forces in Jammu and Kashmir during the year. In June, an Imam and his 13-year-old son were shot and killed in Baramulla by security forces in a case of mistaken identity. A magisterial inquiry was not completed by year's end. The security forces continued to abduct and kill suspected terrorists, but were not adequately held accountable for their actions. Many army officers' inclination not to participate in such practices led to a reduced number of cases, and, as a result, government-supported counter-militants often committed these abuses.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.), security forces abducted and sometimes used civilians as human shields in night patrolling and while searching for landmines; such abuses occurred mostly in the Kupwara and Doda districts.

Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year's end. The next round of talks between the Government and Pakistan was scheduled for January 2004.

The Home Ministry reported 2,841 cases of artillery shelling and mortar and small arms fire across the LOC killed an unknown number of civilians during the year. According to the Home Ministry, security forces killed 1,526 militants during the year. There were reports that government forces displaced civilians and destroyed homes during offensive operations.

Anti-government Kashmiri militant groups also committed serious abuses, including numerous execution-style mass killings of Hindu (Pandit), Sikh, and Buddhist villagers in Jammu and Kashmir (see Sections 1.a. and 5). The worst case occurred in March, when militants dressed in military fatigues killed 24 Pandits in Nadimarg. Militant groups also killed police officers and members of the security forces. For example, in July, militants killed seven pilgrims near Katra.

In addition to political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), insurgents engaged in extortion and carried out acts of random terror that killed hundreds of Kashmiris. Many of the militants were Afghani, Pakistani, and other nationals. The militants used time-delayed explosives, landmines, hand grenades, and snipers. There was a tendency to use heavy weapons such as hand grenades and rockets. Militants killed and injured numerous security personnel and destroyed a great deal of security force property; many civilians also were killed. For example, in March, militants killed three women and mutilated six other persons in the State of Jammu and Kashmir. During the year, militants killed persons who allegedly were informants for the Government.

Extremist and terrorist activities in the northeast also claimed many lives. In addition to ambushes, terrorists increasingly resorted to destroying bridges and laying time bombs on roads, on railway tracks, and in trains. In March, two persons were killed and six injured when the ULFA attacked four locations in Assam.

During the year, police arrested numerous persons suspected of involvement in previous terrorist attacks and charged some persons with planning human suicide bomb attacks to advance Sikh separatism. Police also captured dozens of separatist insurgents in Jammu and Kashmir for bombings, killings, and acts of sabotage.

Improvised explosive devices (IEDs) and landmines were a problem in Jammu and Kashmir. Reportedly, militants continued to use IED and landmines for offensive and defensive purposes. Militants previously restricted landmine use to army convoys traveling outside of major cities, but during the year they used command-detonated devices in and around Srinagar. In August, the Home Ministry reported to Parliament that since December 2001, 124 persons have been killed by landmines in the Sriganganagar district.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. A vigorous and growing press reflected a wide

variety of political, social, and economic beliefs. Newspapers and magazines regularly published, and television channels broadcast, investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses.

Under the Official Secrets Act, the Government may restrict publication of sensitive stories or suppress criticism of its policies. On January 10, the Government found that the 2002 detention under the Act of Syed Ifikhar Gilani was unjustified and released him.

In January, the Government passed a Freedom of Information law. This law allows citizens to request and receive documents from the Government that are considered to be in the public domain.

Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned, and 20 percent were operated by Doordarshan, a semi-autonomous body controlled by the Government. Government-controlled radio was the main source of news for much of the population.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the press from publishing material likely to incite murder or any act of violence, and authorizes the authorities to seize newspaper premises and printing presses. Despite these restrictions, newspapers in Srinagar, the capital of Jammu and Kashmir, reported in detail on alleged human rights abuses by the Government and regularly published press releases of Islamic separatist Kashmiri groups. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on government abuses.

In Assam, the state government reportedly attempted to impede criticism by filing a number of criminal defamation charges against journalists.

In July, the Tamil Nadu government brought a defamation suit against the English daily *The Hindu* for printing a series of articles about the mishandling by police of a kidnapping. The case was not heard during the year.

In November, the Tamil Nadu Assembly speaker ordered the arrest of several officers and journalists at *The Hindu*. In response, the newspaper obtained an injunction from the Supreme Court against the Speaker's arrest directive.

In December, Randeep Sudan, a senior official in the office of the Chief Minister of Andhra Pradesh, filed defamation charges in his personal capacity against the daily newspaper *Andhra Jyody*. The newspaper had reported that Sudan was corrupt but also published his response to the allegations.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, with a chairman appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings, while noted by the press community, carried no legal weight.

At the national and state levels, governments and political parties often seek to influence regional media. The *Hindu* was unable to get advertising from the state government of Tamil Nadu after its negative reporting of the actions taken by the state. In addition, in Gujarat, a number of journalists at English language newspapers and electronic media, who had criticized Chief Minister Narendra Modi's government and its political supporters following the 2002 riots, continued to be subjected to "strong-arm" tactics. The threat of losing state government revenue contributed to self-censorship by smaller media outlets, which heavily relied on government advertising.

Authorities occasionally beat, detained, and harassed journalists, which resulted in some self-censorship. For example, on August 2, Bapi Roy, a photojournalist for the Agartala daily were beaten by members of the police. At year's end, the police had investigated the incident but no charges had been filed. In September, government employees beat several journalists in Assam, three of whom required hospitalization. At year's end, a departmental inquiry was conducted, and the Government suspended several state employees.

In some instances, allegations of violence against journalists were made against state governments. On May 17, the offices of two Bengali daily newspapers, *Dainik Vivek* and *Dainik Janapad*, were attacked by armed men believed to owe allegiance to the state's Information Minister. At year's end, two persons were arrested for the incidents.

In August, two journalists were assaulted by the Students Federation of India, which was affiliated with CPI(M) in West Bengal. Press reports suggested the jour-

nalists were assaulted to deter them from reporting inappropriate actions by members of the SFI.

During the year, the 2001 case of police assaulting 12 members of the press during a DMK rally was decided. The Chennai High Court directed the Tamil Nadu government to pay compensation to the 12 journalists; however, pending a determination of damages, at year's end no compensation had been paid.

The Government maintains a list of banned books that may not be imported or sold in the country; some—such as Salman Rushdie's "Satanic Verses"—because they contain material government censors have deemed inflammatory and the government claimed the banned books caused communal tensions. In December, West Bengal banned Taslima Nasreem's "Split in Two" because the book allegedly slandered Islam and the Prophet Mohammed.

Intimidation by militant groups caused significant self-censorship by journalists. The local press continued to face pressure from militant groups attempting to influence coverage. For example, on January 31, unknown assailants killed Parvaz Mohammed Sultan, editor of an independent wire service in Srinagar. The motive for his killing remained unknown. On April 28, unknown assailants killed 5 persons after detonating a car bomb and throwing grenades into the offices of Doordarshan Television and Radio in Srinagar. The clash resulted in the deaths of three assailants and two security officers. On May 29, unknown assailants shot Zafar Iqbal, a reporter for the Kashmir Images in Srinagar. Local journalists believed Iqbal may have been targeted because the publication is known for supporting the Government. The police had not arrested anyone in connection with the killing by year's end.

During the year, as in 2002, 2001, 2000, and 1999, Kashmiri militant groups threatened journalists and editors and even forced the temporary closing of some publications that were critical of their activities. For example, in December, activists from the Kashmiri separatist Jammu and Kashmir Liberation Front ransacked the editorial offices of "Chattan," a vernacular weekly in Srinagar, after the newspaper published material critical of the militants' leader, Yasin Malik.

Private satellite television was distributed widely by cable or satellite dish. These channels provided substantial competition for Doordarshan, the government-owned television network, in both presentation and credibility. Doordarshan frequently was accused of manipulating the news in the Government's favor; however, in some parts of the country satellite channel owners used their medium to promote the platforms of the political parties that they supported. In addition, citizens had access to uncensored Cable News Network, the British Broadcasting Company and a variety of other foreign programs.

Government measures to control objectionable content on satellite channel—notably, tobacco and alcohol advertisements—still were in effect, which held cable distributors liable under civil law. The (often foreign) satellite broadcasters, rather than the domestic cable operators, fall within the scope of the regulation.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legalized during 2000, but licenses only authorized entertainment and educational content. Although there were privately owned radio stations, they were not permitted to broadcast news.

A government censorship board reviewed films before licensing them for distribution. The board censored material it deemed offensive to public morals or communal sentiment. For example, in March, the Central Board of Film Certification (CBFC) denied a certificate to the documentary "Aakrosh." The film's producers said that the authorities denied a certificate, and thereby prevented the film from being shown publicly, in retaliation for its expose on the riots in Gujarat. This banning encouraged self-censorship among film-makers.

In August, 11 security officials in Lucknow reportedly assaulted a senior television correspondent during a Presidential visit. He was hospitalized after sustaining several injuries during the attack. In December, 50 political activists vandalized the offices of a television station in Mumbai which aired criticism of the state's Deputy Chief Minister, who later resigned and accepted "moral responsibility."

The Government limited access to the Internet. The Informational Technology Act provides for censoring information on the Internet on public morality grounds, and it considers "unauthorized access to electronic information" a crime. According to Reporters Without Borders, this law allows police officers to search the homes or offices of Internet users, at any time and without a warrant. On July 27, Anirudh Bahal and Mathew Samuel, both reporters with the on-line newspaper Tehelka.com were arrested and charged with conspiracy in connection with a story published on the Web site in October 2000. Tarun Tejpal, founder and editor-in-chief of the Web site, says that Tehelka.com is "a victim of competing political interest in a largely corrupt Indian establishment."

The Government restricted academic freedom. Some government officials continued to advocate “saffronizing,” or raising the profile of Hindu cultural norms and views in public education, which has prompted criticism from minority leaders, opposition politicians, academics, and advocates of secular values. On January 31, the Ministry of Human Resources Development (HRD), headed by Dr. Murli Manohar Joshi, passed strict academic guidelines to regulate academic partnerships between Indian and western universities and academics, in line with Hindutva philosophy. The new guidelines issued to all central universities require HRD permission for “all forms of foreign collaborations and other international academic exchange activities,” including seminars, conferences, workshops, guest lectures, research, etc.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades or demonstrations, but local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where separatist parties routinely were denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

Unlike in previous years, there were no reports of banning of religious processions in Gujarat. Unlike in previous years, the Jammu and Kashmir government allowed a procession of separatist groups to march on the anniversary of the Birth of the Prophet.

In May, Jharkhand police fired upon a demonstration, and 12 persons were injured. The persons were protesting the admission of “outsiders” to take examinations for teaching positions. In June, police fired upon a demonstration in Shopian, Jammu and Kashmir, and four students were injured. The students were protesting an alleged molestation of some women students by security forces; however, the Government alleged that police fired only in self-defense.

No action was taken against security forces who forcibly dispersed demonstrations or meetings during the year or in 2002 or 2001.

NGOs must secure the prior approval of the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provides the Government with substantial political control over the work of NGOs and their freedom of assembly and association. Some NGOs alleged that some of their members were denied visas to enter the country.

*c. Freedom of Religion.*—The Constitution provides for secular government and the protection of religious freedom, and the central Government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted, among other reasons, from the legal constraints inherent in the country’s federal structure and from the inadequacies in law enforcement and justice systems. The ineffective investigation and prosecution of attacks on religious minorities was interpreted by some extremist elements as a signal that such violence likely would go unpunished. Tension between Muslims and Hindus, and between Hindus and Christians, continued to pose a challenge to the secular foundation of the State.

Although the law provides for religious freedom, enforcement of the law was poor, particularly at the state and local levels, where the failure to deal adequately with intragroup and intergroup conflict abridged constitutional protections.

The leading party in the government coalition is the BJP, a Hindu nationalist political party with links to Hindu extremist groups that were implicated in violent acts against Christians and Muslims. The BJP also leads state governments in Chhattisgarh, Goa, Gujarat, Jharkhand, Madhya Pradesh, Rajasthan, and Arunachal Pradesh. In Orissa, the BJP rules in coalition with the Biju Janapa Dal. Many BJP leaders and party workers were members of the Rashtriya Swayamsewak Sangh (RSS), an organization based on Hindu nationalism, and share some of its ideology. The RSS espouses a return to what it considers Hindu values and cultural norms. However, the BJP is an independent political party, and the degree of RSS influence over its policy making was not clear.

There were reports that members of the BJP, the RSS, and other affiliated organizations harassed and at times threatened the use of violence against Christians and Muslims. The BJP and RSS officially expressed respect and tolerance for other religions; however, the RSS in particular opposes conversions from Hinduism and believes that all citizens should adhere to Hindu cultural values. The BJP officially agrees that the caste system should be eliminated, but many of its members are ambivalent about this. The BJP’s traditional cultural agenda includes calls for construction of a new Hindu temple in Ayodhya. The temple would replace an ancient

Hindu temple believed to have stood on the site of a mosque in Ayodhya that a Hindu mob destroyed in 1992; for the repeal of Article 370 of the Constitution, which grants special rights to the state of Jammu and Kashmir, the country's only Muslim majority state; and for the enactment of a uniform civil code that would apply to members of all religions. In December, 5 persons were killed and 27 injured after Hindu-Muslim clashes broke out in Hyderabad. Tens of thousands of police were deployed in the area to prevent further attacks.

No registration is required for religions. Legally mandated benefits are assigned to certain groups, including some defined by their religion. For example, some states reserve jobs and educational enrollment slots for Muslims, who do not benefit from reservations designed to help lower-caste Hindus.

In May 2001, the Government banned Deendar Anjuman, a Muslim group whose members were arrested for a series of church bombings in Karnataka in 2000. During the year, the Government arrested and charged approximately 40 members of Deendar Anjuman implicated in the Karnataka bombing.

The Religious Institutions (Prevention of Misuse) Act makes it a criminal offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building may commence. The Act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic fundamentalist terrorist groups, but the measure became a controversial political issue among religious Muslims. In West Bengal, the law requires any person desiring to construct a place of worship to obtain permission from the district magistrate.

In 2002, the Supreme Court ruled that Hindu activists could not perform a religious ceremony on the land surrounding the site of the demolished mosque in Ayodhya. During the year, tens of thousands of members of the VHP were arrested to prevent them from attempting to stage a rally on the land. Thousands of police and paramilitary troops were deployed in and around Ayodhya, and most Hindu militants were stopped from entering the town.

On January 10, the controversial Prohibition of Forcible Conversion of Religion Act that bans "forced" religious conversions was passed in the state of Tamil Nadu. In February, the "Freedom of Religion" Bill that provides penalties for conversion using allurements or force, including up to 3 years in prison and a fine of \$1,000 (50,000 Rs), was passed in Gujarat. Conversions in Gujarat must be assessed by officials, and prior permission given by the District Magistrate. Human rights advocates believed that both laws make it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system, to convert from Hinduism to another religion. Further, the Tamil Nadu law requires that persons involved in a conversion report it to the local magistrate within 10 days. Authorities in Tamil Nadu announced their intention to enforce the law as a deterrent to large-scale conversions. The Gujarat bill requires persons converting to have prior permission from the district authorities before conversion.

There is no national law that bars a citizen or foreigner from professing or propagating his or her religious beliefs; however, India's Foreigners Act strictly prohibits visitors who are in the country on tourist visas from engaging in religious preaching without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse to issue permits for foreign Christian missionaries, as well as other persons, to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA), which restricts funding from abroad and, therefore, the ability of certain groups to finance their activities. The Government was empowered to ban a religious organization if it has violated the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governed many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women (see Section 5).

Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities decreased overall but occurred in several states, which brought into question the Government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, on November 20 in Assam, communal violence broke out after Assamese

youths prevented groups from neighboring Bihar, a poor, mostly Hindi-speaking state, from participating in recruitment exams at the state-owned railways. The Bihari youths retaliated by attacking trains bound for Assam and allegedly raping a girl. The Government deployed troops to patrol Assam in an attempt to quell outbreaks of violence. On November 21, a mosque was bombed in Parbhani, east of Mumbai. The attack took place during Friday prayers during Ramadan; at least seven persons were wounded. On the same day in Orissa, Hindu militants belonging to the VHP and Bajrang Dal torched a Catholic church. The attack followed several days of violence. On November 20, numerous unknown persons wearing saffron—the symbol of Hindutva ideology—burned Bibles in front of the district governor’s residence and then broke into a church of a nearby village and raped a nun. There were no reports of any action taken against members of mobs who killed during the year.

Reports continued that Hindus received limited punishment for the 2002 Gujarat violence, while some Muslims complained of continued harassment and discrimination by the state government in Gujarat (see Section 5). In Gujarat, there continued to be credible evidence of prejudice in favor of Hindus and an unwritten policy of impunity against the perpetrators of 2002 religious violence. For example, the 70-page HRW July report noted that more than 1 hundred Muslims had been charged under the country’s POTA for their alleged involvement in the 2002 train violence in Godhra. However, no Hindus had been charged under POTA in connection with the violence at year’s end. Further, HRW reported “although the Indian government initially boasted of thousands of arrests following the [2002] attacks, most of those arrested have since been acquitted, released on bail with no further action taken, or simply let go. Police regularly downgrade serious charges to lesser crimes—from murder to rape to rioting, for example—and alter victims’ statements to delete the names of the accused.” Additionally, the report criticized the Gujarat state court, which in June, acquitted 21 persons accused of burning alive 12 Muslims in a bakery in Vadodara after 35 of the 73 witnesses retracted their statements (see Section 5). In September, the Supreme Court expressed its displeasure at the authorities in Gujarat for its handling of the “Best Bakery” case. Various human rights organizations have appealed to the Supreme Court to move certain cases outside the jurisdiction of Gujarat. The Supreme Court is scheduled to hear this matter starting in January 2004.

Some Christian groups also claimed that BJP officials at state and local levels became increasingly uncooperative. The Government also has been criticized for not attempting to restrain the country’s radical Hindu groups.

Christian leaders noted a decrease in the incidents of violence against their community and also a change in the type of incidents; however, attacks against Christians continued. For example, in January, Hindu militants attacked missionary Joseph Cooper and several others in Kerala. Police arrested nine persons in that attack; however, no persons were charged at year’s end. In a report on the attack, the human rights NGO “CHRO” quoted a Minister as saying that the request by local police to have Cooper leave the country “would send the right signal that the country will not be soft on foreigners who violate the laws of the land.”

No action was taken against persons who attacked Christians or churches in 2002. Despite a reduction in physical attacks against Christians, Hindu nationalists continued an ideological campaign to limit access to Christian institutions and discourage or, in some cases, prohibit conversions to Christianity. There were no developments in the Sister Brishi Ekka case during the year. In 2002, a cable television station promoting Catholic values was launched in Kerala.

Citizens often referred to schools, hospitals, and other institutions as “missionary” even when they were owned and run entirely by indigenous Christian citizens. By using the adjective “missionary,” the RSS tapped into a longstanding fear of foreign religious domination.

The trial of Dara Singh and his 12 associates for the 1999 murder of Australian missionary Graham Staines and his two sons concluded during the year. On September 23, the court sentenced Dara Singh to death and his associates to life imprisonment. In October, Singh appealed his sentence to the Orissa High Court.

In Christian majority areas, Christians sometimes were the oppressors. In Tripura, there were several cases of harassment of non-Christians by Christian members of the National Liberation Front of Tripura (NLFT), a militant tribal group with an evangelical bent. For example, NLFT tribal insurgents have prohibited Hindu and Muslim festivals in areas that they control, cautioned women not to wear traditional Hindu tribal attire, and prohibited indigenous forms of worship. In Assam, the issue of Bangladeshi migrants (who generally were Muslim) has become very sensitive among the Assamese (predominantly Hindu) population, which considers its majority position to be in jeopardy.

Hindus have also been victims of violence. For example, on May 2, Muslim extremists reportedly attacked Hindu fishermen. Nine persons and 16 others were injured. The NHRC demanded a report from the state government on this incident. On August 26, 2 bomb attacks near the Gateway to India monument and the Hindu Temple of Mumbadevi killed 44 persons. The Government responded quickly to dispel further violence. The government arrested four Muslims and charged them in the attack. In their statements to police, the bombers identified their intent to retaliate against Hindus for 2002 anti-Muslim rioting in Gujarat.

Unlike in previous years, the exodus of many from the Sikh community did not occur.

The degree to which the BJP's nationalist Hindu agenda impacted religious minorities varied depending on the region. In some states, governments made efforts to reaffirm their commitment to secularism. In others, mainly in the south, religious groups alleged that since the BJP's rise to power in the national Government, some government bureaucrats began to enforce laws selectively to the detriment of religious minorities. For example, this revivalist campaign included the "Hinduization" of education, including the revision of history books to include hate propaganda against Islamic and Christian communities. The situation in the east varied. For example, the Orissa Freedom of Religion Act contains a provision requiring a monthly government report on the number of conversions and requiring a police inquiry into conversions, but this provision was not enforced.

For a more detailed discussion see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement, and the Government generally respected this in practice. Movement generally was unhindered for citizens outside certain border areas where, for security reasons, special permits were required.

Vehicle checkpoints, at which Border Security Force (BSF) routinely searched and questioned occupants, were a common feature throughout most of Jammu and Kashmir. It also was common for police to block entry and exit points in preparation for gathering young males for police lineups. These searches tended to focus on troubled areas, as opposed to the mass searches that were common in the past. According to a credible source, such search operations seldom yielded any results. There were frequent curfews in areas of conflict, including in New Delhi, in recent years. The Government also expanded construction of a security barrier along the LoC in disputed Kashmir, causing difficulties for Kashmiris and Pakistanis and isolating residents. The barrier was to be completed by June, 2004. The Government claimed that the barrier was necessary to prevent terrorism.

Under the Passports Act, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the violent separatist movement in Jammu and Kashmir. For example, in January, the Government suspended the passport of Mirwaiz Umar Farooq, a leader of the separatist All-Parties Hurriyat Conference.

During the year, there were reports that Bodo-Santhal ethnic clashes continued. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of the ongoing violence between Bodos and Santhals. On November 15, Assam separatists prevented candidates from Hindi-speaking state of Bihar from applying for jobs. It was reported that soon after, Bihar youths attacked and injured 50 persons from Assam. As a result, ULFA began attacking the Hindi-speaking persons, killing 40 and displacing 17,000.

According to the Norwegian Refugee Council, at least 650,000 persons in India have been displaced due to conflicts in states of Jammu and Kashmir, Gujarat, and the North-East (see Sections 1.a., 1.c., and 1.g.).

The Government estimated that there were 10 million Bangladeshis living illegally in the country. By year's end, the Illegal Migrants Determination by Tribunal law (IMDT), which largely was aimed at illegal Bangladeshi immigrants, had not been implemented nor repealed.

The law does not provide for the granting of asylum or refugee status to persons who meet the definition of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The office of the U.N. High Commissioner for Refugees (UNHCR) had no formal status, but the Government permitted the UNHCR to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese). Unlike in previous years, the U.N. High Commissioner for Refugees did not visit the country.

The Government also provides temporary protection to certain individuals who do not qualify as asylees or refugees.

The Government provided certain assistance in refugee camps or in resettlement areas, most notable to Tibetan and Sri Lankan Tamil refugees; however, this was applied inconsistently. During the year, the UNHCR began to end the monthly subsistence allowance of Burmese refugees. As a result, Burmese refugees and asylum seekers demonstrated outside the UNHCR office in New Delhi during the year. On November 12, the authorities used water cannons, electric batons, and canes to forcibly disperse 500 demonstrators and 25 of the demonstrators were injured.

According to UNHCR and government statistics, there were approximately 110,000 Tibetans in 130 camps, approximately 64,000 Sri Lankan Tamils in 104 camps, and several thousand Sri Lankan Tamils living in the country at year's end. The refugees in the camps were permitted to work, and the state and central governments paid to educate refugee children and provided limited welfare benefits. Some 80,000 Chakma permanent residents remained in Arunachal Pradesh and Mizoram. By year's end, the Supreme Court's order to extend citizenship to this group was not enforced. The UNHCR reported that 11,642 Afghans, 857 Burmese, and approximately 350 others were receiving assistance from the UNHCR in the country as of August 2001. The Government also assisted an unknown number of persons from Tibet and Sri Lanka. Although the Government formally did not recognize these persons as refugees, it did not deport them. Instead, they received renewable residence permits, or their status was ignored. Increasingly during the year, some of these groups—Afghans, Iraqis, and Iranians in particular—were not granted renewal of their residence permits by the authorities on the grounds that they were not in possession of valid national passports. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and therefore were unable to regularize their status in the country.

The central Government generally denied NGOs and the UNHCR direct access to the camps. NGOs reported refugee complaints about deteriorated housing, poor sanitation, delayed assistance payments, and inadequate medical care in the Tamil refugee camps. Human rights groups alleged that the Government used some of these "special camps" to hold suspected members of the LTTE terrorist organization. Human rights groups alleged that inmates of the special camps sometimes were subjected to physical abuse and that their confinement to the camps amounted to imprisonment without trial. They alleged that several of those acquitted by the Supreme Court in 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi remained confined in these special camps. During the year, the Tamil Nadu government initiated a review of the inmates of the special camps to determine whether any could be released. At year's end, approximately 35 persons remained in the special camps.

Santhals were non-recognized refugees in Assam, and human rights groups estimated that 200,000 lived in relief camps. The Santhals were being sheltered in 100 camps in Assam; conditions in such camps were extremely poor, and the Assam government claimed it did not have the resources to improve the conditions of the relief camps.

Ethnic Chins were among the non-recognized refugees in the northeastern states, particularly Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. In 2001, there were news reports that thousands of ethnic Chins were asked to leave Mizoram. The Mizoram Chief Minister stated that he wanted the border with Burma to be "fenced to check further infiltration of immigrants into the state." Human rights monitors alleged that approximately 1,000 Chin refugees were arrested in Mizoram, and some 200 had been repatriated forcibly to Burma between July and September 2000. NGOs estimated that 10,000 persons were expelled to Burma, where "the deportees were jailed pending hearings to be scheduled before military tribunals." An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram.

Mizoram human rights groups estimated that some 31,000 Reangs, a tribal group from Mizoram that were displaced due to a sectarian conflict, were being sheltered in 6 camps in North Tripura. Conditions in such camps were poor, and the Tripura government asked the central Government to allot funds for their care. Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package for refugees in the relief camps. The Mizoram government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state.



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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments were elected at regular intervals except in states under President's Rule.

On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery. The Supreme Court has upheld the Government's authority to suspend fundamental rights during an emergency.

During the year, State Assembly elections were conducted in February in Himachal Pradesh, Meghalaya, Nagaland and Tripura and in December in Chhattisgarh, Madhya Pradesh, Mizoram, Delhi, and Rajasthan. Observers reported that the elections took place in a generally free and transparent manner; however, there were incidents of violence and reports that a mob destroyed a electronic voting machine in Nagaland. Five persons were killed and 24 injured in poll-related violence and communal clashes in Chhattisgarh and Madhya Pradesh. The Election Commission reported a voter turnout of more than 60 percent.

In October-November 2002, the Election Commission conducted Legislative Assembly elections in Jammu and Kashmir, which most observers considered free and fair, and in which voters ousted the National Conference party in favor of a reformist coalition government consisting of the People's Democratic Party and the Congress Party. However, election-related violence killed more than 800 persons.

There were 73 women in the 783 seat legislature. There were 7 women in the Cabinet of Ministers. A large proportion of women participated in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women were represented in all major parties in the national and state legislatures. The passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which brought more than 1 million women into political life at the grassroots level.

The Constitution reserves seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (see Section 5). Indigenous people actively participated in national and local politics, but their impact depended on their numerical strength. In the northeastern states, indigenous people were a large proportion of the population and consequently exercised a dominant influence in the political process. In contrast, in Maharashtra and Gujarat, tribal people were a small minority and were unsuccessful in blocking projects that they opposed.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in some states and in a few circumstances, human rights groups faced restrictions. Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals closely involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked in past years and in some cases killed. International human rights monitors had difficulty in obtaining visas to visit the country for investigation purposes. For example, in June the Government denied a visa to the Secretary General of AI after AI released a critical report on state actions in Gujarat.

The main domestic human rights organization operating in the country is the Government-appointed National Human Rights Commission (NHRC). The NHRC has powers to investigate and recommend policy changes, punishment, and compensation in cases of police abuse. In addition, the NHRC was directed to contribute to the establishment, growth, and functioning of human rights NGOs. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness. From 2002 until year's end, the NHRC recorded 68,776 complaints, more than 50 percent of which were from the state of Uttar Pradesh. Approximately 54,013 of these 68,776 were dismissed or disposed.

The NHRC also has influenced the legislative process, particularly by issuing recommendations on women's issues, persons with disabilities, and children's rights. The NHRC encouraged the establishment of human rights cells in police headquarters in some states; however, this policy was not implemented in any meaningful way. The NHRC also was involved in programs to eliminate child labor (see Section 6.c.).

The NHRC asked the Supreme Court to take corrective action in regard to the "Best Bakery" case in Gujarat, in which the Gujarat lower court acquitted 21 defendants in May. In September, the Supreme Court issued a directive to the Government of Gujarat to appeal the acquittal. In December, the Gujarat High Court confirmed a lower court's decision. (see Section 2.c.).

There were no developments in the investigation of the 2002 killing of human rights defender Navleen Kumar outside of Mumbai; or the stabbing of P.B. D'Sa.

Several Christian-affiliated international relief agencies stated that during the year their work in delivering services to the poor became considerably more difficult due to threats, increased bureaucratic obstacles, and, in some cases, physical attacks on their field workers by Hindu extremists (see Sections 2.c.).

International human rights organizations were restricted. For example, during the year the government refused HRW access to the country. The Government also denied the U.N. Special Rapporteur on Extrajudicial Killings permission to visit the country.

The 1993 Protection of Human Rights Act recommends that each state to establish a state human rights commission, but not all states have done so. Commissions exist in 14 of the 25 states: Assam, Chhattisgarh, Manipur, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, Uttar Pradesh, Andhra Pradesh, and Rajasthan. Gujarat has not officially established a state commission, but in 2002 appointed a two-member judicial commission to investigate the violence in Gujarat. The commission had not reported its conclusions by year's end. The state human rights commission established in Jammu and Kashmir by an act of the state legislature had no power to independently investigate alleged human rights violations committed by security force members.

For example, Punjab's Human Rights Commission (PHRC) in 2002-3 received 995 complaints of human rights violations. According to AI, the Commission was understaffed and seriously limited by the PHRA, which limited its powers to investigate individual cases of human rights violations. The People's Commission, a separate body to investigate disappearances, was established by retired Supreme Court Justice Kuldeep Singh to highlight the fate of more than 2,000 persons who "disappeared" during the period of political unrest in Punjab (see Section 1.b.); it continued to receive little cooperation from state government authorities. During the year, HRW commended the Committee for Coordination of Disappearances in Punjab (CCDP), a Punjab-based human rights organization, for its report documenting 672 of the "disappearance" cases currently pending before the NHRC (see Section 1.b.). Six years ago, the Indian Supreme Court directed the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district. NHRC has yet to hear testimony for any case.

In addition to these state human rights commissions, special courts to hear human rights cases were established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. However, the courts in Uttar Pradesh did not function, despite a 1999 court order that they be reactivated.

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

The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divide society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

The spread of HIV/AIDS was estimated to have infected approximately 4.58 million persons and there was significant societal discrimination against persons, with HIV/AIDS. According to the International Labor Organization (ILO), 70 percent of persons suffering from HIV/AIDS faced discrimination from society. For example, according to newspaper reports, in July, Munnuswamy Pavanamma, a widow whose

husband had died of AIDS, was stoned to death by her neighbors in Andhra Pradesh. At year's end, police had made no arrests in connection with this incident.

*Women.*—Domestic violence was common and a serious problem. In a survey by the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and, combined with ineffective prosecution, made progress against domestic violence difficult. According to the National Crime Records Bureau (NCRB), there were 49,170 cases of domestic violence reported in the country from 1998–2001.

The issue of rape received increased political and social attention during the year. The majority of rapes are never reported to the authorities. The NCRB reported that there were only 16,075 cases of rape from 1998–2001. However, the Home Ministry reported in February that, in 2001, there was a 16.5 percent increase in reported rape cases as compared to 2000.

The press consistently reported that violence against women was increasing, although local women's organizations claimed that there simply had been increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity. Mass rapes often formed part of the tactics of intimidation used by upper caste gangs against lower castes, and gang rapes often were committed as a punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state. In Assam, 30 percent of rape cases involved girls below 18 years of age. Most of the victims were maidservants, some as young as 6 years old. For example, in October, a 17-year-old girl allegedly was gang-raped by Presidential Body Guards in New Delhi. There was no action taken by the authorities in this case at year's end.

Dowry disputes also were a serious problem. Although providing or taking dowry is illegal under the Dowry Prohibition Act, dowry was practiced widely. In the typical dowry dispute, a groom's family members harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which family members often tried to portray as a suicide or accident. According to NGOs, approximately 7,000 deaths each year in the country are from dowry-related burnings. Although most dowry deaths involved lower and middle-class families, the phenomenon crossed both caste and religious lines. According to the NCRB, between 1998–2001, there were 6,851 reported dowry-related deaths in the country. In August, the Government announced that defendants under the Anti-Dowry Act would be able to be released on bail.

Women usually at a disadvantage in dowry disputes, began to speak out against dowry demands. For example, in August, Nisha Sharma filed a complaint with the police when her father was asked for more dowry minutes before she was to be married. The potential groom was detained for 14 days while formal charges were filed for violating the country's laws against dowries.

Under the Penal Code, courts must presume that the husband or the wife's in-laws were responsible for every unnatural death of a woman in the first 7 years of marriage—provided that harassment was proven. In such cases, police procedures required that an officer of deputy superintendent rank or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures. According to human rights monitors, in practice police did not follow these procedures consistently.

Sati, the practice of burning widows on the funeral pyres of their husbands, was banned, but continued to be practiced in some areas. There were no developments in the arrest of 15 persons in connection with the 2002 sati incident in Madhya Pradesh.

"Honor killings" were also a problem. Human Rights organizations estimated that up to 10 percent of all killings in the northern states of Punjab and Haryana were so-called honor killings; however, many more women are believed to be affected by this crime. In Muzaffarnagar, 13 cases of honor killings were report during the first 9 months of the year, up from 10 in 2002.

Several traditional practices that were harmful to women continued during the year. In March, 100 women in Tamil Nadu were walked on by a Hindu priest with nails in his shoes in a ritual intended to cure them of physical and mental illnesses; the state's human rights commission issued a request to investigate the incident. There were no developments in the 2002 cases of a tribal woman in Madhya Pradesh forced to bathe in urine and the woman in Indore forced to engage in the practice of "agnipariksha."

In remote villages, witchcraft accusations and punishments still occurred.

Societal violence against women was a serious problem. In January, the National Commission for Women reported that it was dissatisfied with the Gujarat govern-

ment's handling of rape cases stemming from the 2002 riots, noting that there were no convictions during the year.

Dalit ("untouchable") women have been stripped naked by mobs and paraded around in public to humiliate Dalits who offended other castes. For example, in June, a Dalit girl allegedly was abducted and gang-raped by three youths in Noida. No further information was available at year's end. In 2002, a Dalit woman allegedly was paraded naked in Chhattisgarh. Police arrested two men in connection with the 2002 abduction and gang rape of a Dalit women in Haryana state.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government often was unable to enforce these laws, especially in rural areas in which traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of six to seven years to conclude such cases.

Prostitution was common. According to UNICEF, the country contained half of the one million children worldwide who enter the sex trade each year. Many indigenous tribal women were forced into sexual exploitation (see Section 6.c.). In recent years, prostitutes began to demand legal rights, licenses, and reemployment training, especially in Mumbai, New Delhi, and Calcutta. In 2002, the Government signed the South Asian Association for Regional Cooperation (SAARC) Convention on Prevention and Combating Trafficking in Women and Children for Prostitution. The country is a significant source, transit point, and destination for many thousands of trafficked women (see Section 6.f.).

Sexual harassment was common, with a vast majority of cases unreported to authorities. Sexual harassment of women in the workplace became a subject of NHRC consideration during the year. The NHRC instituted a committee to investigate harassment of women in the legal profession and asked universities to establish complaint committees immediately. The commission suggested the creation of a telephone hot line for complaints, initially starting in New Delhi, and gave advice to the media on reporting incidents of harassment against women.

During the year, women joined the National Security Guard for the first time as a result of an internal change in policy which had previously prohibited women from this organization.

The law prohibits discrimination in the workplace, but enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State governments supported micro credit programs for women that began to have an impact in many rural districts.

The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001; the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years' imprisonment, for clergymen who contravened its provisions.

In Kashmir, the Lashkar-e-Jabbar militant group required all Muslim women to wear a burqa (a garment that totally covered the face and body) when in public or risk retribution. A significant number of women in the Kashmir Valley appeared to be complying with the order, frightened by the threat of being attacked with acid, beheaded, or killed. Lashkar-e-Jabbar also further ordered Hindus and Sikhs in the valley to wear identifying marks and told transport companies to reserve 50 percent of their seats for women in an effort to separate men and women in public spaces. At year's end, the Home Ministry reported that no women police officers had to quit their jobs as a result of the 2002 militant threat that ordered all women police officers in Rajouri District of Jammu and Kashmir to quit their jobs by January 2003.

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women could have several husbands and control the family inheritance.

In December, the Jammu and Kashmir State Legislative Assembly passed legislation that reserved 33 percent of its seats for women.

The Government addressed women's concerns primarily through the National Commission for Women, but NGOs were also influential.

*Children.*—The Government has not demonstrated a commitment to children's rights and welfare. The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between

the ages of 5 and 14 attend school. However, in 2002, the lower house of Parliament passed a constitutional amendment giving all children ages 6 to 14 the right to free and compulsory education provided by the State. The amended law also placed an obligation on parents and guardians to provide educational opportunities to these children. Of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, according to UNICEF, 76.2 percent of all children aged 11 to 13 years were attending school. No significant sectors or groups actively were excluded from education, but children of wealthier families were more likely to attend school. A significant gender gap existed in school attendance, particularly at the secondary level.

Child welfare organizations estimated that there were 500,000 street children nationwide living in abject poverty. A coalition of approximately 50 NGOs conducted a detailed survey in the Calcutta municipal area and identified 145,000 children who were not attending school, although not all of them were street children.

Medical care is free to all citizens; however, availability and quality were problems, particularly in rural areas.

Child abuse is prohibited specifically by law. There were societal patterns of abuse of children; however, the Government has not released comprehensive statistics regarding child abuse.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often beat children. In June, police arrested the mathematics teacher who allegedly beat a student in Velammal Matriculation Higher Secondary School in Kannappan. In December, a student in Madhya Pradesh was allegedly blinded by a teacher for not doing his homework. There were no developments in the investigation of the August 2001 death of three children after the Assam government asked them to participate in a march.

The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country. The Act raised the age requirement for marriage for girls to 18 from 15 years, but the Government did not enforce the Act. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh were married by age 16. However, the National Crime Record Bureau (NCRB) statistics showed a slight decrease in the number of child marriages during 2001. Each year in April, during the Hindu festival of Askhay Tiritiya, thousands of child marriages were performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities.

Runaway children, especially in larger cities, were at high risk for sexually transmitted diseases and HIV. They often worked 18- to 20-hour days, frequently in hazardous conditions (see Section 6.c.), and suffered sexual and mental abuse. Discrimination against children with HIV/AIDS was a problem. For example, in March, two children with HIV/AIDS were refused entry into a state school in Kerala. The children eventually were allowed to enter another state-run school in Kollam.

Trafficking in children for the purpose of forced prostitution was a problem (see Sections 6.c. and 6.f.).

The buying and selling of children for adoption occurred. For example, in February, the Salem district collector ordered an inquiry into the reported sale of baby girls in Kolathur. At year's end, police had made no arrests in connection with this incident.

The Union Ministry of Social Justice and Empowerment set up a 24-hour "child help line" phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation.

The traditional preference for male children continued. The law prohibits the use of amniocentesis and sonogram tests for sex determination; however, despite an order from the Supreme Court during the year, the Government did not effectively enforce the law. The tests were misused widely for sex determination, and termination of a disproportionate number of pregnancies with female fetuses occurred. During the year, the Government passed a bill in Parliament which fined any persons \$1,000 (50,000 Rs) if they perform a sex selection procedure. In the 12 years since the State of Maharashtra passed a law banning the use of such tests for sex determination, the state government filed charges against only one doctor, who was acquitted. Human rights groups estimated that at least 10,000 cases of female infanticide occurred yearly. Parts of Tamil Nadu still had high rates of female infanticide. In addition, parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable.

In Tamil Nadu, three persons were sentenced to life imprisonment for killing a newborn girl. Tamil Nadu implemented a “cradle scheme” in 1992 in which persons could leave unwanted infants outside the Social Welfare Department.

*Persons with Disabilities.*—Although the Persons with Disabilities Act provides equal rights to all persons with disabilities, advocacy organizations admitted that its practical effects so far have been minimal in part due to a clause that makes the implementation of programs dependent on the “economic capacity” of the Government.

According to NGOs, there were more than 60 million persons with disabilities in the country. According to Javed Abidi of the National Center for Promotion of Employment for Disabled People (NCPEDP), the census taken during 2001 failed to include categories of disability, thus making an accurate estimate of the needs of persons with disabilities impossible. Neither law nor regulations required accessibility for persons with disabilities. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly was raising public awareness of the rights of persons with disabilities. Government buildings, educational establishments, and public spaces in New Delhi have almost no provisions for wheelchair access.

The Disabled Division of the Ministry of Welfare had a budget of more than \$46.3 million (2.13 billion Rs) for the 2003–2004 fiscal year for a number of organizations and committees at the national, regional, and local levels. The Ministry delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services still were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India.

In June, the National Center for the Promotion of Employment for Disabled People launched an exclusive news service on disability in the country.

The Persons with Disability Act established a Disabilities Commissioner who over saw implementation of the Act and its provisions protecting persons with disabilities.

According to the Persons with Disability Act, 3 percent of positions in government offices and state-owned enterprises must be reserved for persons with visual, hearing, or orthopedic disabilities; however, government survey's indicated that employment for persons with disabilities exceeded 3 percent of positions in the public sector.

The Government provided special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the government for a special security fund; however, no action was taken on this request at year's end.

Mental health care was a problem. Hospitals were overcrowded and served primarily as a “dumping ground” for the mentally handicapped. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with poor sanitary conditions. In July, the NHRC announced that insufficient attention was paid to issues of the mentally handicapped and called for better enforcement of the nations laws. At year's end, no action was taken in the 2001 NHRC recommendation to remove all persons with mental illness from jails.

*Indigenous People.*—The Innerline Regulations enacted by the British in 1873 still provide the basis for safeguarding tribal rights in most of the northeastern border states. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in the tribal areas without approval from tribal authorities.

The 1991 census indicated that 8 percent of citizens belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal People (ICITP), 80 percent of the tribal population live below the poverty level. According to the ICITP, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see Sections 6.c. and 6.f.). The 1955 Protection of Civil Rights Act prescribes special courts to hear complaints of atrocities committed against tribal people.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often were ignored. NGOs reported that in 2001, 4,121 cases

of crimes against scheduled tribes were reported to the NHRC throughout the country. Indigenous peoples suffered discrimination and harassment, were deprived wrongly of their land, and were subjected to torture and to arbitrary arrest. There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. Moreover, persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal people occurred in many states (see Section 1.c.).

Numerous tribal movements demanded the protection of land and property rights. The Jharkhand Movement in Bihar and Orissa and the Bodo Movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, largely tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh. There was also some local autonomy for tribal people in the northeast.

*National/Racial/Ethnic Minorities.*—The country's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and subcaste. Members of each caste—and frequently each subcaste—are expected to fulfill a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. Dalits (formerly called untouchables) were viewed by many Hindus as separate from or “below” the caste system; nonetheless, they too were expected to follow their dharma if they hope to achieve caste in a future life. Despite longstanding efforts to eliminate the discriminatory aspects of caste, the practice has remained widespread.

The practice of untouchability, which affected those who, along with tribal people, occupied the lowest social strata, was outlawed in theory by the Constitution and the 1955 Civil Rights Act, but it remained an important aspect of life. Untouchability refers to the social restrictions imposed on persons because of their birth into certain Hindu castes. Dalits were considered unclean by higher caste Hindus and thus traditionally were relegated to separate villages or neighborhoods and to low paying and often undesirable occupations (such as scavenging, street sweeping, and removing human waste and dead animals). Many rural Dalits worked as agricultural laborers for caste landowners. By custom Dalits may be required to perform tasks for upper caste Hindus without remuneration. The majority of bonded laborers were Dalits (see Section 6.c.). Dalits are among the poorest of citizens, generally do not own land, and often are illiterate. They face significant discrimination despite the laws that exist to protect them, and often are prohibited from using the same wells and from attending the same temples as caste Hindus, and from marrying persons from castes. In addition, they face segregation in housing, in land ownership, on roads, and on buses. Dalits tend to be malnourished, lack access to health care, work in poor conditions (see Section 6.e.), and face continuing and severe social ostracism. In contrast, the highest caste, the Brahmin, with 3.5 percent of the population, holds 78 percent of the judicial positions and approximately 50 percent of parliamentary seats. NGOs reported that crimes committed by higher caste Hindus against Dalits often were unpunished, either because the authorities did not prosecute vigorously such cases or because the crimes were unreported by the victims, who feared retaliation. For example, on August 10 one Dalit was beaten and killed by four upper caste persons in Anand after reports he was sitting in a temple verandah. During the year, the NHRC completed its inquiry into the 2002 killing of five Dalits in Haryana and approximately \$11,000 (500,000 Rs) was paid in compensation to the families by the government.

A survey conducted during 2001 by the Protection of Civil Rights wing of the Tamil Nadu Adiravidar (indigenous peoples) Department identified 191 villages in Tamil Nadu where caste-based oppression and violence, and the practice of untouchability, were prevalent. Several human rights groups alleged that that in many villages, “scheduled” castes were not allowed to enter the streets or participate in local festivals, own property in upper-caste areas, share burial grounds, or draw water from public wells in upper-caste neighborhoods. The erection of statues of Dalit heroes or of the flags of Dalit parties in public places often became the cause of inter-caste tension. In several village teashops, Dalits were served beverages in separate cups (the so-called two-tumbler system).

There were no further developments in the 2002 case in which the Melavalavu Panchayat president and his associates were killed.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and tribal people (members of indigenous groups historically outside the caste system). These “scheduled” castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special

development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent, and scheduled tribes were 8 percent of the country's 2001 population of 1.027 billion. Christians historically rejected the concept of caste; however, because many Christians descended from low caste Hindu families, many continued to suffer the same social and economic limitations, particularly in rural areas. Low caste Hindus who convert to Christianity lose their eligibility for affirmative action programs. Those who become Buddhists or Sikhs do not. In some states, government jobs were reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and provides for stiff penalties for offenders. However, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.

Intercaste violence claimed hundreds of lives; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce rigid caste lines in all social settings led to episodes of vigilante retribution. While much more rare in urban settings, examples of intolerance occurred regularly in rural parts of the country.

Complicated social and ethnic divisions in society created severe localized discrimination. For example, the Pardhis, a small former itinerant community in Maharashtra, faced discrimination at the hands of the police and the rest of rural society in the area in which they live. Members were summoned for investigation whenever any armed robbery occurred in a city or town and reportedly were subjected to torture.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these, 13 to 15 million unionized workers, some 80 percent, were members of unions affiliated with 1 of the 5 major trade union centrals. All major trade union centrals were affiliated to a greater or lesser extent with particular political parties. Central unions stressed their independence, and in some cases were attempting to sever previously tight party control. In practice, legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. Union membership was rare in the informal sector.

The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities, when the victims were members of nationally organized unions. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law.

The Trade Union Act prohibits discrimination against union members and organizers, and employers are penalized if they discriminate against employees engaged in union activities.

Unions are free to affiliate with international trade union organizations. The Indian National Trade Union Congress and the Hind Mazdoor Sabha were affiliated with the International Confederation of Free Trade Unions (ICFTU), and the All India Trade Union Congress was affiliated with the World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine them. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws re-



quiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified "essential" industries. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act; however, essential services never have been defined in law. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes "illegal" and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared in 2002 that all general strikes (bandhs) were illegal and that all organizers of protests would be liable for losses caused by shutdowns. The Supreme Court upheld the verdict, drawing attention to the difference between a complete closedown of all activities (bandh) and a general strike (hartal). While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August, the Supreme Court declared all strikes by government employees to be illegal; however, in practice this has not been enforced.

According to Ministry of Labor statistics, between January and September there were 321 strikes and lockouts throughout the country, involving 381,000 workers. In all, 1.4 million person-days were lost due to strikes, and 50,154 person-days were lost due to lockouts during this period. In May, more than 30 million workers throughout the country went on a 1 day strike to protest government planned economic reform policies. The proposed changes would have made it easier to fire workers. The Industrial Disputes Act prohibits retaliation against strikers, provided that the strike is legal.

There were seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not pursue vigorously efforts to organize private-sector employees in the years since EPZs were established. Women constituted the majority of the work force in the EPZs. The ICFTU reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, such practices were widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective, due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children (see Section 6.d.). Persons born into a traditionally subordinate caste were expected to work without pay for those above them in the traditional social structure. For example, according to a Government report more than 85 percent of bonded laborers were scheduled castes and scheduled tribes.

A 1983 Supreme Court decision defined forced labor as work at less than the minimum wage, usually set by the state governments. Under this definition, which differed from that of the International Labor Organization (ILO), forced labor was widespread, especially in rural areas.

Bonded labor, the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt plus interest, was illegal but widespread. The Government estimated that between enactment of the Bonded (Abolition) Act in 1976 and March 2003, 283,158 bonded workers were released from their obligations. Other sources maintained that those released constituted only 5 percent of the total number of bonded laborers. State governments provided a sum of money to workers freed from bondage for their rehabilitation. The NHRC formed a high-level Central Action Group, which routinely reviewed compliance with the Bonded Labor System Act. The NHRC also appointed a special Rapporteur to work in Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu and report on compliance. In addition, the NHRC instituted a system for re-

ceiving regular reports on bonded labor from the states. The NHRC also assessed the bonded labor problem, identifying state districts in which it especially was acute. It identified and evaluated NGOs working in these areas and conducted training in bonded labor law enforcement for district officials in the acutely affected areas. Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began implementing and continued to work on rehabilitation plans. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic in illegal Bangladeshi immigrants was a source of bonded labor (see Section 6.f.).

NGOs such as the Bonded Labor Liberation Front and Society for Community Organization Trust worked to release bonded laborers throughout the year.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see Section 6.f.). According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Section 1.c.). Devadasis, prepubescent girls given to a Hindu deity or temple as "servants of God," were taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly many eventually were sold to urban brothels (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government prohibits forced and bonded child labor but did not enforce this prohibition effectively and forced child labor was a problem. The law prohibits the exploitation of children in the workplace.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in "hazardous industries," which includes among other things, passenger, goods, and mail transport by railway. There were 13 occupations and 57 processes in which children were prohibited from working under the act. Child labor was prohibited in certain hazardous industries where there are specific age limits for specific jobs. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly.

In addition to industries that utilize forced or indentured child labor (see Section 6.c.), there was evidence that child labor was used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate, especially in the informal sector in which most children who work were employed. There was no evidence that the 2001 state government of Karnataka plan to eliminate all child labor was in operation during the year. During the year, the state government of Andhra Pradesh promulgated a plan to strengthen penalties for employers of child labor and eventually eliminate all child labor. The continuing prevalence of child labor was attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, and to ineffective state and federal government enforcement of existing laws.

The Government assisted working children through the National Child Labor Project, which was established in more than 3,700 schools.

Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme Court decision increased penalties for employers of children in hazardous industries to \$430 (20,000 Rs) per child employed and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay \$108 (5,000 Rs) to the family. According to the South Asian Coalition on Child Servitude the authorities were pursuing some 6,000 cases against employers. The Supreme Court ruling also helped make local government officials more aware of the prohibitions against child labor in hazardous industries. This in some cases helped improve cooperation between local officials and NGOs like SACCS that removed children from hazardous workplaces. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGOs worked with the state government to establish a task force for the elimination of child labor.

Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million, while NGOs stated that the figure is 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or otherwise were employed.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children sent from their homes to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. There were no universally accepted figures for the num-

ber of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there may be as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions (see Section 6.d.). In its first attempt to address the issue of domestic child labor, during 2000 the Government issued a notification prohibiting government employees from hiring children as domestic help. Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace.

Bonded child labor in silk twining factories was a problem. The labor commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. In January, HRW traveled to the country to investigate reported use of child slaves in the silk industry. HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children. The report said, "At every stage of the silk industry, bonded children as young as 5 years old work 12 or more hours a day, six and a half or 7 days a week. Children making silk thread dip their hands in boiling water that burns and blisters them. They breathe smoke and fumes from machinery, handle dead worms that cause infections, and guide twisting threads that cut their fingers. By the time they reach adulthood, they are improvised, illiterate, and often crippled by the work."

Employers in some industries also took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets known to have been produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to use voluntarily a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The Government also cooperated with UNICEF, UNESCO, the UNDP, and the ILO in its efforts to eliminate child labor.

The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in the country in 1992.

The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO had rescued 33 children who had been sold into slave labor during the year.

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

*e. Acceptable Conditions of Work.*—State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, not observed in order and less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors

and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines and opencast mines were to be bulldozed and reforested. These rules seldom were obeyed. According to the Government, during the period from January to September 2001, 192 persons were killed in mining accidents. In June, flooding of a mine killed 17 miners in Andhra Pradesh.

Safety conditions tended to be better in the EPZs.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons was a significant problem. NGOs alleged that corruption at the enforcement level helps to perpetuate the problem. The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor.

The country was a destination country for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country is a origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country serves as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan, and for boys trafficked to the Gulf States to work as camel jockeys. NGOs reported that sexual exploitation of children for sex tourism increased sharply in the states of Goa and Kerala.

Child prostitution occurred in the cities, and there were an estimated 500,000 child prostitutes nationwide. More than 2.3 million girls and women were believed to be working in the sex industry within the country at any given time, and more than 200,000 persons were believed to be trafficked into, within, or through the country annually. Women's rights organizations and NGOs estimated that more than 12,000 and perhaps as many as 50,000 women and children were trafficked into the country annually from neighboring states for the sex trade. According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the U.N. reported that an estimated 40 percent were below 18 years of age. A large proportion of the women forced into sexual exploitation were tribals.

Trafficking in, to, and through the country largely was controlled by organized crime.

There was a growing pattern of trafficking in child prostitutes from Nepal and from Bangladesh (6,000 to 10,000 annually from each). Girls as young as 7 years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimate that there were approximately 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta.

In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved into the cities seeking greater economic opportunities, and once there were victimized by traffickers who forced or coerced them into the sex trade. In some cases, family members sold young girls into the sex trade. Extreme poverty combined with the low social status of women often resulted in the handover by parents of their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

Many indigenous tribal women were forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples (ICITP), more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes that were driven off their land by national park schemes. Press reports indicated children were routinely trafficked from Assam into Haryana and other North Indian states for sexual slavery under the pretext of entering into arranged marriages.

The number of women being trafficked to other countries was comparatively low.

Some boys, often as young as age 4, were trafficked to West Asia or the Persian Gulf States and became camel jockeys in camel races. Some boys end up as beggars in Saudi Arabia during the Hajj. The majority of such children worked with the knowledge of their parents, who received as much as \$200 (9,300 Rs) for their child's labor, although a significant minority simply were kidnapped. The gangs bringing the jockeys earned approximately \$150 (6,975 Rs) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or Indian woman who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf States to work as domestic workers or sex workers.

The National Commission for Women reported that organized crime played a significant role in the country's sex trafficking trade and that women and children who were trafficked frequently were subjected to extortion, beatings, and rape. How women were trafficked varies widely: Although some were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem, although organized crime was a common element in all trafficking incidents, as was police corruption and collusion. Although corruption was endemic in the country, there was no known anti-corruption initiative that was linked specifically to corruption as it related to trafficking during the year. NGOs alleged that ignorance, a lack of political resolve to tackle it, and corruption at the enforcement level perpetuated the problem.

Although the police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and sex workers have viewed police actions as part of the problem. Sex workers in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution and deportation.

The penalty for traffickers was prescribed by the Immoral Trafficking Prevention Act (ITPA). If the offense had been committed against a child (under 16 years), the punishment was imprisonment for 7 years to life. If the victim was a minor (16 to 18 years), the punishment was from 7 to 14 years. Other penalties under the act range from minimum terms of imprisonment of 1 year for brothel-keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution.

The Immoral Trafficking Prevention Act (ITPA), supplemented by the Penal Code, prohibits trafficking in human beings and contains severe penalties for violations. The Constitution also prohibits trafficking in persons. The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the Government to provide protection and rehabilitation for these rescued girls. In addition, under the ITPA, prostitution is not a crime; the ITPA criminalizes only solicitation or engaging in sex acts in or near a public place. Some NGOs noted that this ambiguity, which was intended to protect trafficking victims, instead was exploited to protect the sex industry.

However, the country's prostitution and trafficking laws were selectively enforced by police; clients and organizers of the sex trade tended not to be penalized, while prostitutes found soliciting or practicing their trade in or near (200 yards) public places were arrested. Due to the selective implementation, the "rescue" of sex workers from brothels often led to their revictimization. Using the ITPA's provisions against soliciting or engaging in sexual acts, police regularly arrest sex workers, extort money from them, evict them, and take their children from them. Clients of prostitutes, by comparison, largely were immune from any law enforcement threat, as clients committed a crime only if they had engaged in a sex act with a sex worker in a public place or had had sex with a girl under the age of 16 years (statutory rape). Therefore, although the intention of the ITPA was to increase enforcement efforts against the traffickers, pimps, and border operators, the opposite occurred. Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade was extremely poor. NGOs familiar with the legal history of prostitution and trafficking laws regarded the failure of the judiciary to recognize this inequity in the law's implementation as a continuing "blind spot." Over the last several years, arrests and prosecutions under the ITPA increased slightly, while all indications suggested a growing level of trafficking into and within the country.

NGOs and others alleged that police did not act effectively against brothels suspected of enslaving minors, and did not coordinate with NGOs. Therefore, the police action often worsened the situation of girls and women indebted to traffickers and brothel owners. Girls rescued from brothels were treated as criminals. In many cases, the police or the staff of government remand centers, where they were housed temporarily, abused them sexually. In most cases, arrested prostitutes were quickly returned to the brothels after the brothel operators paid bribes to the authorities. In still other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owned by the girls to the brothel operators and traffickers further increases as the costs of bribing or legally obtaining release of the girls is added to their labor debt.

NGOs also have demanded that special ITPA courts for speedy resolution of cases allow videotaped testimony so that underage victims need not be summoned back for trial. For example, videotaped testimony was allowed during a Mumbai trial.

The Government continued a campaign to improve police training and sensitivity to trafficking issues. According to NGOs, there were improvements in investigations and arrests of traffickers in Mumbai and Calcutta. During the year, police and NGOs rescued 12 minor girls from brothels in New Delhi. There were roughly 80 NGOs in ten states around the country working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC includes representatives from the National Commission for Women, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Some NGOs were very knowledgeable about the trafficking situation and could identify traffickers and the locations of girls being held captive by brothel owners. However, most of these NGOs were reluctant to trust the police with this information due to the past conduct of police in brothel raids and the likelihood that many trafficking victims would be arrested and revictimized rather than assisted by such raids. Press reports in August said the 37 girls had been successfully rescued due to the joint efforts of the state government of Maharashtra and a local NGO.

Efforts to improve NGO coordination were being made in Calcutta, where 10 NGOs met monthly as part of the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) forum. Every 3 months, the group attempted to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGOs such as Sanlaap also were seeking to build stronger working relationships with local police.

The Government cooperated with groups in Nepal and Bangladesh to deal with the problem. Training and informational meetings took place under the AATSEC and the South Asian Association of Regional Cooperation. The NHRC asked the committee that oversees the Hajj (pilgrimage) to require individual passports for children instead of allowing them to be included on that of their escort, in order to reduce trafficking of children. NHRC also advised the Government of West Bengal to make efforts to educate Muslims about child trafficking. In addition, the Central Police Academy conducted, in conjunction with local state police academies, improved training designed in part to sensitize officers to the problem of trafficking and strengthen police responsiveness to trafficking victims.

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## MALDIVES

The Republic of Maldives has a parliamentary style of government with a strong executive. The President appoints the Cabinet, members of the judiciary, and one-sixth of the Parliament. The President derives additional influence from his constitutional role as the "Supreme authority to propagate the tenets of Islam." The unicameral legislature or the People's Majlis selects a single presidential nominee who is approved or rejected in a national referendum. President Maumoon Abdul Gayoom was approved for a sixth 5-year term in October. The Majlis must approve all legislation and is empowered to enact legislation without presidential approval. Civil law is subordinate to Shari'a (Islamic law), but civil law generally is applied in criminal and civil cases. The judiciary is subject to executive influence.

The civilian authorities maintained effective control of the security forces. The National Security Service (NSS) includes the armed forces and police. The Director of the NSS reports to the Minister of Defense, a cabinet portfolio which is one of several held by the President. The police division investigates crimes, collects intelligence, makes arrests, and enforces house arrest. Some members of the security forces committed human rights abuses.

The country had a population of approximately 270,000 and had a market-based economy. Tourism and fishing provided employment for more than one-half of the work force. Tourism accounted for approximately 30 percent of government revenues and 70 percent of foreign exchange receipts. Agriculture and manufacturing continued to play a minor role in the economy, which was constrained by a severe shortage of labor and lack of arable land. The economic growth rate was approximately 5 percent.

The Government's human rights record worsened, and it committed abuses. The President's power to appoint members of the Parliament constrains citizens' ability to change their government. There were reports of the abuse of prisoners. The Government continued to impose constraints on freedom of the press. The Government limits freedom of assembly and association, and does not allow the formation of political parties. The law prohibits the practice of any religion other than Islam. Although the Government has undertaken a number of programs addressing women's issues, women faced a variety of legal and social disadvantages. The Government also restricted internationally recognized worker rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings. However, in January, according to Amnesty International (AI), security forces allegedly beat Ali Shaahir, a prisoner at Maafushi prison, and he later died at a Male' hospital. President Gayoom ordered an investigation, which concluded that childhood health problems had caused Shaahir's death. Security forces killed two inmates, Hassan Eemaan Naseem and Abdulla Amin, during the September 19–20 Maafushi prison uprising. Ali Aslaam, another inmate, later died in the hospital (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 law prohibits such practices; however, according to human rights organizations, there were reports of beatings or other mistreatment of persons in police custody during the year. According to human rights organizations, Ibrahim Moosa Luthfee, sentenced in 2002 to life imprisonment (see Section 2.a.), escaped from police custody in late May after being brought to Sri Lanka for medical treatment as a result of alleged mistreatment and harsh conditions while in Maafushi Prison.

Following the September 19–20 Maafushi Prison uprising and later rioting in the streets of the capital, sparked by two prison deaths followed by another death from injuries and enhanced by popular discontent with lack of government responsiveness to public demands, President Gayoom launched two separate inquiries into the incidents. One inquiry was to investigate the civil unrest in Male', and the other with the status of a Presidential Commission was to probe the prison disturbances. While the prison investigation continued, one NSS captain at the prison was held responsible and cashiered from police service, and 12 NSS personnel were fired for their roles in the prison disturbance. At a press conference October 16, the head of the prison investigation indicated that unspecified mistreatment of an inmate who later died sparked the prison riot. (The Deputy Chief of Staff of the NSS also was transferred to another ministry after the civilian riots.)

There were reports of public floggings (which are allowed under Shari'a as interpreted in the country). In July, 5 women imprisoned on drug charges were sentenced to 10 lashes each. In October 2002, 2 women were convicted of engaging in homosexual activity, and were sentenced to 15 lashes each. Punishments generally were limited to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote atoll (see Section 1.d.). The Government generally permitted those who were banished to receive visits by family members.

There were 3 major prisons in the country, with fluctuating populations of approximately 300 inmates at the country's main facility. Prison conditions at the existing facilities generally did not meet international standards, and human rights organizations noted that some prisoners were kept in extremely crowded and unsanitary conditions. The Government surveyed prison facilities in other countries to incorporate international standards and improvements in the reconstruction of the prison. Prisoners were allowed to work and were given the opportunity for regular exercise and recreation. Spouses were allowed privacy during visits with incarcerated partners. Women were held separately from men. Children were held separately from adults. Persons arrested for drug use were sent to a "drug rehabilitation center" on a space available basis.

The Government permitted prison visits by foreign diplomats. It was not known whether visits by human rights observers were permitted during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and unlike in the past when persons were held for long periods without charge, the Government generally respected this prohibition during the year.

Police initiate investigations based on response to written complaints from citizens, police officers, or government officials, or on suspicion of criminal activity. They were not required to obtain arrest warrants. The Attorney General referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case secret until they were confident that the charges were likely to be upheld.

The 287-officer police force, which functioned as a subset of the NSS, investigated crimes, collected intelligence, made arrests, and enforced house arrest. Neither police corruption nor impunity posed problems during the year. The Government inquiries into the events of September 19–20 had not been concluded at year's end.

A suspect may be detained in prison, remain free, or be placed under house arrest for 15 days during investigations, depending upon the charges. In most cases the suspect is released if not brought to trial within 15 days, but the President may extend pretrial detention for an additional 30 days. Those who are released pending trial may not leave a specific atoll. Within 24 hours of an arrest, an individual must be told of the grounds for the arrest. An individual then can be held for 7 days. If no legal proceedings have been initiated within 7 days, the case is referred to an anonymous 3-member civilian commission, appointed by the President, that can authorize an additional 15 days of detention. After that time, if legal proceedings still have not been initiated, a judge must sanction the continued detention on a monthly basis. There was no provision for bail.

A law effective from December 2002 provides for limited legal assistance to people accused of a criminal offense, but AI alleged that conversations between counsel and accused were conducted in the presence of police. Lawyers can be appointed in civil cases when the complainant and defendant are private individuals. Courts did not provide legal representation for the indigent. Although there is no right to legal counsel during police interrogation, detainees are granted access to family members. The Government may prohibit access to a telephone and nonfamily visits to those under house arrest. While there have been no reported cases of incommunicado detention in the past few years, the law does not provide safeguards against this abuse.

There were no reports of religious prisoners during the year. The law limits a citizen's right to freedom of expression in order to protect the "basic tenets of Islam." In 2002, according to AI and other sources, four individuals were arrested for distributing Islamist and anti-government literature. By year's end, three of the men were convicted to lengthy prison sentences for extremism and subversion, and the fourth man was released.

There were no further developments in the case of Member of Parliament (M.P.) Abdullah Shakir, arrested in July 2001 and released the following month. International human rights groups claimed that he was arrested for his support of a petition to form political parties in the country (see Section 2.b.), but the Government stated he was arrested on a civil matter, since resolved. There were no reports of the internal exile of citizens during the year.

*e. Denial of Fair Public Trial.*—The Constitution does not provide for an independent judiciary, and the judiciary is subject to executive influence. In addition to his authority to review High Court decisions, the President influences the judiciary through his power to appoint and dismiss judges, all of whom serve at his pleasure and are not subject to confirmation by the Majlis. The President also may grant pardons and amnesties.

There are three courts: One for civil matters; one for criminal cases; and one for family and juvenile cases. There is also a High Court in Male', which is independent of the Justice Ministry and which handles a wide range of cases, including politically sensitive ones. The High Court also acts as court of appeals. The President can appoint a five-member advisory council to review High Court rulings. The President also has authority to affirm judgments of the High Court, to order a second hearing, or to overturn the Court's decision.

Most trials are public and conducted by judges and magistrates trained in Islamic, civil, and criminal law. There are no jury trials.

The Constitution provides that an accused person be presumed innocent until proven guilty, and that an accused person has the right to defend himself "in accordance with Shari'a." The judiciary generally enforced these rights. During a trial, the accused also may call witnesses, and be assisted by a lawyer (see Section 1.d.). Judges question the concerned parties and attempt to establish the facts of a case.



Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law as well as in certain matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally do not allow legal counsel in court because, according to a local interpretation of Shari'a, all answers and submissions should come directly from the parties involved. However, the High Court allowed legal counsel in all cases, including those in which the right to counsel was denied in lower court. Under the country's Islamic practice, the testimony of two women equals that of one man in matters involving Shari'a, such as adultery, finance, and inheritance. In other cases, the testimony of men and women are equivalent (see Section 5).

There were no confirmed reports of political prisoners. Human rights organizations continued to allege the existence of political prisoners; however, the Government maintained that these prisoners were convicted of crimes not related to politics.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, "except as expressly provided by law." The Government generally respected these prohibitions in practice. The NSS may open the mail of private citizens and monitor telephone conversations if authorized in the course of a criminal investigation.

Although the Constitution provides that residential premises and dwellings should be inviolable, there is no legal requirement for search or arrest warrants. The Attorney General or a commanding officer of the police must approve the search of private residences.

The government policy to encourage a concentration of the population on the larger islands continued.

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

*a. Freedom of Speech and Press.*—The law does not provide for freedom of speech or of the press, and the Government generally did not respect such rights in practice. The Penal Code prohibits inciting citizens against the Government. The law prohibits public statements that are contrary to government policy and Islam, threaten the public order, or are libelous. However, an amendment to the Penal Code decriminalized "true account(s)" by journalists of governmental actions. Journalists and publishers practiced self-censorship.

Regulations that make publications responsible for the content of the material they publish remain in effect, but no legal actions against publications were initiated during the year.

The Press Council is composed of lawyers, private and government media representatives, and other government officials. The mandate of the council is to review charges of journalistic misconduct (advising the Ministry of Information, Arts, and Culture on measures to be taken against reporters, when appropriate) and promotes professional standards within the media by recommending reforms and making suggestions for improvement. The Council did not take notable action during the year.

Radio and television outlets were owned either by the Government or its sympathizers. Current or former ministers owned all three major newspapers. Nonetheless, these outlets on occasion mildly criticized the Government.

Almost 200 newspapers and periodicals were registered with the Government, but only 3 dailies publish on a regular basis: Aafathis, Haveeru and Miadhu. In 2002, owners closed a weekly magazine, Monday Times, that had printed articles critical of President Gayoom's administration. Despite reports to the contrary, the Government claimed that it had not banned the publication of Monday Times. In March, the Government announced the withdrawal of 22 publication licenses for irregular publication, including the license for the Monday Times. No regularly published newspaper or periodical was affected by this action.

The Government owned and operated the only television and radio stations. It did not interfere with foreign broadcasts or with the sale of satellite receivers. Reports drawn from foreign newscasts were aired on the Government television station.

During the year, there were no reports of government censorship of electronic media. However, in January 2002, three men and one woman were arrested for circulating an Internet e-mail magazine, Sandhaanu, critical of the Government. The four were held in solitary confinement until their trial in July 2002. Three were sentenced to life imprisonment for spreading false news and calling for the overthrow of the Government, among other charges. Fathimath Nisreen, the one woman arrested, was sentenced to 10 years' imprisonment for charges including calling for the overthrow of the Government and assisting Sandhaanu originators. In May, one of those sentenced, Ibrahim Moosa Luthfee, subsequently escaped NSS custody.

Television news and public affairs programming routinely discussed topics of concern and on occasion mildly criticized government performance. Since it is not clear when criticism violates the law prohibiting public statements that were contrary to government policy or Islam, threaten the public, or were libelous, journalists and publishers continued to practice self-censorship. In general, after an easing of restrictions in the late 1990s, the Government has taken a more stringent attitude toward freedom of the media.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

The Government was the major shareholder in the sole Internet service provider (ISP), although a license had been granted to a second, private ISP. There were no government attempts, other than blocking pornographic material, to interfere with the use of the Internet during the year.

The law prohibits public statements contrary to government policy and the Government's interpretation of Islam. Therefore, although there were no reported cases of transgressions of these laws in the academic arena, the laws constrain academic freedom to the extent that academics practice self-censorship.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government imposed limits on this right in practice. The Home Ministry limited political meetings during electoral campaigns.

On September 20, the NSS reportedly used rubber bullets and tear gas to quell demonstrations that damaged several government buildings in Male', including the election office. (see Section 1.c.). There were reports that several civilians sustained minor injuries as a result of the police action.

In 2001, Mohammed Nasheed lost his seat in the Majlis after he was convicted of petty theft. He was released from internal exile in late August 2002, but was denied his parliamentary seat. Some observers claimed that the theft charge was fabricated to punish Nasheed for supporting a movement to form a political party and for his criticism of President Gayoom's administration (see Section 3).

The Government imposed limits on freedom of association. The Government registers clubs and other private associations if they do not contravene Islamic or civil law. While not prohibited by law, the President officially discouraged political parties on the grounds that they were inappropriate to the homogeneous nature of society, and none exist. In 2001, a group of 42 people petitioned the Minister of Home Affairs to request permission to set up the Maldivian Democratic Party. One signatory to the petition, M.P. Abdullah Shakir, subsequently was arrested, but was released soon thereafter. Some observers believed his arrest was connected to his support for the creation of political parties, but the Government maintained that he was arrested in connection with a civil matter (see Section 1.e.). The Government reportedly harassed other individuals who signed the petition to form political parties.

Although not prohibited, there were no local human rights groups.

*c. Freedom of Religion.*—Freedom of religion was restricted significantly. The Constitution designates the Sunni branch of Islam as the official state religion, and the Government interprets this provision to impose a requirement that citizens be Muslims. The law prohibits the practice of any religion other than Islam. Foreign residents are allowed to practice their religion if they do so privately and do not encourage citizens to participate. President Gayoom repeatedly stated that no other religion should be allowed in the country, and the Home Affairs Ministry announced special programs to safeguard and strengthen religious unity. The President, the members of the People's Majlis, and cabinet members must be Muslims.

There were no places of worship for adherents of other religions. The Government prohibits the import of icons and religious statues, but it generally permits the import of individual religious literature, such as Bibles, for personal use. It also prohibits non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of Shari'a and may result in punishment. In the past, would-be converts have been detained and counseled regarding their conversion from Islam. Foreigners have been detained and expelled for proselytizing in the past. Unlike previous years, there were no reports of foreigners detained for proselytizing.

Islamic instruction is a mandatory part of the school curriculum, and the Government funds the salaries of religious instructors. The Government has established a Supreme Council of Islamic Affairs to provide guidance on religious matters. The Government also sets standards for individuals who conduct Friday services at mosques.

Under the country's Islamic practice, certain legal provisions discriminate against women (see Sections 1.e., 3, and 5).

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Citizens are free to travel at home and abroad, to emigrate, and to return. Foreign workers often were housed at their worksites. Their ability to travel freely was restricted, and they were not allowed to mingle with the local population on the islands.

The law does not provide for the granting of asylum and/or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees or asylees. The Government has cooperated in the past with the office of the U.N. High Commissioner for Refugees; however, asylum issues did not arise during the year. The Government provides protection against refoulement, but did not routinely grant refugee status or asylum.

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

Under the Constitution, the citizens' ability to change their government is limited, and the strong executive exerts significant influence over both the legislature and the judiciary. Under the Constitution, the Majlis chooses a single presidential nominee, who must be a Sunni Muslim male, from a list of self-announced candidates for the nomination. Would-be nominees for president are not permitted to campaign for the nomination. The nominee is then confirmed or rejected by secret ballot in a nationwide referendum. From a field of four candidates, President Gayoom was nominated unanimously by the Majlis and was confirmed by referendum on October 17 for a sixth 5-year term. Observers from the South Asian Association for Regional Cooperation (SAARC) said the referendum was conducted in a free and fair manner.

By both law and custom, the Office of the President is the most powerful political institution in the country. The Constitution gives Shari'a preeminence over civil law and designates the President as the "supreme authority to propagate the tenets" of Islam. The President also was Commander in Chief of the armed forces, the Minister of Defense and National Security, the Minister of Finance and Treasury, and the Governor of the Maldivian Monetary Authority. The President's authority to appoint 8 of the 50 members of the Majlis provided the President strong political leverage. The elected members of the Majlis, who must be Muslims, serve 5-year terms. All citizens over 21 years of age may vote. Individuals or groups were free to approach members of the Majlis with grievances or opinions on proposed legislation, and any member may introduce legislation. There were no political parties, which were officially discouraged (see Section 2.b.).

The Government may introduce legislation but may not enact a bill into law without the Majlis' approval. The Majlis may enact legislation into law without presidential assent if the President fails to act on the proposal within 30 days or if a bill is re-passed with a two-thirds majority. In recent years, the Majlis has become somewhat more independent, sometimes cautiously challenging government policies and rejecting government-proposed legislation, though there were no reports of this during the year.

For the past several years, the Majlis has held a question period during which members may query government ministers about public policy. Debate on the floor since the question period was instituted has become increasingly open.

Elections to the People's Majlis were held in 1999. According to SAARC observers, the 1999 elections were "free and fair in accordance with the relevant laws and regulations of the Republic of the Maldives." A by-election with 38 percent participation was held in April 2002 following the expulsion of M.P. Mohammed Nasheed from the Majlis upon his conviction for petty theft (see Section 2.b.). According to observers, the election was generally free and fair.

There were 5 women in the 50-member Majlis. There was one woman in the Cabinet. Women are not eligible to become president but may hold other government posts. However, for reasons of tradition and culture, relatively few women sought or were selected for public office. In October 2002, a woman was named High Commissioner to Sri Lanka, the first woman to hold the office. In 2001, Haseena Moosa became the first woman Atoll Chief. In the 1999 elections, two women were elected, and President Gayoom appointed an additional three women to the Majlis.

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

Although not prohibited, no local human rights groups existed in the country. However, during his November inaugural address, President Gayoom announced his intention to establish a Human Rights Commission, which was created by Presidential decree on December 10. Beyond a general intent to "safeguard the civil rights enshrined in the Constitution" and "protect and promote human rights," the Commission's mandate, composition, and independence were not defined. The International Committee of the Red Cross (ICRC) visited the country in 2002 and during the current year; however, the ICRC has kept confidential its assessment of the situation.

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

The Constitution provides for the equality of all citizens before the law, but there is no specific provision to prohibit discrimination based on race, sex, religion, disability, or social status. Women traditionally have been disadvantaged, particularly in terms of the application of Shari'a, in matters such as divorce, education, inheritance, and testimony in legal proceedings. There were no reports of official or societal discrimination against people with HIV/AIDS.

*Women.*—Women's rights advocates agreed that domestic violence and other forms of violence against women were not widespread. There were no firm data on the extent of violence against women because of the value attached to privacy. Police officials reported that they received few complaints of assaults against women. Rape and other violent crimes against women were extremely rare. Under Shari'a the penalty for rape is flogging, imprisonment for up to 5 years, or banishment.

Although women traditionally have played a subordinate role in society, they participate in public life in growing numbers and gradually are participating at higher levels (see Section 3). Women constitute 38 percent of government employees, and approximately 10 percent of uniformed NSS personnel. Women enjoyed a higher literacy rate (98 percent) than men (96 percent). Well-educated women maintained that cultural norms, not the law, inhibited women's education and career choices. A Gender Equality Council advised the Government on policies to help strengthen the role of women. During the year, the Government continued law literacy programs and workshops on gender and political awareness in the outer atolls to make women aware of their legal rights. The Government has built 15 women's centers where family health workers can provide medical services. The centers also provide libraries and space for activities focusing on the development of women. The minimum age of marriage for women is 18 years.

Under Islamic practice, husbands may divorce their wives more easily than vice versa, absent any mutual agreement to divorce. Shari'a also governs intestate inheritance, granting male heirs twice the share of female heirs. A woman's testimony is equal only to one-half of that of a man in matters involving adultery, finance, and inheritance (see Section 1.e.). Women who worked for wages received pay equal to that of men in the same positions.

*Children.*—Education is not compulsory, but there is universal access to free primary education. The percentage of school-age children in school in 2002 was: (grades 1 to 5) 99 percent; (grades 6 to 7) 95 percent; and (grades 8 to 10) 51 percent. Of the students enrolled, 49 percent were female and 51 percent were male. In many instances, education for girls was curtailed after the seventh grade, largely because parents do not allow girls to leave their home island for an island having a secondary school.

Children's rights are incorporated into law, which specifically protects them from both physical and psychological abuse, including abuse at the hands of teachers or parents. The Ministry of Women's Affairs and Social Welfare has the authority to enforce this law and received strong popular support for its efforts. Although unable to provide an exact number, the Ministry noted that there continued to be reports of child abuse during the year, including sexual abuse. Penalties for the sexual abuse of children range from up to 3 years' imprisonment to banishment. It was not known if there were any prosecutions for child abuse or child sexual abuse during the year.

Government policy provided for equal access to educational and health programs for both male and female children.

*Persons with Disabilities.*—There is no law that specifically addresses the rights of persons with physical or mental disabilities. In 1999, the Government initiated a survey that identified 30,000 persons with disabilities in the country (primarily hearing and visually impaired). The Government has established programs and provided services for persons with disabilities.

Families usually cared for persons with disabilities. When family care was unavailable, persons with disabilities were kept in the Institute for Needy People, which also assisted elderly persons. The Government provided free medication for all persons with mental disabilities in the islands, and mobile teams regularly visit patients with mental disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—While the law does not expressly prohibit unions, it recognizes neither a worker's right to form or join them, nor the right to strike. Associations (such as industry associations and clubs) are allowed. In May, the Government enacted a new law to strengthen the legal regime governing voluntary, not-for-profit associations. Small groups of similarly employed workers with mutual interests have formed associations, some of which include employers as well as employees. These associations have not acted as trade unions.

In 1995, the U.S. Government suspended the country's eligibility for tariff preferences under the U.S. Generalized System of Preferences because the Government failed to take steps to afford internationally recognized worker rights to workers.

There has been no contact with the International Labor Organization to ratify its eight fundamental conventions.

*b. The Right to Organize and Bargain Collectively.*—The law does not recognize workers' rights to organize and bargain collectively. Wages in the private sector are set by contract between employers and employees and are usually based on the rates for similar work in the public sector.

There were no reports of efforts to form unions or of strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law does not prohibit 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 bars children less than 14 years of age from paid or hazardous work. In May, the Government introduced new guidelines prohibiting employment of children under 18 by the Government and in hazardous jobs such as construction, carpentry, welding, and driving. According to the International Confederation of Free Trade Unions, child labor remained a problem, primarily in agriculture, fishing and small commercial activities, including in family enterprises. There were no reports of children being employed in the industrial sector. The working hours of young workers were not limited specifically by statute. A Unit for Children's Rights in the Ministry of Women's Affairs and Social Welfare is responsible for monitoring compliance with the child labor regulations, but it is not charged with their enforcement. The Ministry of Employment and Labor's Dispute Settlement Unit deals with child labor issues.

*e. Acceptable Conditions of Work.*—There was no national minimum wage for the private sector, although the Government has established wage floors for certain kinds of work such as government employment. These wage floors, or minimum standards, provided a decent standard of living for a worker and family. Given the severe shortage of labor, employers offered competitive pay and conditions to attract skilled workers.

There were no statutory provisions for hours of work, but the regulations require that a work contract specify the normal work and overtime hours on a weekly or monthly basis. The public sector provides a 7-hour day and a 5-day workweek.

There are no national laws governing health and safety conditions. There are regulatory requirements in certain industries such as construction and transport that employers provide a safe working environment and ensure the observance of safety measures. It was unclear whether workers could remove themselves from unsafe working conditions without risking the loss of their jobs. The Ministry of Human Resources, Employment, and Labor's Labor Dispute Settlement Unit resolves wage and labor disputes, visits worksites and enforces labor regulations.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

## NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government. A Maoist insurgency, punctuated by a ceasefire in 2001 and another during the year, has been ongoing since 1996. King Gyanendra assumed the throne in 2001, after

the late Crown Prince Dipendra killed King Birendra and nine members of the royal family, including himself. The democratically elected parliament consists of the House of Representatives (lower house) and the National Assembly (upper house). International observers considered the 1999 parliamentary elections to be generally free and fair. In October 2002, the King dismissed the Prime Minister after he recommended the dissolution of parliament and was subsequently unable to hold elections because of the ongoing insurgency. A royally appointed cabinet has subsequently governed the country until elections can be held at an unspecified future time. On June 4, the King appointed Surya Bahadur Thapa Prime Minister after Lokendra Bahadur Chand resigned on May 30. A nationwide state of emergency was in effect from November 2001 to August 2002 after Maoist insurgents broke a 4-month ceasefire with violent attacks. During that time, King Gyanendra, under the Constitution's emergency provisions and on the advice of the Cabinet, suspended several constitutional rights, including freedom of expression, assembly, privacy, and property. The Government and the Maoists declared another ceasefire on January 29 and held three rounds of talks on April 27, May 9, and August 17 to 19. The Maoists unilaterally broke the ceasefire on August 27 and resumed attacks against government, security, and civilian targets. The Constitution provides for an independent judiciary; however, the courts often were inefficient and susceptible to political pressure and corruption.

The Royal Nepal Army (RNA) continued to exercise responsibility for internal security that it assumed from the National Police Force at the beginning of the state of emergency in November 2001. The National Police Force and the paramilitary Armed Police Force (APF) comprise the other elements of the security forces. Local Chief District Officers (CDOs), civil servants in the Home Ministry, have wide discretion in maintaining law and order. While the King as Army Supreme Commander maintained ultimate control of the Royal Nepal Army, there is no evidence that he exercised direct operational control of the Army. Civilian authorities retained effective control of the national police and Armed Police Force. Some members of the security forces committed numerous, serious human rights abuses.

The country is extremely poor, with an annual per capita GDP of approximately \$252 (19,600 Nepali rupees (NRs)) and a 3 percent growth rate during the year. Subsistence agriculture supported more than 80 percent of the country's 23.2 million population. The mixed economy suffered due to slow growth in the world economy and the insurgency, which resulted in a decline in revenues from tourism as well as exports of textiles and carpets.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. The citizens' right to change the Government was provided for by the Constitution, although the ongoing insurgency prevented the holding of elections in 2002. The security forces used arbitrary and unlawful lethal force and continued to abuse detainees, sometimes using torture as punishment or to extract confessions. The disappearance of persons in custody was a problem. Prison conditions remained poor. Impunity remained a problem, although the military took some initial steps to penalize perpetrators in a few cases. The National Human Rights Commission (NHRC) investigated allegations of human rights violations and, while the Government has begun to pay recommended compensation to some victims, recommended disciplinary action against police seldom occurred. Arbitrary arrest and lengthy pre-trial detention were problems. In the beginning of the state of emergency in November 2001, the Government stated that restrictions were targeted only at Maoist insurgents; however, the security forces were given broad latitude to arrest and detain individuals suspected of Maoist sympathies. After the expiration of the state of emergency in August 2002, Maoist suspects were detained under the 2002 Terrorist and Destructive Activities Act that allowed suspects to be detained without charge for up to 60 days and to be held in preventive detention for up to 90 days. The Act also provides for immunity for members of the security forces or others who undertake "bona fide" actions to control terrorism. During the year, 24 Maoist suspects were tried under the special anti-terrorism legislation, but none of the trials were concluded by year's end. Judicial susceptibility to political pressure and corruption, and long delays in trial procedures remained problems. Despite limitations on freedom of expression under directives that banned criticism of the King, media criticism of the Government was allowed, so long as it did not aid terrorism. The Government temporarily suspended the right to assembly throughout the Kathmandu Valley from September 1 to 26. The Government restricted certain public celebrations by the Tibetan community. The Constitution imposes restrictions on religious proselytizing. Women, persons with disabilities, and lower castes suffered from widespread discrimination. Violence against women, including in refugee camps, trafficking in women and girls for prostitution, and child labor also remained serious problems. Worker rights continued to be restricted. There have been in-

stances of forced child labor and forced labor in the past, but there were no cases reported during the year.

During the year, including during the ceasefire, Maoists continued their campaign of torturing, killing, bombing, forcibly conscripting children, and committing other gross abuses, targeted at government agents but also including civilians.

During the year, an estimated 1,697 persons were killed, including 142 members of the national police; 122 members of the Royal Nepal Army; 71 members of the Armed Police Force; 1,107 Maoists; and 255 civilians. Since 1996, the insurgency has resulted in the deaths of an estimated 8,296 persons, including 5,551 Maoists; 1,114 civilians; 1,096 members of the national police; 362 members of the Royal Nepal Army; and 173 members of the Armed Police Force.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, the security forces continued to commit arbitrary and unlawful killings. The Terrorism and Destructive Activities Act passed by parliament in April provides for immunity for members of the security forces or others who undertake “bona fide” actions to control terrorism. Some observers found the number of prisoners taken under battlefield conditions to be low and concluded that many Maoist fighters apparently were killed rather than taken prisoner. According to statistics from the press and human rights groups, security forces killed 1,114 suspected Maoists during the year and 5,551 have been killed since the beginning of the insurgency.

The RNA was responsible for a number of killings, including deaths in custody in which torture was credibly alleged (see Section 1.c.). During the year, the RNA’s human rights investigative cell conducted 12 investigations of alleged serious abuses. In most cases of arbitrary or unlawful killings, the security forces claimed that the victims were Maoists. On August 17, the RNA surrounded a house in Doramba, Ramechhap District in which a Maoist meeting was taking place. One person was shot while trying to escape; several others escaped; and the remaining 20 were taken away in RNA custody. The RNA subsequently shot at least 19 in a jungle area several hours’ walk from the original site; another corpse was found in a separate site. The NHRC appointed an independent panel that found evidence that the 19 had been summarily executed. The RNA initially claimed that the patrol had been ambushed, but has since reopened the investigation, which was pending at year’s end. On October 7, Maoist suspect Govinda Poudel died at the hospital after having been in RNA custody in Chitwan District for 2 weeks. The Maoists claimed that he was tortured while in custody. On December 14, soldiers arrested teenager Maya Devi Tamang from her home in Panauti, Kavre District, on suspicion of being a Maoist. She was subsequently shot and killed near her home. According to the RNA, she was shot while trying to escape, an account disputed by accounts from the local press, citing eyewitnesses and human rights groups.

The RNA continued to kill civilians. For example, on January 11, members of a joint RNA/APF patrol in Manpur Tapara, Bardia District, killed father and son Bhoj Bahadur Karki and Top Bahadur Karki. A subsequent investigation by the RNA determined that the soldier involved had acted unlawfully. He was sentenced by general court martial to 7 years in prison. On October 13, soldiers opened fire at a secondary school in Mudhbara, Doti District, where Maoists were forcing students and teachers to attend a “cultural program.” One Maoist and four students were killed. An RNA investigation exonerated the soldiers involved of wrongdoing, but recommended that the victims’ families be paid \$2,700 (NRs 200,000) each. On November 6, a taxi accidentally hit an RNA school bus in Kathmandu. A soldier on the bus shot and killed Rajiv Shrestha, the taxi driver. Following an investigation, the soldier was on trial under the Army Act at year’s end. On December 6, soldiers were accused of summarily executing Hari Prasad Bhattarai, Durga Koirala, and Dakmani Koirala in Diktel, Khotang District. The case was under investigation at year’s end.

On April 8, police shot and killed Devi Lal Poudel, a student participating in a protest against petroleum price hikes in Rupandehi District, after the protest turned violent. Police killed two civilians, Raj Dev Yadav and Brahma Dev Yadav, while they were on their way home from the market on September 8, according to residents in Bara District. Local police denied that both were innocent civilians, alleging the two were Maoists. On September 11, a judge in Kathmandu District Court ordered the Government to pay \$1,345 (NRs 100,000) to the family of Ganesh Kukmar Rai, who died as a result of maltreatment while in police custody in 1998. On December 12, police shot and killed Suresh Baral in Pokhara, Kaski District, as he ap-

proached a checkpoint on motorcycle at night. At year's end, the Government was investigating the incident.

An APF member shot and killed a 14-year-old girl in Chaumala, Kailali in February 2002. According to press reports, the APF member may have had a personal dispute with the girl's family. The APF arrested the member and turned him over to the police for investigation. At year's end, the policeman remained in jail awaiting trial.

There were no further developments in the 2002 killings of Ajabwal Yadav, Sakur Manihar, Krishna Sen (see Section 2.c.) or Ram Hari Khadga.

There were no developments in the following 2001 cases: The deaths of Bhadur Ale Magaar; Rita Banjara; Madan Shrestha; Kul Bahadur Malla; Chandra Jumari B.K.; Tika Kumari Khatri; Prakash Ojha; Chandradip Yadav; Uttimal Yadav; Devkumar Yadav; Bishnu Rai; Jit Bahadur Ghatri (see Section 1.c.), Dil Bahadur; five robbery suspects in a jungle in Bara District; a civilian in the Parsa District; eight Maoists, four NGO employees, and a local civilian.

Maoists were responsible for numerous serious abuses, including during the January to August ceasefire. Maoist rebels clashed with security forces repeatedly during the year and engaged in targeted killing of individual members of the security forces, including some that were unarmed at the time. Police fatalities totaled 142; RNA fatalities totaled 122; and APF fatalities totaled 71 for the year. For example, on January 26, four armed Maoists shot and killed Krishna Mohan Shrestha, Inspector General of Police of the Armed Police Force, his wife, and bodyguard in Kathmandu. On August 5, three soldiers, one policeman, and a civilian were killed when Maoists set off an improvised explosive device in Negi, Panchthar District. On August 28, insurgents shot and killed RNA Colonel Kiran Basnet outside his home in Kathmandu. On September 21, Maoists attacked a police post inside a refugee camp at Khundunabari, Jhapa District and killed one policeman.

Although their activities were focused on the security forces, the Maoists continued to kill and torture civilians and politicians. The insurgents killed 255 civilians during the year. For example, on February 19, armed Maoists stormed onto the property of an elementary school in Baglung District to conduct "training." Two children, ages 7 and 12, were shot and killed in the course of the "training." On June 23, insurgents dragged two civilians from their homes in Sarlahi District, beating one to death and injuring the other severely. On September 3, Maoists killed four civilians, including a female community health volunteer, in Ramechhap District on suspicion of "informing" to the RNA. On September 8, a Maoist bomb detonated in a local government office, killing 10-year-old schoolboy Deepak Gurung. On September 10, Maoists decapitated the former Chairman of a Village Development Committee in Baglung District. On September 18, Maoists kidnapped Guru Prasad Luintel, a teacher and local political activist, from his home in Okhaldhunga. The insurgents reportedly tortured him and paraded him from village to village before killing him on September 24. On November 23, a Maoist bomb killed two boys in Nuwakot District.

*b. Disappearance.*—The disappearance of persons while in the custody of the security forces was a problem. In April 2002, parliament passed the Terrorist and Destructive Activities Act, which codified some aspects of the Royal Ordinance declared at the time of the state of emergency in November 2001, such as extended preventive detention. According to the Informal Sector Service Center (INSEC), a local human rights NGO, the whereabouts of 177 persons in government custody since the beginning of the insurgency remained unknown at year's end. For example, according to Amnesty International (AI), on September 11, security forces arrested Om Bahadur Thapa at his shop in Kathmandu on suspicion of being a Maoist and took him to an undisclosed location. On September 23, members of the security forces arrested AI member and lawyer Ujjwal Sukla at his home. There were no developments in the 2002 disappearances of Som Bahadur Ghale Tamang, General Secretary of the Tamang Indigenous People's Organization, or of Bishnu Prasad.

There were no developments in the 2001 disappearance of Shiva Prasad Sharma. INSEC reported that Maoists abducted 665 persons during the year and that, at year's end, 384 civilians remained missing since the beginning of the insurgency in 1996. At year's end, six members of the national police, five members of the APF and four soldiers remained missing after being abducted by Maoists. Police statistics indicate that Maoists have abducted 227 policemen since 1996.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Civil Code prohibits acts such as beating and mutilation; however, security forces at times used torture and beatings to punish suspects or to extract confessions. The Center for the Victims of Torture (CVICT) reported that blindfolding and beating soles of feet are the most common methods.



Detainees were often held incommunicado and unable to contact family members, doctors, or lawyers (see Section 1.d.). The Government sometimes failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against officers involved.

Members of the security forces often were unwilling to investigate and to discipline fellow officers, and persons were afraid to bring cases against the police or Army for fear of reprisals. The Government provided human rights education for the police force, and soldiers received human rights education as part of their regular training.

The Constitution and the Torture Compensation Act provide for compensation for victims of torture. According to CVICT, 57 persons filed for compensation under the act during the year, compared with 7 claims during 2002. CVICT attributed the rise in claims to victims' greater willingness to report such incidents during the relative security of the ceasefire. Of the 57 cases, 7 were awarded compensation during the year.

Human rights groups usually provided alleged examples of torture by government agents. For example, according to a report of the World Organization Against Torture (OMCT), Manoj Lama and Abdesi Singh, separately suspected of theft on July 30, and Kumar Lama charged with robbery on July 3, were held incommunicado and tortured at the Hanumandhoka District Police Office in Kathmandu. At the same facility, according to AI, Deepak Laya Magar, suspected of attempted murder, and Ram Kumar Karki and Jairam Bhandari, robbery suspects, were subjected to torture. On May 15, after a lawyer working for a local NGO saw them, the prisoners were hospitalized.

According to AI, in April 2002, two RNA officers raped two teenaged girls at an Army barracks. After publication of the AI report recounting the incident, the girls and their families recanted. Human rights groups suspected the girls were pressured to do so. The RNA acquitted one of the officers of rape charges but found him guilty of unlawfully detaining the two girls.

On December 15, two members of the APF reportedly raped a 16-year-old girl in Baijapur, Banke District. The APF dismissed the two policemen and turned the case over to the civil police for criminal action.

There was no compensation or action taken against police in the 2002 torture cases, according to CVICT, of Krishna Lohani B.K and her husband, Ram Bahadur B.K. There were no developments concerning Chetkana Adhikary's 2002 torture complaint filed with the Alliance for Human Rights and Social Justice.

Local and international human rights groups have documented Maoist violence in areas affected by the "People's War."<sup>3</sup> The Maoists most often have targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers. For example, on September 7, Maoists reportedly tied Gyanendra Khadka, a teacher and journalist in Melamchi, Sindhupalchowk, to a volleyball pole in the school playground and slit his throat in front of his students. On October 25, Maoists tortured to death a Communist Party of Nepal (UML) activist in Makwanpur District.

According to the Government, human rights groups, and the media, Maoists conscripted civilians, including children, into service and have used abducted civilians as human shields during attacks on army and police posts (see Section 5).

There also were cases of intimidation, torture, or other degrading treatment. On April 25, Maoists kidnapped the head of the local Red Cross chapter in Kalikot District. On May 4, Maoists abducted a local resident from Jaljale, Terhathum District, and beat him unconscious. On May 19, Maoists beat unconscious the headmistress of a local school in Masel, Gorkha District, and forced her to attend their program while blindfolded. On September 19, Maoists set fire to an ambulance in Lumle, Kaski District, which was attempting to bring a patient to the hospital during a general strike.

Prison conditions were poor and did not meet international standards. Overcrowding was common in prisons, and authorities sometimes handcuff or fetter detainees. According to the Department of Prisons, there were approximately 6,000 persons in jail, of which approximately 55 percent were awaiting trial. Women normally were incarcerated separately from men, and in similar conditions.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults, either with an incarcerated parent, or as criminal offenders. In November 2001, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act. Unlike in previous years, there were no reports of children in jail or custody as suspected or convicted criminals.

The Government permitted local human rights groups and the International Committee of the Red Cross (ICRC) to visit prisons. The ICRC has limited access to detainees in army custody.

*d. Arbitrary Arrest, Detention, or Exile.*—Three different laws operate in the area of arrest and detention. The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest; however, the police at times violated this provision. Under law, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the security forces occasionally held prisoners longer. The Supreme Court has, in some cases, ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, have reported difficulty in obtaining bail.

Detainees not held under special anti-terrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice the police granted access to prisoners on a basis that varied from prison to prison; however, Maoist suspects often were denied visits from family members and lawyers. There was a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pre-trial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. Persons whom the Government detained under the Act were considered to be in preventive detention and could be held for up to 6 months without being charged with a crime. The authorities may extend periods of detention after submitting written notices to the Home Ministry. The security forces must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. Human rights groups allege that the security forces have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists.

Under the Terrorism and Destructive Activities Act, suspects must appear before a court within 60 days after their arrest. The suspects may be held in preventive detention for up to 90 days; however, in practice many suspects were held much longer. According to latest police statistics, 18,934 suspected Maoists have been arrested since the beginning of the insurgency. Of that number, 12,447 were released after investigation, 5,847 have been charged and/or prosecuted, and 384 remained under investigation. Government sources estimated that approximately 1,800 Maoist suspects, including 5 Central Committee members, were released without judicial process during the recent ceasefire. During the year, at least 24 cases were sent to Appellate Courts, which have jurisdiction in terrorist cases, for trial. All of the trials were still ongoing at year's end. Figures for the number of persons being detained by the Army on suspicion of being Maoists were unavailable by year's end.

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO, the highest-ranking civil servant in each of the country's 75 districts. The act authorized the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Few recent instances of the use of the Public Offenses Act have been reported, since it has become more common to arrest persons under the Terrorism and Destructive Activities Act, particularly suspected Maoists. Many citizens involved in public disturbances, rioting and vandalism were summarily arrested, detained for short periods (sometimes just a few hours), and released.

Authorities detained journalists on occasion, on suspicion of having ties to or sympathy for the Maoists (see Section 2.a).

The Constitution prohibits exile, and it was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, lower level courts remained vulnerable to political pressure, and bribery of judges and court staff was endemic. The Supreme Court has the right to review the constitutionality of legislation passed by parliament.

Appellate and district courts have become increasingly independent, although sometimes they remained susceptible to political pressures. In Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDOs in violating detainees' rights. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture occurred in Maoist-affected areas.

The judicial system consists of three levels: District Courts, Appellate Courts, and the Supreme Court. The King appoints judges on the recommendation of the Judi-

cial Council, a constitutional body chaired by the Chief Justice. The Council also was responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system. A Special Court hears cases related to narcotics trafficking; trafficking in women and girls; crimes against the state; and crimes related to foreign currency. The Appellate Courts hear cases against suspects charged with violations under the Terrorist and Destructive Activities Act.

Delays in the administration of justice were a severe problem. According to the latest statistics, the Supreme Court had a backlog of 16,488 cases; the Appellate Courts had 15,138; and district courts had 32,537. Under the state of emergency, the right to constitutional remedy (except habeas corpus) was suspended, and the Supreme Court temporarily suspended accepting new civil rights cases. By year's end, at least 24 suspected Maoists arrested under special anti-terrorism laws were being tried in the Appellate Courts; however, none of these cases had concluded by year's end.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, except in some security and customs cases. All lower court decisions, including acquittals, were subject to appeal. The Supreme Court was the court of last resort, but the King may grant pardons. The King also can suspend, commute, or remit any sentence.

Although prisoners have a constitutional right to legal representation and a court appointed lawyer, a government lawyer or access to private attorneys was provided only on request. Consequently, those persons unaware of their rights may be deprived of legal representation. Suspects detained under the Terrorism and Destructive Activities Act often were denied access to both attorneys and family members.

Unlike in previous years, there were been no instances of penalization of attorneys involved in the defense of human rights. According to INSEC, seven attorneys were arrested for suspected Maoism since the beginning of the state of emergency in November 2001.

Military courts adjudicate cases concerning military personnel, who are immune from prosecution in civilian courts. Military courts do not try civilians for crimes involving the military services.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials have occurred during the past 6 years.

In districts where Maoists have gained effective control, the insurgents have set up "people's courts." Although these courts generally decide civil cases, in 2001 eight policemen who surrendered in Dailekh were reportedly found guilty of crimes against the people by a hastily constituted "people's court" and were summarily executed.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such practices and, although constrained by the demands of fighting the Maoist insurgency, the Government generally observed these prohibitions. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. The law empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Judges must approve them in felony cases. Under the Terrorism and Destructive Activities Act, the security forces may conduct searches as long as they inform the subject of the search in advance. Vehicle and body searches by security personnel have been common at roadblocks in many areas of the country.

Government provisions permitted discrimination in employment on the basis of political opinion; however, there were no reports of such discrimination.

There were a few reports during the year of government military commanders in some conflict areas or of Maoist commanders blockading shipments of food and medicine, but the Army had ceased the practice by year's end, according to NGO reports. In the case of the Army, the Government maintained that such incidents had occurred at the direction of individual commanders and was not a governmental policy.

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

*a. Freedom of Speech and Press.*—The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government imposed restrictions on these rights. The Constitution prohibits speech and writing that would

threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The Act also includes penalties for violating these requirements. In addition, the Act prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; that undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; that creates animosity among persons of different castes and religions; or that adversely affects the good conduct or morality of the public. The Act also provides a basis for banning foreign publications; however, foreign publications were widely available. None were banned or censored during the year.

There were hundreds of independent vernacular and English-language newspapers available, representing various political points of view. The Government owned Gorkhapatra, a Nepali-language daily, and The Rising Nepal, the third-largest English-language daily. Government newspapers reflected government policy. Some editors and writers at both private newspapers and at government-owned newspapers practiced self-censorship. Ruling political parties have influenced the editorial policy of the government newspapers to their advantage.

A number of journalists have encountered problems during the year. On August 28, unidentified individuals abducted from his office Ramhari Chaulagain, a reporter for the weekly publication, Sanghu. On October 24, the security forces released him. On September 9, the security forces arrested Subhashankar Kandel, executive editor of the Maoist-affiliated Janadharan. He was released at the end of the month.

Police briefly arrested 31 journalists on September 11 who were violating the temporary ban on assembly by protesting the Maoist killing of journalist Gyanendra Khadga on September 7. On September 13, police arrested Sitaram Baral, associate editor of Jana Aastha. He claimed to have been beaten during his detention and was hospitalized after his release on September 17, according to the Committee to Protect Journalists. Unknown persons abducted Columnist/writer Nawin Magar Pun from his home in Kirtipur on September 21. He was released on November 22. Some journalists have suffered human rights abuses. On September 28, security forces shot and killed Binod Chaudhury, a correspondent for the Maoist publication Janadesh, in Kailali District. According to the security forces, Chaudhury fired on them first, but Janadesh contended that he was unarmed. Security forces reportedly arrested Bhaikaji Ghimire of Samadrishti magazine on December 2. His whereabouts remained unknown at year's end. Journalist Ram Krishna Adhikari, of the weekly Sanghu and the radio Times FM, was arrested on December 10 in Kathmandu during a meeting of the Human Rights Organization of Nepal (HURON). He was released on December 20. According to the Federation of Nepalese Journalists, 97 journalists were arrested during the year. Three, including Ghimire, remained missing at year's end.

In 2001, the Government announced that restrictions under the state of emergency were intended to target the Maoists and not the general population; however, journalists and editors of both mainstream and Maoist-oriented publications were detained during the emergency. In November 2002, journalists and human rights activists filed a petition in court claiming compensation for illegal detention and severe torture during the state of emergency. By year's end, there were no further developments concerning this petition.

In 2001, the Supreme Court issued a writ of habeas corpus releasing Krishna Sen from jail (see Section 1.a.). He had been arrested in 1999 in connection with the publication of an interview with a Maoist leader. In May 2002, local newspaper Jana Astha reported that Sen, editor of the daily Janadisha, was re-arrested and killed in custody. The Government denied the claim. No investigation into Krishna's death was initiated by year's end (see Section 1.a.).

The Broadcast Act allows private television and FM radio broadcasts, but implementation of the Act has been slow. The Government owned one television station, and controlled one radio station that broadcasts both AM and FM signals. Radio reaches the greatest number of persons and has the largest influence. Government-owned Radio Nepal broadcasts throughout the country through a series of repeater stations. With privatization of a number of radio bands, there was a marked increase in the range of programming options available. Privately owned FM stations can broadcast their own independently collected news but also must broadcast Radio Nepal news at least once daily. The Government did not restrict access to foreign radio broadcasts, private cable networks, or to the purchase of television satellite dishes. Indian, Chinese, and Pakistani broadcast television also was readily available in many parts of the country.

There are four private television stations in the country; a fifth station has been granted a license and is scheduled to begin service by mid-2004. They mainly provided entertainment programming, but commentary critical of government policies occasionally occurred during publicly broadcast discussion programs. Throughout the country, local entrepreneurs also received international stations via satellite for viewing in local bars, and resold the signal to local residents. Television time on the government-owned television station also was leased to private producers.

By year's end, the Government had issued private broadcasting licenses to 56 FM stations. Private stations must broadcast the government station's news program but also were permitted to rebroadcast news from abroad. Private radio stations, like print media, practiced self-censorship.

The Government licensed 15 companies for Internet and e-mail services and did not censor or block access to Internet sites.

There were no government efforts to curtail academic freedom during the year. According to INSEC, security forces have killed 52 teachers since 1996.

The Maoists did not tolerate freedom of expression and tightly restricted the print and broadcast media under their control. On January 10 and again later in the month, Rabin Prasad Thapalia, a contributor to the weekly newspaper Ruprekha, reportedly received death threats because of items he had written in September 2002 regarding widows of government security officers killed by the Maoists. He published an apology, but did not respond to an ultimatum to critique the article "word for word." On July 16, Maoists threatened the life of Kantipur journalist Bed Prakash Timilsena in Achham District for reporting "without permission." On September 7, Maoists killed Gyanendra Khadga, a correspondent for the state-owned media as well as a teacher, in Sindhupalchowk District (see Section 1.c.). Maoists confined to his village Deepak Bahadur Thapa, an Achham-based correspondent for the national newspaper Nepal Samacharpatra for several months at the end of 2002 and early in the year. According to his editor, the Maoists accused Thapa of writing against their movement and threatened him, saying that he would be in danger if he attempted to leave the village.

Maoist groups extorted money from private schools and teachers and sometimes inflicted punishment on school officials. Threats and intimidation from Maoist-affiliated All Nepal National Independent Student Union (Revolutionary) (ANNISU-R) succeeded in closing down more than 200 private schools, primarily in areas most heavily affected by Maoist activities. Two private schools in Kathmandu remain closed, one permanently. The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and the banning of the singing of the national anthem.

The Maoists have killed 59 teachers since the beginning of the insurgency in 1996, including 9 during the ceasefire, and have destroyed 26 school buildings. Teachers in Maoist-affected areas reported regular threats and extortion demands.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association; however, the Government restricted these rights on vague grounds, such as undermining the sovereignty and integrity of the State or disturbing law and order. Freedom of assembly was one of the civil rights suspended under the state of emergency. The Government required that organizers apply for permits for public rallies and demonstrations. Except for the duration of the state of emergency, large public demonstrations were common. The Government temporarily suspended the right to assembly in Kathmandu Valley from September 1 to 26. During the year, some protests turned violent, and police sometimes used baton charges to break up demonstrations. Local authorities in Kathmandu halted a number of public celebrations by the Tibetan community throughout the year that included veneration of the Dalai Lama as a political, as well as a religious leader.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and permits the practice of all religions; however, proselytizing was prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complained of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The Constitution describes the country as a Hindu Kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

In January 2002, the Government ordered Muslim religious schools to register with the local District Administration Officers. The schools had to supply information about their funding sources in order to continue operation. Some Muslim leaders criticized the move as discriminatory. The registration requirement has not been enforced.

A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country. Arrests or detentions for proselytizing were rare, and there have been few incidents of punishment or investigation in connection with conversion or proselytizing during the last few years. However, the Government on occasion investigated reports of proselytizing. Non-governmental groups or individuals were free to file charges of proselytizing against individuals or organizations. On February 14, three Christian men were arrested in Pyuthan District and charged with proselytizing. A case was filed against them in Pyuthan District Court on February 28. They were released and charges dropped on September 11.

In March, police prohibited Tibetans celebrating the New Year in Kathmandu from displaying pictures of the Dalai Lama. Previously, a picture of the Dalai Lama had been carried around the stupa as part of religious ceremonies (see Section 2.b.).

Government policy did not support religious extremism, although some political figures have made public statements critical of Christian missionary activities.

The caste system strongly influenced society, even though it was prohibited by the Constitution. Caste discrimination was widely practiced at Hindu temples.

For a more detailed discussion, see the 2003 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, for security reasons, the Government restricted travel by foreigners, including Tibetan residents, to some areas near the Chinese border. On January 18, the Government lifted restrictions on women's travel to the Gulf States to work as domestic servants. The Government allowed citizens to emigrate and those abroad to return, and was not known to revoke citizenship for political reasons.

Internal displacement because of the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100,000 and 150,000 citizens may have been internally displaced; other sources estimated that 100,000 might be an upper number. The variation existed because there were no internally displaced persons (IDP) camps; those displaced usually stayed with relatives and did not register with the Government or usually seek assistance.

The country is not a party to U.N. Refugee Conventions and the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. On August 22, the Government formulated an official policy toward refugees that pledged to uphold the principle of non-refoulement and without hindrance to allow U.N. High Commissioner for Refugees (UNHCR) "to verify and establish the status of people seeking asylum." The Government did provide asylum for refugees and asylum seekers and generally has cooperated with the office of the UNHCR and other humanitarian organizations in assisting them. The UNHCR maintained an office in Kathmandu. Since 1959, the Government has accepted as residents approximately 20,000 Tibetan refugees, many of whom still reside in the country. Since 1991 it also has provided asylum to approximately 101,000 persons who claim Bhutanese citizenship. The great majority of these refugees live in UNHCR administered camps in the eastern part of the country. An additional 15,000 Bhutanese refugees reside outside the camps in either the country or India. The total represents approximately one-sixth of Bhutan's estimated pre-1991 population. Since the flight of the Karmapa Lama from Tibet in 2000, the Government has disallowed UNHCR access to the Nepal-China border to monitor the treatment of Tibetan refugees. In September 2001, the Government authorized UNHCR to travel to the headquarters of a border district, but not the border itself, to consult with local officials.

The People's Republic of China and the Government tightened control of movement across their border in 1986, but neither side has consistently enforced those restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to the UNHCR, police conduct in this regard has improved since 1999, although border police sometimes extort money from Tibetans in exchange for passage. There were credible reports that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border.

On April 15, the Government arrested 21 Tibetans, including 11 minors, on immigration charges. The three youngest children were released in UNHCR custody. On May 31, the Government handed over the 18 remaining Tibetans to Chinese authorities. The Government has since characterized the deportations as an aberration that does not reflect official policy. On November 24, the Government released all

remaining Tibetan asylum seekers held in detention after a private benefactor paid their immigration fines.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs. The Government accepted the refugee presence as temporary on humanitarian grounds. The camps were administered by UNHCR; the World Food Program (WFP) provides sustenance and the Government made a contribution to the WFP earmarked for the refugees. In 2002, there were reports by refugee women and children that some of the Bhutanese refugee workers at the camps had committed sexual assault. The Government responded by providing more police protection to the camp and UNHCR conducted an investigation that resulted in the removal of certain local personnel and increased protection measures for refugee women and children (see Section 5). On September 21, Maoists attacked a police post in one of the camps, killing one policeman. In response, the Government withdrew its permanent police presence from all 7 camps. The Government officially restricted refugee freedom of movement and work, but did not strictly enforce its policies. Local authorities have attempted to restrict some of the limited economic activity in the camps permitted by the central Government. Violence sometimes has broken out between camp residents and the surrounding local population. The UNHCR and other donors and relief organizations have defused tensions through an assistance plan for refugee-affected areas aimed at improving conditions in communities adjacent to the camps.

In 1994 the Government and the Government of Bhutan formed a joint committee and began bilateral talks to resolve the refugee problem. In 2000, they agreed on preparations for verification at the camps. Verification interviews at the first refugee camp commenced in March 2001 and concluded in December 2001. During the year, the Nepal-Bhutan Joint Verification Committee announced the results of the first verification exercise. The results were controversial, and many refugees staged peaceful protests in and near the camps. Ninety-four percent of the verified refugees filed appeals against their verification status. None of the remaining 6 camps has yet been verified. After a December 22 briefing for Khudunabari Camp refugees by the Bhutanese Verification Team resulted in disorder and throwing of stones, repatriation and further verification were indefinitely delayed.

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

The 1992 Constitution provides citizens with the right to change their government peacefully. Although now constrained by the inability to hold elections due to the insurgency, citizens have exercised this right in practice through free and fair elections held on the basis of universal suffrage. Citizens, through their elected representatives, also have the right to amend the Constitution with the exception of certain basic principles that they may not change—sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy. Executive power is vested in the King and the Council of Ministers.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. On May 22, 2002, Prime Minister Sher Bahadur Deuba asked King Gyanendra to dissolve parliament and schedule mid-term elections for November 13, 2002. On October 3, 2002, the Prime Minister asked the King to delay polls until November because of Maoist threats to disrupt the elections with violence. On October 4, 2002, the King dismissed Deuba's caretaker government for its failure to hold elections within the constitutionally mandated period; temporarily assumed executive powers; postponed elections indefinitely; and invited all mainstream political parties to nominate members of a new caretaker government. On October 11, 2002, the King appointed Lokendra Bahadur Chand as Prime Minister of a caretaker government. After Chand resigned on May 30, the King appointed Surya Bahadur Thapa Prime Minister on June 4. By year's end, no date had been set for national or local elections.

Under the Constitution all citizens 18 and over may vote. The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Assembly, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house also may introduce legislation and send it to the lower house for consideration.

The King exercised certain powers with the advice and consent of the Council of Ministers and the Prime Minister. The King has exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution permits the King, acting on advice of the Council of Ministers, to exercise emergency powers in the event of war,

external aggression, armed revolt, or extreme economic depression. In such an emergency, the King, as advised by the civilian government, may suspend without judicial review many basic freedoms, including the freedoms of expression, assembly, and movement and residence, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved after 3 months by a two-thirds majority of the lower house of the parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and for up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, or region, or that does not operate openly and democratically. In the 1999 election, there were sporadic incidents of violence that mainly occurred between supporters of rival political parties. Maoist efforts to disrupt the 1999 elections by intimidating voters and candidates had some effect. The elections generally were held throughout the country according to schedule. International observers considered the elections to be generally free and fair.

There were no specific laws that restrict women, indigenous people, or minorities from participating in the Government or in political parties. Tradition limits the roles of women and some castes in the political process. However, the Constitution requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. The 1999 elections resulted in an increase from 7 to 12 in the number of women in the 205-seat lower house and from 5 to 9 in the 60-seat upper house. There was one woman in the interim Cabinet appointed by the King in October 2002, and one woman in the interim Cabinet appointed in June.

No specific laws prevent minorities from voting or restrict them from participating in the Government and political parties on the same basis as other citizens. There were no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally have held more power than others.

#### *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, investigating and publishing their findings on human rights cases without government restriction. Unlike during the state of emergency, there were no reports that the Government detained human rights activists suspected of Maoist affiliation during the year. There were approximately 10 domestic human rights NGOs. These included the Human Rights Organization of Nepal (HURON), INSEC, the International Institute for Human Rights, Environment, and Development (INHURED), and the Human Rights and Peace Society (HURPES). The Nepal Law Society also monitored human rights abuses and a number of NGOs focused on specific areas such as torture, child labor, women's rights, or ethnic minorities.

According to INSEC, security forces arrested 16 human rights activists during the state of emergency in 2001-02.

The insurgency has caused a number of NGOs to reduce their activities substantially. Maoists prevented journalists and human rights activists who traveled to Rolpa to inspect the area on their own. In addition, Maoists have killed and abducted NGO workers. On September 13, Maoists attacked lawyer Durga Prasad Majagaiya at his home in Tulsipur, Dang District. He died of his injuries on September 26. There were reports during the year that insurgents stole emergency food supplies from NGO programs targeting vulnerable populations. In 2002, Maoists also targeted aircraft attempting to make humanitarian deliveries of foodstuffs.

The Government did not refuse visas to international NGO human rights monitors. AI conducted an official visit to the country from July 2 to 7. Apart from some areas along the country's border with China, access was not otherwise restricted. An organization monitoring Tibetan refugee flows has been denied access to these border areas.

In 2000, the Government formed the NHRC, a government-appointed commission with a mandate to investigate human rights violations. The Commission included members from all major political parties and operated independently; however, resource constraints and insufficient manpower restricted the number of cases the commission can bring to court. Once the NHRC completes an investigation and makes a recommendation, the Government has 3 months to respond. Since its estab-



ishment, the Commission has received 1,865 complaints of human rights violations, investigated 314, and recommended compensation in 26 cases. Some cases involved the disappearance of detainees, illegal detention, and arrest of acquitted persons, but many other cases were relatively minor.

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

The Constitution specifies that the Government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated in many areas of daily life and throughout the country. Discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

*Women.*—Violence against women was a serious problem that received limited public attention. In April 2002, parliament passed the Domestic Violence Control Bill that did not receive royal approval before parliament was dissolved; if it is to become law, it or another version will have to be re-introduced in another parliamentary session. There was a general unwillingness among citizens, and particularly among government authorities, to recognize violence against women as a problem. In a 1998 survey conducted by local NGO SAATHI, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. This unwillingness to recognize violence against women and girls as unacceptable in daily life was seen not just in the medical profession, but among the police and politicians as well.

The police department has 18 women's cells with female officers who received special training in handling victims of domestic violence. The police also have sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes. Even though the police may make an arrest, often neither the victim nor the Government pursued further prosecution.

Rape and incest also were problems, particularly in rural areas. Laws against rape provide for prison sentences of 6 to 10 years for the rape of a woman less than 14 years of age and 3 to 5 years for the rape of a woman above the age of 14. The law prescribes imprisonment for 1 year or a fine for the rape of a prostitute. The law prohibits spousal rape. A survey conducted by SAATHI found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the perpetrator was convicted and jailed.

The dowry tradition is strong. The killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was the physical abuse of wives by the husband and the husband's family to obtain additional dowry or to force the woman to leave to enable the man to remarry.

Folk beliefs about witchcraft generally involved rural elderly women, sometimes widows. Shamans or other local authority figures sometimes publicly beat and physically abuse suspected witches as part of an exorcism ceremony. In May, Raheli Pariyar died in Rampur, Ramechhap District, as a result of an "exorcism" performed by local shamans. In September 2001, the Supreme Court issued a show cause notice to the Government for its failure to enact a law specifically to punish perpetrators of violence in witchcraft cases.

At least 10 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general. SAATHI's assistance program includes a women's shelter and a suicide intervention center. The shelter provided housing, medical attention, counseling, and legal advocacy for the victims of violence.

Trafficking in women remained a serious problem in several of the country's poorest areas, and large numbers of women still were forced to work against their will as prostitutes in other countries (see Section 6.f.).

In September, the Human Rights Watch (HRW) examined the response of UNHCR and the Government to rape, domestic violence, sexual and physical assault, and trafficking of girls and women from refugee camps. Their report also stated that the country's system of refugee registration discriminated against women by distributing rations through male heads of households. Further, the report noted that 35 refugee women and girls were missing from the camps and may be trafficking victims at year's end.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement those provisions, even in many state industries. Women faced systematic discrimination, particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remained severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names. Inheritance

laws were revised in 2002 so that unmarried, widowed, or divorced women can inherit parental property. The Citizenship Law discriminates against foreign spouses of female citizens, and denies citizenship to the children of female citizens married to foreign spouses, even if those children are born in the country. Many other discriminatory laws still remain. According to legal experts, there were more than 50 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for inheritance, land tenancy, and the division of family property.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. Hundreds of NGOs are registered to work on women's issues in the areas of literacy, small business, skills transfer, and prevention of trafficking in women and girls. There also were a growing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

*Children.*—Education is not compulsory. Government policy was to provide free primary education for all children between the ages of 6 and 12 years, but the quality of education was sorely inadequate, many families cannot afford school supplies and clothing, and schools do not exist in all areas. Schools charge fees for higher education. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attend secondary schools at a rate half that of boys. On April 5, the Department of Education issued a report finding that one-quarter of elementary school-aged girls remain deprived of basic education. Basic health care was provided free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained.

Forced prostitution and trafficking in young girls remained serious problems (see Section 6.f.).

Societal attitudes view a female child as a commodity to be bartered off in marriage, or as a burden. Some persons considered marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. According to the Ministry of Health, girls' average age of marriage was 16 years of age. The age difference in marriage often was cited as one cause of domestic violence.

Unlike in previous years, there were no reports of children in jail or custody as suspected or convicted criminals, although in 2002 there were reports of children held under anti-terrorism laws as suspected Maoists.

There have been numerous reports that Maoists recruited teenagers to serve as porters, runners, cooks, and armed cadre. During the ceasefire, the Maoists reportedly abducted hundreds of rural teens and children, requiring them to attend training and indoctrination programs and/or join their ranks.

*Persons with Disabilities.*—The Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, transportation, employment, education, and other state services. However, despite government funding for special education programs, the Government did not implement effectively or enforce laws regarding persons with disabilities. A number of NGOs working with persons with disabilities received significant funding from the Government, but persons with physical or mental disabilities relied almost exclusively on family members to assist them.

Persons with disabilities faced widespread societal discrimination. There was discrimination against persons with disabilities in employment, education, and in the provision of other state services. Families often were stigmatized by and ashamed of family members with disabilities. Economic integration was further hampered by the general view that persons with disabilities were unproductive. Due to the inadequacy of facilities, the authorities sometimes placed prisoners with mental disabilities in jails under inhumane conditions. A 2001 report authored jointly by UNICEF and the National Planning Commission estimated that there were approximately 400,000 persons with disabilities in country.

*National/Racial/Ethnic Minorities.*—In the country there are more than 75 ethnic groups that speak 50 different languages. The Constitution provides that each community shall have the right "to preserve and promote its language, script, and culture." The Constitution further specifies that each community has the right to operate schools at the primary level in its native language.

In remote areas, school lessons and national radio broadcasts often were in the local language. Near municipalities, education was almost exclusively in Nepali, the constitutionally mandated official language.

Discrimination against lower castes was especially common in the rural areas in the western part of the country, even though the Government has outlawed the public shunning of "untouchables," and made an effort to protect the rights of the disadvantaged castes. Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu Valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources. One member of the Cabinet was from an ethnic minority community.

Caste-based discrimination, including barring access to temples, is illegal. Members of the lower castes have entered many temples, including Pashupatinath, the national site most sacred to Hindus, since a 2001 government emphasis on the illegality of discrimination. Progress in reducing discrimination was more successful in urban areas.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the freedom to establish and to join unions and associations. It permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties.

Union participation in the formal sector accounted for approximately 10 to 12 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the Government has not yet fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers. There were few reports of discrimination against union members.

The Government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Act provides for collective bargaining, although the organizational structures to implement the act's provisions have not been established. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. However, in general, labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking, inexperience, and employer lack of need to bargain.

The law permits strikes, except by employees in essential services. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal. In August, employees at a hotel in Kathmandu successfully negotiated their demands after staging a 3-day strike.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Historically, a system of bonded agricultural laborers, known as the Kamaiyas, existed in areas of the western Terai region. In 2000, the Government made bonded labor illegal and released the Kamaiya bonded agricultural workers from their debts. At that time, the number of released Kamaiya households was said to be 15,152, but subsequent surveys, including one completed in February 2002, have raised the estimate to 29,800 households. In 2002, the Kamiya Prohibition Act became law, which codified the emancipation of bonded laborers, penalized employers engaged in Kamaiya labor practices, and established governmental Kamaiya relief funds.

Enforcement of the Act by the Government was uneven and social integration of the Kamaiyas was difficult. According to ILO, 10,336 Kamaiyas have received land, and only 4,000 have received timber to build houses. The Government has set up

temporary camps for Kamaiyas still awaiting settlement, but few have been accommodated. Arrangements for distribution of food under a food-for-work program continued. A 2001 International Labor Organization (ILO) Rapid Assessment estimated that 17,000 child laborers were working as bonded laborers in the remnants of the Kamaiya system.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek. The law established a minimum age for employment of minors at 16 years in industry and 14 years in agriculture and mandated acceptable working conditions for children.

The Child Labor Act established specific penalties for those who unlawfully employ children. The legislation applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines, but not to informal sectors such as portering or rag-picking, or the 80 percent of the population engaged in subsistence agriculture. Children under the age of 14 years and children between the ages of 14 and 16 years may work, but no more than 6 hours a day and 6 days a week. Employers must maintain records of all 14- to 16-year-old laborers. However, the necessary implementing regulations have not yet been passed. The ministries have stated that the continued delay was a result of the need to rework the Act to comply with ILO Convention 182 on the Worst Forms of Child Labor.

Resources devoted to enforcement were limited, and children worked in many sectors of the economy. NGOs estimated that 2.6 million children—most of them girls—were economically active. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers—an estimated 95 percent. Roughly 60 percent of children who work also attend school. Approximately 70 to 75 percent of boys who work go to school, compared with 50 to 60 percent of girls who work. ILO 2001 Rapid Assessments estimated that 55,000 child laborers worked as domestics in urban areas, 42,000 as porters, 4,000 as rag pickers, and 17,000 as bonded laborers. Others are economically active in a few small-scale and cottage industries. During the year, an ILO program assisted 8,535 landless Kamaiyas children who worked as bonded laborers.

There were reports that the Maoists use children, including girls, as soldiers, shields, runners, and messengers.

The Ministry of Labor's enforcement record was mixed. In 2002 according to the Ministry, it conducted 369 inspections of carpet factories in the Kathmandu Valley to ensure that no child labor was present. The Ministry reported that 63 children under the age of 14 were found working in the factories, but no convictions or arrests were made under the Act. Government monitoring of other industries and of industries outside the Kathmandu Valley was sporadic. The Government also conducted public awareness programs to raise public sensitivity to the problem of child labor.

The private sector has made its own efforts to eradicate child labor, especially in the carpet industry. In 1999, the carpet manufacturers association pledged publicly to end child labor in the industry by 2005. The Rugmark Foundation certifies carpets made without child labor; over half of all carpet factories participate in this or a similar certification system. As a result of this initiative, and of consumer pressure, Rugmark estimated that children constitute only 2 percent of the work force in the export-oriented carpet industry. However, children's rights activists stated that children remained a part of the work force, in the smaller factories and family weaving units. During the year, Rugmark conducted 2,910 inspections at factories, identifying and removing 127 children from factories. Out of that number, 54 children agreed to receive care at Rugmark rehabilitation centers. Rugmark issued 74 warning letters to carpet factories where children were found employed.

*e. Acceptable Conditions of Work.*—In April the Government raised the minimum monthly wage for unskilled labor to \$25 (NRs 1894), which was not sufficient to provide a decent standard of living for a worker and family. The law also defined monthly minimum wages for semi-skilled labor at approximately \$26 (NRs 1944), skilled labor at \$28 (NRs 2,054), and highly skilled labor at \$30 (NRs 2,244). The minimum wage for children ages 14 to 16 was set at \$21 (NRs 1,558). Additional allowances for food and other benefits total \$7 (NRs 500) per month for adult labor, and \$5 (NRs 360) per month for children aged 14–16. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week.

Health and safety standards and other benefits such as a provident fund and maternity benefits also were established in the Act. Implementation of the new Labor

Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remained a serious problem. Border guards and immigration officials commonly accepted bribes from traffickers. Young women were by far the most common targets; trafficking of boys was reported in rare instances. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, or other purposes. The country was a primary source country for the South Asia region; most women and girls trafficked from the country went to India.

There is legislation to protect women from coercive trafficking. A ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the Gulf was lifted on January 18 for the organized sector. Women who have proof of external employment with an organization of 10 or more employees may travel to the Gulf. Government officials suspected that organized crime groups and “marriage brokers” were the primary perpetrators of trafficking in the country. The traffickers usually were from the country, but have links to brothels in India. NGOs’ unverified estimates were that approximately 50 percent of the victims were lured to India with the promise of good jobs and marriage, a family member sold 40 percent, and 10 percent were kidnapped. NGOs have found that once prevention programs were initiated in a district, the traffickers move to other areas. Youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

Enforcement of anti-trafficking statutes remained sporadic. In 2002, a Documentation and Information Center was established within the Ministry to coordinate trafficking initiatives. The Human Trafficking Control Act prohibits selling persons in the country or abroad and provides for penalties of up to 20 years’ imprisonment for traffickers. However, this legislation does not criminalize the separation of minors from their legal guardians with the intent of trafficking them. As a result, no crime occurs until the victim and perpetrators are outside the jurisdiction. There were many social and legal obstacles to successful prosecution, and convictions were rare. In June, the Special Court convicted the leader of a gang involved in the selling of nearly 100 girls to brothels in India to 75 years of imprisonment. Six of his accomplices received lesser sentences ranging from 36 to 12 years of imprisonment. Border guards commonly accepted bribes to allow contraband and trafficked girls in or out of the country.

According to the 2002–03 annual report of the Attorney General’s Office, 66 new cases were filed in district attorneys’ offices across the country. Pending from the previous years were 76 for a total of 142 cases. Of that number, 30 resulted in partial or full conviction and 69 in acquittal, while 43 are still pending. A 2001 survey conducted of 3 jails in the capital by the Human Rights and Environment Forum found 180 convicted or alleged traffickers in jail. Those convicted were serving sentences of up to 20 years.

Local NGOs combating trafficking estimated that from 5,000 to 12,000 Nepali women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent and NGOs were seeking better estimates. Citizens reportedly also have been trafficked to Hong Kong, Saudi Arabia, and other countries in the Middle East. In some cases, parents or relatives sell women and young girls into sexual slavery. Hundreds of girls and women returned voluntarily, were rescued, or were repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to some estimates, 50 percent were HIV-positive when they returned. The age of those being trafficked appeared to decrease over the year. Girls as young as 9 years of age have been trafficked.

A 2001 study by the ILO International Program on the Elimination of Child Labor found that 30 percent of sex workers in Kathmandu were below 18 years of age. Another study by a foreign labor department states that 5,000 to 7,000 sex workers were between the ages of 10 and 18 years old. Since 1996, active special police units staffed by female officers in 17 districts and the capital have dealt with crimes against women and children.

While the Government lacked both the resources and institutional capability to address effectively its trafficking problem, the Government has established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were pro-

grams in place to train the police and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. However, the Government lacked the fiscal means to provide adequate training and resources to police, and the courts were overburdened and susceptible to corruption. Government welfare agencies generally were incapable of delivering effective public outreach programs or assistance to trafficking victims. As a result, anti-trafficking efforts primarily have been the domain of NGOs and bilateral donors. While the Government has promulgated a National Plan of Action to combat trafficking, its implementation has been haphazard.

The Government provided limited funding to NGOs to provide assistance to victims with rehabilitation, medical care, and legal services. The Ministry of Labor and Social Welfare sponsored job and skill training programs in several poor districts known for sending commercial sex workers to India. The Government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The Government, together with NGOs and international organizations, has implemented local, regional, and national public awareness campaigns about trafficking in persons. Cultural attitudes toward returned victims of trafficking were often negative and the government response sometimes reflected that bias. There were more than 56 NGOs combating trafficking, several of which have rehabilitation and skills training programs for trafficking victims. Two representative NGOs were members of the MOWCSW's National Task Force Against Trafficking. With the Government's endorsement, many NGOs have public information and outreach campaigns in rural areas. These groups commonly used leaflets, comic books, films, speaker programs, and skits to convey anti-trafficking messages and education. Some organizations involved in the rehabilitation of trafficking victims state that their members have been threatened and that their offices have been vandalized because of their activities.

The International Agency Coordinating Group, comprised of NGOs, bilateral donor agencies, and government agencies, met regularly to share information, plan common approaches, and avoid duplication of work.

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## PAKISTAN

Pakistan is a federal republic, although the military retains a major role. In October 1999, General Pervez Musharraf overthrew the elected government of Prime Minister Nawaz Sharif. The Supreme Court later sanctioned the coup; however, it directed Musharraf to restore elected government within 3 years. Musharraf assumed the presidency by decree in 2001, while continuing as Chief of Army Staff and held a nationwide referendum held on April 2002 that extended his presidency for 5 years. Four months after the referendum, President Musharraf announced a controversial package of constitutional amendments, the Legal Framework Order (LFO), which amended the suspended Constitution to allow: the President to dismiss the Prime Minister and dissolve the Parliament; the creation of a National Security Council (NSC) as a constitutional body; and the insertion of a number of qualification requirements for candidates for Parliament. Several of the amendments had the effect of transferring substantial executive power from the prime minister to the previously symbolic presidency. Opposition politicians, lawyers, civil society groups, and many in the international community expressed concern about the amendment package and its constitutional legitimacy.

Elections were held for local governments in 2001, and for the National Assembly in October 2002. Domestic and international observers criticized the elections as deeply flawed. In February, Senate elections were held and resulted in 55 seats for the Pakistan Muslim League-Quaid-e-Azam (PML-Q) and allied parties and 45 members for the opposition. A ruling coalition headed by the PML-Q controls both houses of the national Parliament and the provincial assemblies in Punjab and Sindh. After several months of negotiations, on December 29, the Government and the MMA voted in the national and provincial assemblies to incorporate a large part of the LFO into the 1973 Constitution as its 17th Amendment. The amendment affirmed Musharraf's presidency until 2007 and his right to serve concurrently as Chief of Army Staff until the end of 2004. The amendment allows the President to dissolve parliament, but requires him to obtain the consent of the Supreme Court within 30 days after doing so. Opposition parties say the amended constitution legitimizes the powerful role of the military in politics, and left a great deal of power in the hands of the president.

The National Assembly met during the year; however, no bills have been passed since 2002, with the exception of the national budget. President Musharraf, the intelligence services, and the military continued to dominate the Government. Corruption and inefficiency remained acute, although reforms initiated by the Musharraf Government to reduce corruption have had some effect on officials at higher levels of government. Although the Supreme Court demonstrated a limited degree of independence, the overall credibility of the judiciary remained low.

The police have primary internal security responsibilities, although paramilitary forces, such as the Rangers and the Frontier Constabulary, provide support in areas where law and order problems are acute, such as Karachi and the frontier areas. Provincial governments control the police and the paramilitary forces when they are assisting in law and order operations. During some religious holidays, the regular army was deployed in sensitive areas to help maintain public order. Senior government and ruling party members tightly controlled the security forces; however, there were instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed numerous serious human rights abuses.

The country is poor with great extremes in the distribution of wealth; its population was approximately 150 million. The economy included both state-run and private industries and financial institutions and provided residents with an average per capita income of \$475. The Constitution provides for the right of private businesses to operate freely in most sectors of the economy, and there continued to be a strong private sector. Overall growth continued to remain sluggish; however, the GDP growth was estimated at 5.1 percent. During the year, the Government pursued several economic reforms designed to alleviate poverty; however, inefficiencies have stymied government efforts to decrease high poverty levels and create needed employment opportunities.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. In 2002, citizens participated in national government elections; however, many observers found serious flaws in the legal framework for the election. Security forces used excessive force, at some times resulting in death, and committed or failed to prevent extrajudicial killings of suspected militants and civilians. The Government enacted measures to improve the discipline and training of security forces and punished some security forces officials who were guilty of abuses; however, abuses by security forces remained a problem.

Killings between rival political factions and sectarian groups continued to be a problem. Police abused and raped citizens. Prison conditions remained extremely poor and life threatening, and police arbitrarily arrested and detained citizens. Several political leaders remained in detention or exile abroad at year's end. Case backlogs led to long delays in trials, and lengthy pretrial detention was common. The judiciary was subject to executive and other outside influences and corruption, inefficiency, and lack of resources remained severe problems. The Government has taken steps to control the judiciary and to remove itself from judicial oversight. Some aspects of the Government's implementation of its anti-corruption campaign violated due process. The Government infringed on citizens' privacy rights.

The press was able to publish relatively freely; however, journalists practiced self-censorship, especially on sensitive issues related to the military, and human rights groups continued to report acts of intimidation against journalists by the central Government. Provincial and local governments occasionally arrested journalists and closed newspapers that were critical of the Government or printed allegedly offensive material. The Government retained near-monopoly control of broadcast television and radio, but cable and satellite channels were increasingly popular and uncensored. Journalists were targets of harassment and violence by individuals and groups. During the year, the Government sporadically permitted several large anti-government demonstrations; however, it prevented other protests and arrested organizers, including for security reasons. The Government imposed some limits on freedom of association, religion, and movement. Governmental and societal discrimination against religious minorities, particularly Christians and Ahmadis, remained a problem.

Domestic violence against women, rape, and abuse of children remained serious problems. The Government publicly criticized the practice of "honor killings" but such killings continued. Discrimination against women was widespread, and traditional social and legal constraints generally kept women in a subordinate position in society. Sectarian attacks against Shi'a professionals remained a problem. The Government and employers continued to restrict worker rights significantly. Debt slavery persisted, and bonded labor of both adults and children remained a problem.

The use of child labor remained widespread. Trafficking in women and children for the purposes of prostitution and bonded labor was a serious problem.

Terrorist attacks continued. Most notably, Islamic extremist groups attempted at least twice to assassinate President Musharraf, and Sunni extremists killed over 70 Shi'as in bombings at a mosque and a police training facility in Quetta.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed extrajudicial killings. The police and security forces were responsible for the deaths of a number of individuals associated with political or terrorist groups during the year; however, exact figures were unknown by year's end.

The extrajudicial killing of criminal suspects, often while in police custody or in staged encounters, occurred. Police officials generally insisted that these deaths occurred during attempts to escape or to resist arrest; however, family members and the press insisted that many of these deaths were staged. Police personnel have been known to kill suspected criminals to prevent them from implicating police in crimes during court proceedings. In August, the Interior Ministry reported that 548 persons were killed in police encounters in 2002, with 114 encounter deaths reported in the first 6 months of the year. For example, in July, Manzar Husain was shot and killed while being transferred to police custody in Punjab. In August, Zafar Iqbal was tortured and killed while in police custody (see Section 1.c.). In September, Samuel Sunil was tortured and killed while in police custody in Qilla Singh Police Station. In September, riots broke out in the district jail in Sanghar after the torture and killing of prisoner Mohammad Akbar. There were no new developments in the encounter deaths from 2001 or 2002. Police also reportedly killed suspected criminals to circumvent or overcome insufficient evidence, to intimidate witnesses, judicial corruption, and, at times, political pressure. Police personnel continued to torture persons in custody throughout the country.

Amnesty International (AI) estimates that at least 26 persons died from police torture during the year (see Section 1.c.).

Security forces continued to use lethal force to disperse demonstrations (see Section 2.b.). On May 11, Rangers shot and killed one protester in Okara. No arrests or investigations have been made in this case. The demonstrators in Okara were protesting the Rangers' demand that they shift from a sharecropping to a leasehold tenancy. At year's end, the Rangers paid the family compensation for the 2002 killing of the protester in Okara. The Lahore High Court was petitioned; however the case still was pending at year's end. The Government set up roadblocks and checkpoints around the area and restrictions on water were enforced (see Section 2.d.). Police officers occasionally were transferred or briefly suspended for involvement in extrajudicial killings; however, in general police continued to commit such killings with impunity.

The Muttahida Quami Movement (MQM), an urban Sindh-based political party that in the past used violence to further its aims, claimed that the police specifically targeted its adherents for extrajudicial killings. For example, on May 20, Noshad Ansar, nephew of a regional MQM official, reportedly was killed in Karachi when unknown persons fired on his vehicle (see Section 5).

Police professionalism was low. At year's end, the comprehensive package of police reforms had not been implemented fully, and many local officials complained that the system had no real control over the police.

There were numerous killings during the year. For example, on October 6, unknown gunmen killed Maulana Azam Tariq, a Member of the National Assembly and chief of the Millat-I-Islamia, and four companions in Islamabad. Tariq was an extremist Sunni cleric and politician who allegedly had been behind many sectarian attacks against the Shi'a community. Violent anti-Shi'a demonstrations occurred in Islamabad and Sindh following the killing (see Section 2.b.). At year's end, Allama Saijid Naqvi was detained in connection with the investigation into the deaths.

There was no action taken, nor was any likely to be taken, in the following 2002 cases: The April killing of Mustapha Kamal Rizvi and Nishat Malik in Karachi; and the June death of Omar Asghar Khan.

There were numerous bombings during the year. For example, on July 4, 52 persons were killed in Quetta when unknown individuals detonated bombs and shot into a Shi'a mosque during services (see Section 2.c.). On July 11, 2 persons were killed when a suicide bomber blew himself up at Kawish Crown Plaza Shopping Center in Karachi. In December, unknown persons targeted leading government officials; they attempted to kill President Musharraf on two occasions. No one claimed responsibility for any of these acts.



During the year, two militants were convicted and sentenced to death for the May 2002 suicide bombing that killed 11 foreign engineers in Karachi.

Sectarian violence and tensions continued to be a serious problem throughout the country. Despite the Government's ban on groups involved in sectarian killings, violence between rival Sunni and Shi'a groups continued, although the number of Shi'a professionals killed in Karachi and elsewhere decreased from 2002. In addition, Ahmadis, Christians, and other religious minorities often were targeted. At least 100 persons were killed in sectarian violence during the year, most carried out by unidentified gunmen. For example, on June 8, unknown gunmen shot and killed 11 Shi'a police cadets in Quetta.

Numerous such killings remain unresolved. During the year, police made no arrests in connection with past sectarian killings.

"Honor killings" were a problem (see Section 5). Human Rights organizations estimated that at least 631 women and girls were killed by family members in so-called honor killings; however, many more women are believed to be affected by this crime. According to UNICEF, about half the honor killing deaths took place in Sindh, and it is believed that many more cases go unreported in Baluchistan and the North West Frontier Province (NWFP). For example, police exhumed the body of Afsheen Musarrat in Punjab after the President ordered an investigation into her death. One doctor told a newspaper, "We have found marks of torture on the body. Half of the body was blue, suggesting electrocution." In August, a woman and her four daughters were killed in Muridke allegedly by an uncle because he doubted their modesty. During the year, police made no arrests in connection with the 2002 killing of Mehvish Miankhel.

Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and India announced a ceasefire. By all accounts, the ceasefire continued at year's end.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances due to action by government forces; however, there were some reported cases of disappearances during the year. In most cases, the person reported as disappeared was found after several days of incommunicado detention in the custody of police or security forces (see Section 1.d.) For example, in March, Akhtar Baloch, coordinator for the Human Rights Commission of Pakistan (HRCP), disappeared after being driven home by an HRCP colleague. Security forces did not acknowledge that they held Akhtar Baloch; however, Reuters news agency reported that police later admitted he was in their custody. At year's end, Baloch was released. On December 16, there were reports that journalist Khawar Mehdi Rizvi was detained by Government agents. On several occasions, Government officials publicly confirmed that the ISI was holding Rizvi for questioning. However, police officials swore in court that they were not holding him and were not aware of his detention. His whereabouts were unknown at year's end.

In the intra-Mohajir violence in Karachi, victims sometimes first were held and tortured by opposing groups (or, as the Muttahida Quami Movement (MQM)—Altaf alleges, by security forces). Bodies of these victims, often mutilated, generally were dumped in the street soon after the victims were abducted; however, the incidence of such crimes decreased greatly during the year.

There were no developments in the January 2002 kidnapping and killing of foreign journalist Daniel Pearl in Karachi. In 2002, all four defendants were found guilty, and Sheik Omar Saeed was sentenced to death.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code prohibit torture and other cruel, inhuman, or degrading treatment; however, security forces regularly tortured, and otherwise abused persons. Police routinely used force to elicit confessions. Human rights observers suggested that, because of widespread torture by the police, suspects usually confessed to crimes regardless of their actual culpability; the courts subsequently at times dismissed such confessions.

Security force personnel continued to torture persons in custody throughout the country. For example, according to Human Rights Watch (HRW), Rasheed Azam was beaten and tortured at Khuzdar military cantonment. In September, two prison officials allegedly beat and killed 18-year-old Sunil Samuel at Camp Jail in Lahore after he was sexually assaulted by inmates.

Over the years, there have been allegations that common torture methods included: Beating; burning with cigarettes; whipping the soles of the feet; sexual assault; prolonged isolation; electric shock; denial of food or sleep; hanging upside down; forced spreading of the legs with bar fetters; and public humiliation.

Human rights organizations and the press have criticized the provision of the Anti-Terrorist Act that allows confessions obtained in police custody to be used in “special courts,” because police torture of suspects is common. Police generally did not attempt to use confessions to secure convictions under this law.

The Hudood Ordinances, which aimed to make the Penal Code more Islamic, provide for harsh punishments for violations of Shari’a (Islamic law), including death by stoning for unlawful sexual relations and amputation for other crimes. These Hadd punishments require a high standard of evidence, and, in over 20 years since the Hudood Ordinances were adopted, not a single Hadd punishment has been carried out. However, on the basis of lesser evidence, ordinary punishments such as jail terms or fines were imposed.

Special women’s police stations have been established in response to complaints of custodial abuse of women, including rape. Female personnel staffed these stations, but they receive even fewer material and human resources than regular police stations. Efforts to raise funds for the stations during the year achieved minimal results. According to the Government’s National Commission on the Status of Women, the stations did not function independently or fulfill their purpose. Despite court orders and regulations that only female officers may interrogate female suspects, women continued to be detained overnight at regular police stations and abused by male officers. Instances of abuse of women in prisons are less frequent than in police stations. Sexual abuse of child detainees by police or guards reportedly also is a problem.

Security forces used excessive force against demonstrators during the year (see Section 2.b.).

Members of the security forces continued to beat and harass journalists (see Section 2.a.).

Police failed in some instances to protect members of religious minorities—particularly Christians and Ahmadis—from societal attacks (see Section 2.c. and 5).

Prison conditions were extremely poor and life threatening. Overcrowding was widespread. According to HRCF, there were 80,000 prisoners in jails that were built to hold a maximum of 35,833 persons. Sialkot prison had a prison population of 2,300 in a space designed for 750. Thirteen prisoners died in Adiala and Central Jail in Lahore during the year due to poor treatment and poor conditions. Some 80 percent of prisoners were awaiting trial, mostly for petty offenses.

Inadequate food in prisons led to chronic malnutrition for those unable to supplement their diet with help from family or friends. Access to medical care was a problem. Mentally ill prisoners usually lacked adequate care and were not segregated from the general prison population (see Section 5). Foreign prisoners, mostly citizens of African countries, often remained in prison long after their sentences were completed because there was no one to pay for their deportation to their home country.

Shackling of prisoners was routine. The shackles used were tight, heavy, and painful, and reportedly have led to gangrene and amputation in several cases. AI reported that minors routinely were shackled.

There were reports of prison riots. On July 25, a riot broke out in Sialkot maximum-security prison, and three judges were taken hostage while inspecting the jail. Police stormed the jail and freed the remaining hostages. Subsequently, an investigation into the riots was initiated by the local Government. Preliminary reports placed responsibility for the riot on the Deputy Inspector General of Police. An arrest warrant was issued for the Deputy Inspector General and the Senior Superintendent of the Sialkot police. By year’s end, the police had failed to enforce the arrest order.

Female detainees and prisoners were held separately from male detainees and prisoners. According to the Progressive Women’s Association, there were approximately 2,765 women in jail nationwide at the end of 2002. Pretrial detainees often are not segregated from convicted criminals.

There are few facilities for convicted prisoners under 21 years of age, and children frequently were incarcerated along with the general prison population. Children of offenders often were kept in separate barracks in adult prisons; however, to keep the children separated, most of the time they were confined to their barracks. Many children in prison were born to female inmates who were sexually abused by prison guards. The Juvenile Justice System Ordinance (JJSO) was passed in 2000 to protect the rights of children; however, according to AI, an estimated 4,500 children were held in the nation’s prisons, of which 3,000 were awaiting trial. Imprisoned children often spent long periods of time in prison awaiting trial or a hearing before a magistrate, often in violation of the law. Children were subject to the same delays and inefficiencies in the justice system as were adults (see Sections 1.d. and 1.e.). HRW reported that children frequently were beaten and even tortured while in detention; usually this was done to extract confessions, but it was done also to punish

or intimidate child detainees or to extort payment from their families for their release.

Courts also may order that children be sent to reform schools or various types of residential facilities, many designed to provide vocational or other training. There were two facilities—one in Karachi and one in Bahawalpur—that serve as reform schools for juvenile offenders. Juvenile offenders and, in some cases, homeless and destitute children, may be sent to these residential facilities, for terms not to exceed the amount of time until they reach majority. Conditions in these institutions reportedly were poor, similar to those found in jails. Abuse and torture of the children in such institutions was a problem. Educational facilities in these institutions often were inadequate. Extortion on the part of the staff at such institutions reportedly was widespread; parents of inmates often were required to pay lower level staff members to visit their children or bring them food. Drug trafficking by guards and other staff also was a problem; some children reportedly developed drug habits while in these institutions and were supplied drugs by their guards.

Landlords in Sindh and political factions in Karachi operated private jails (see Section 1.d.).

The Government permits visits to prisoners and detainees by human rights monitors, family members, and lawyers with some restrictions (see Section 1.d.). Javed Hashmi, president of the 15-party Alliance for Restoration of Democracy, was arrested on October 29 and initially denied access to his family and lawyers (see Section 1.d.).

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, the authorities did not always comply with the law. The law permits the District Coordinating Officer (DCO) of a local district to order detention without charge for 30 days of persons suspected of threatening public order and safety. The DCO may renew detention in 30-day increments, up to a total of 90 days; however, human rights monitors report instances in which prisoners jailed under the Maintenance of Public Order Act have been imprisoned for up to 6 months without charge. For other criminal offenses, police may hold a suspect for 24 hours without charge. After a prisoner appears before a magistrate, the court may grant permission for continued detention for a maximum period of 14 days if the police provide material proof that this is necessary for an investigation.

The Government created the National Accountability Bureau (NAB) and special accountability courts to try corruption cases. The National Accountability Ordinance (NAO) permitted the NAB to hold suspects without charge for 15 days, renewable with judicial concurrence (see Section 1.e.).

There were some reported cases of disappearances during the year; however, in most cases the person reported as disappeared was found after several days of incommunicado detention in the custody of police or security forces (see Section 1.b.).

In November, the Government banned three groups that had previously been proscribed as terrorist organizations but had resurfaced using new names. The number of detained members of banned extremist and jihad groups was unknown at year's end.

The failure of the Government to investigate and punish abusive police officers effectively created a climate of impunity for police abuse. The failure of the Government to prosecute and to punish abusers effectively was widely considered a great obstacle to ending or reducing police abuse.

Police corruption was widespread. Police and prison officials frequently used the threat of abuse to extort money from prisoners and their families. Police accepted money for registering cases on false charges and tortured innocent citizens. Persons paid the police to humiliate their opponents and to avenge their personal grievances. Press reports indicated district police authorities in Gujranwala in Northern Punjab dismissed 60 policemen for corruption. At least eight police officials in Punjab were convicted for corruption and fined or imprisoned. Police corruption was most serious at the level of the Station House Officer (SHO), the official who runs each precinct. Some SHOs widely were believed to operate arrest-for-ransom operations and to have established unsanctioned police stations to collect illicit revenue.

Actions taken to redress police abuses had mixed results. At year's end, the Public Safety Commission had not been established due to financial constraints.

Police may arrest individuals on the basis of a First Incident Report (FIR) filed by a complainant and have been known to file FIR's without supporting evidence. FIR's frequently were used to harass or intimidate individuals. Charges against an individual also may be based on a "blind" FIR, which lists the perpetrators as "person or persons unknown." If the case is not solved, the FIR is placed in the inactive file. When needed, a FIR is reactivated and taken to a magistrate by the police; the police then name a suspect and ask that the suspect be remanded for 14 days while they investigate further. After 14 days, if the case is dropped for lack of evidence,

another FIR is activated and brought against the accused. In this manner, rolling charges can be used to hold a suspect in custody continuously.

If the police can provide material proof that detention (physical remand or police custody for the purpose of interrogation) is necessary for an investigation, a court may extend detention for a total of 14 days. However, such proof may be little more than unsubstantiated assertions by the police. In practice the authorities do not observe fully the limits on detention. Police are not required to notify anyone when an arrest is made and often hold detainees without charge until a court challenges them. The police sometimes detained individuals arbitrarily without charge or on false charges to extort payment for their release. Human rights monitors reported that a number of police stations have secret detention cells in which individuals are kept while police bargain for their release. There also were reports that the police move prisoners from one police station to another if they suspect a surprise visit by higher authorities. Some women continued to be detained arbitrarily and sexually abused (see Sections 1.c. and 5). Police also detained relatives of wanted criminals in order to compel suspects to surrender (see Section 1.f.).

The Federally Administered Tribal Areas (FATA) have a separate legal system, the Frontier Crimes Regulation (FCR), which recognizes the doctrine of collective responsibility. Authorities are empowered to detain fellow members of a fugitive's tribe, or to blockade a fugitive's village, pending his surrender or punishment by his own tribe in accordance with local tradition. During the year, the police in Punjab began investigating the 2002 Mukhtaran Bibi gang-rape case. The police discovered that Mukhtaran's brother himself had been raped earlier by men of the tribe, who then covered up the crime by accusing the boy of misbehavior and shaming his family into silence. The eight suspects remained in jail pending their appeal with the Appellate Tribunal.

The police also have been known to detain persons as a result of personal vendettas.

The law stipulates that detainees must be brought to trial within 30 days of their arrest. However, in many cases, trials do not start until 6 months after the filing of charges. HRCP estimated that there were almost as many individuals awaiting trial in jail as there were prisoners serving sentences.

Persons in jail awaiting trial sometimes were held for periods longer than the sentence that they would have received if convicted. Court officials reported that each judge reviews between 70 and 80 cases per day, but that action was taken on only 3 or 4 each week. According to the Supreme Court Bar Association, there were 13,767 cases pending in the Supreme Court as of September. Clogged lower courts exacerbate the situation; the majority of cases in the High Courts consist of appeals of lower court rulings. Once an appeal reaches the High Court, there are further opportunities for delay because decisions of individual judges frequently are referred to panels composed of two or three judges. There continued to be charges that magistrates and police, under pressure from provincial and federal officials to achieve high conviction rates, persuaded detainees to plead guilty without informing them of the consequences. Senior government officials acknowledged during the year that this was a problem.

Asif Zardari, husband of former Prime Minister Benazir Bhutto, has waited for more than 5 years for the start of his trial on charges of killing his brother-in-law, Murtaza Bhutto in 1997. In 1999, Zardari was tried and convicted separately on corruption charges. The Government continued to detain Zardari during the year on a variety of corruption charges. In August, an investigative magistrate in Switzerland issued a preliminary judgment finding Benazir Bhutto and Asif Zardari guilty of money laundering and receiving brides from two Swiss firms nine years ago and proposed a suspended six-month prison sentence and \$50,000 fine for each of them. Ms. Bhutto and Mr. Zardari rejected the Swiss finding; a formal trial was pending at year's end.

The Government permitted visits to prisoners and detainees by human rights monitors, family members, and lawyers (see Section 1.c.), with some restrictions. In some cases persons must to pay bribes to see a prisoner. Foreign diplomats may meet with prisoners when they appear in court and may meet with citizens or their countries in prison visits. Local human rights activists reported few restrictions to their access to prisons.

On October 29, opposition leader and member of Parliament, Javed Hashmi, was arrested for releasing an anonymous letter allegedly written by army officers that was critical of President Musharraf's leadership. Hashmi was charged with conspiracy, forgery and inciting the armed forces against the government. The Government has sought to hold all court proceedings before a panel of judges inside the prison where Hashmi was held. The incitement charge carries a maximum penalty

of life imprisonment. Authorities refused family access and legal counsel for the first several weeks of his incarceration. Hashmi remained in detention at year's end.

The Government justified the creation of anti-terrorist courts by citing the large number of murder and other cases that are clogging the regular court system (see Section 1.e.). The anti-terrorist courts reportedly sentenced 27 persons to death during the year. For example, in August an anti-terrorism court sentenced two workers of the Lashkar-i-Jhangvi to death and two others to life imprisonment.

In previous years, the Government sometimes used preventive detention, mass arrests, and excessive force to quell protests or civil unrest and to prevent political meetings (see Section 2.b.).

Despite governmental claims that NAB cases would be pursued independent of an individual's political affiliation, in previous years, NAB had selectively targeted certain persons in the anti-corruption campaign (see Section 1.e.). In previous years, senior opposition figures charged that NAB threats were used to pressure politicians to join the PML-Q.

There were reports that the Government detained journalists (see Section 2.a.).

Former Prime Minister Nawaz Sharif remained in exile. Dr. Farooq Sattar's 2000 conviction on widely disputed corruption charges continued at year's end.

Hundreds of MQM activists have been arrested over the last four years, and several dozen remained in custody at year's end; some of these activists were being held without charge. Two factions of the MQM split have been fighting each other for several years; according to observers, most of those arrested were picked up for violent crimes. The main wing of the MQM is now part of the ruling coalition in the national and Sindh provincial government; and those currently held in detention all appear to be violent persons from the minority wing of the party. According to MQM officials, police have arrested more than 700 MQM officials during the past 4 years.

Women were charged under the Hudood Ordinances for sexual misconduct, such as adultery. A Hudood law meant to deter false accusations is enforced weakly, and one human rights monitor claimed that 80 percent of adultery-related Hudood cases were filed without supporting evidence. Nongovernmental Organizations (NGOs) estimated that approximately 70 percent of women in jails were awaiting trial for adultery-related Hudood offences. Many of the women charged under the ordinance have little prospect of having their cases tried in the near future. Most women tried under the ordinance were acquitted, but the stigma of an adultery charge alone is severe. The National Commission on the Status of Women issued a report in October that stated "as many as 88 percent of female prisoners are serving time for violating the 1977 Zine Ordinance [Hudood]" (see Section 5).

Non-governmental jails exist in tribal and feudal areas. Most such prisons were in rural areas controlled by tribes. In the five districts of upper Sindh, landlords defied the courts and police by holding tribal jirgas, which settle feuds, award fines, and even sentenced persons to the death penalty in defiance of provincial laws (see Section 6.c.).

The law does not permit forced exile. During the year, the Government surrendered citizens to foreign authorities and deported foreigners on suspicion of being al-Qa'ida or Taliban fighters; however, the exact number of those detained, arrested or deported was unknown. The Government claimed that these persons were suspected of inciting violence or engaging in criminal acts by promoting religious extremism.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice, the judiciary remained subject to executive branch and other outside influences, and despite the Government's pledge to respect the independence of the judicial system, the Government took steps to control the judiciary and to remove the Government from judicial oversight. Low salaries, inadequate resources, heavy workloads, corruption, and intimidation by political and religious pressure groups contributed to judicial inefficiency, particularly in the lower courts. In 2002 the Supreme Court ruled that the October referendum was constitutional and further cast doubt on the independence of the judiciary from the military government (see Section 3).

The judicial process continued to be impeded by bureaucratic infighting, inactivity, and the overlapping jurisdictions of the different court systems. Heavy backlogs that severely delayed the application of justice remained, due to scores of unfilled judgeships and to archaic and inefficient court procedures. The politicized appointment process held up the promotion of many lower court judges to the High Courts. Although the higher level judiciary was considered competent and generally honest, there were widespread reports of corruption among lower level magistrates and minor court functionaries.

There were several court systems with overlapping and sometimes competing jurisdictions: Criminal; civil and personal status; terrorism; commercial; family; and military.

The civil judicial system provided for an open trial, the presumption of innocence, cross-examination by an attorney, and appeal of sentences. Attorneys were appointed for indigents only in capital cases. There were no jury trials. Due to the limited number of judges, the heavy backlog of cases, lengthy court procedures, and political pressures, cases routinely take years, and defendants must make frequent court appearances. Cases start over when an attorney changes. Under both the Hudood and standard criminal codes, there were bailable and non-bailable offenses. According to the Criminal Procedures Code, the accused in bailable offenses must be granted bail, and those charged with non-bailable offenses should be granted bail if the alleged crime carries a sentence of less than 10 years. Many accused, especially well-connected persons who are made aware of impending warrants against them, were able to obtain pre-arrest bail, and thus were spared arrest and incarceration.

The anti-terrorist courts, set up in August 1997, designed for the speedy punishment of terrorist suspects, have special streamlined procedures; however, due to the continued intimidation of witnesses, police, and judges, the courts initially produced only a handful of convictions. Under the act, terrorist killings were punishable by death and any act, including speech, intended to stir up religious hatred, is punishable by up to 7 years' rigorous imprisonment. Additional offenses that can be tried under the Anti-Terrorist Act include acts to stir-up religious feelings; efforts to "wage war against the State;" conspiracy; acts committed in abetting an offense; and kidnapping of or abduction to confine a person. The Government has used the anti-terrorist courts for high-profile cases, including the Daniel Pearl kidnapping and killing, the Meerwala gang rape incident, and the Okara farmer protest. Cases were to be decided within 7 working days, but judges were free to extend the period of time as required. Trials in absentia initially were permitted but later were prohibited. Appeals to an appellate tribunal also were required to take no more than 7 days, but appellate authority since has been restored to the High and Supreme Courts, under which these time limits do not apply. Under the Anti-Terrorist Act, bail was not to be granted if the court has reasonable grounds to believe that the accused is guilty.

In 2001 and again in November 2002, the Government approved amendments to the Anti-Terrorist Act. The ordinance defines terrorism as "the use or threat of action where the use, or threatened use, is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; and the use or threat is made for the purpose of advancing a political, religious, ideological, or ethnic cause." The Parliament has yet to ratify the amendment, which gives the Government the authority to restrict the activities of suspected terrorists, probe their assets, and hold them for up to a year, without charges filed against them.

Leading members of the judiciary, human rights groups, the press, and politicians from a number of parties expressed strong reservations about the anti-terrorist courts, charging that they constitute a parallel judicial system and could be used as tools of political repression. For example, according to the Lawyers Committee for Human Rights, Zia Ahmed Awan, president of the Karachi-based Lawyers for Human Rights Legal Aid, said, "it would only increase the victimization of ordinary people at the hands of the police and other law enforcement agencies." The anti-terrorist courts also are empowered to try persons accused of particularly "heinous" crimes, such as gang rape and child killings, and several persons have been tried, convicted, and executed under these provisions.

The NAB and special accountability courts try corruption cases (see Section 1.d.). The NAB was created in part to deal with as much as \$4 billion (PKR 208 billion) estimated to be owed to the country's banks by debtors, primarily from among the wealthy elite. The Government stated that it would not target genuine business failures or small defaulters and does not appear to have done so. The NAB was given broad powers to prosecute corruption cases, and the accountability courts were expected to try such cases within 30 days. As originally promulgated, the ordinance prohibited courts from granting bail and gave the NAB chairman sole power to decide if and when to release detainees.

The ordinance also allowed those suspected by the State Bank of Pakistan of defaulting on government loans or of corrupt practices to be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, did not allow access to counsel. In accountability cases, there was a presumption of guilt, and conviction under the ordinance can result in 14 years' imprisonment, fines, and confiscation of property.

Despite government claims that NAB cases would be pursued independent of an individual's political affiliation, the NAB has taken a selective approach to anti-corruption efforts (see Section 1.d.).

The Government denied press reports that it had decided not to pursue accountability cases against active members of the military or the judiciary; however, the NAB has charged no serving members of the military or the judiciary.

The Hudood ordinances criminalize nonmarital rape (see Section 5), extramarital sex (including adultery and fornication), and various gambling, alcohol, and property offenses. Offenses were distinguished according to punishment, with some offenses liable to Hadd, or Koranic, punishment (see Section 1.c.), and others to Tazir, or secular punishment. Although both types of cases were tried in ordinary criminal courts, special, more stringent rules of evidence apply in Hadd cases; Hadd punishments were mandatory if there was enough evidence to support them (see Section 5). If the evidence falls short of Hadd criteria, then the accused may be sentenced to a lesser class of penalties (Tazir). Since it is difficult to obtain sufficient evidence to support the Hadd punishments, most rape cases are tried at the Tazir level, under which sentences may be imposed of up to 25 years in prison and 30 lashes. For Tazir punishments, there was no distinction between Muslim and non-Muslim offenders. Under Tazir the evidentiary requirement for financial or future obligations is for two male witnesses or one male and two female witnesses; in all other matters, the court may accept the testimony of one man or one woman (see Section 5).

The federal Shariat court and the Shari'a bench of the Supreme Court serve as appellate courts for certain convictions in criminal court under the Hudood ordinances. The federal Shariat court also may overturn any legislation judged to be inconsistent with the tenets of Islam. However, these cases may be appealed to the Shari'a bench of the Supreme Court. In June, the MMA-led government of the NWFP passed a bill to implement Shari'a law in the province. The bill gave Shari'a precedence over secular provincial law, proposed restricting the rights of women and harmonizing the educational and financial systems with the Koran. The bill passed unanimously and without debate and human rights activists demonstrated against it in rallies and other protests. However, no implementing legislation or regulations have been issued, and no enforcement action had been taken as of year's end.

Appeals of certain Hudood convictions involving penalties in excess of 2 years imprisonment were referred exclusively to the Shariat courts and were heard jointly by Islamic scholars and High Court judges using ordinary criminal procedures. Judges and attorneys must be Muslim and must be familiar with Islamic law. Within these limits, defendants in a Shariat court were entitled to the lawyer of their choice. There was a system of bail.

The Penal Code incorporates the doctrines of Qisas (roughly, an eye for an eye) and Diyat (blood money). Qisas was not known to have been invoked; however, Diyat occasionally was applied, particularly in the NWFP, in place of judicial punishment of the wrongdoer. Only the family of the victim, not the State, may pardon the defendant.

Administration of justice in the FATA normally is the responsibility of tribal elders and maliks, or leaders. They may conduct hearings according to Islamic law and tribal custom. In such proceedings, the accused have no right to legal representation, bail, or appeal. The usual penalties consist of fines, even for murder. However, the Government's political agents, who were federal civil servants assigned to tribal agencies, oversaw such proceedings and could have imposed prison terms of up to 14 years.

In previous years, in remote areas outside the jurisdiction of federal political agents, tribal councils levied harsher, unsanctioned punishments, including flogging or death by shooting or stoning.

Another related form of justice operating in the NWFP, particularly in the tribal areas, is the concept of Pakhtunwali, or the Pakhtun Tribal Code, in which revenge is an important element. Under this code, a man, his family, and his tribe are obligated to take revenge for wrongs—either real or perceived—to redeem their honor. More often than not, these disputes arise over women and land, and frequently result in violence (see Section 5). For example, on September 2, eight family members were killed after a dispute in which the family failed to provide two young girls in marriage to another family, in exchange for the unauthorized marriage of a young couple. The investigation was ongoing at year's end.

There were reports of approximately 3 political prisoners in custody at year's end. Some political groups also argue that they were marked for arrest based on their political affiliation (see Section 1.c. and 1.d.).

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—The Government does not respect the right to privacy. The Anti-Terrorist Act allowed

police or military personnel acting as police to enter and to search homes and offices without search warrants, and to confiscate property or arms likely to be used in an alleged terrorist act (which is defined very broadly). This provision never was tested in the courts. Under the anti-terrorist ordinances, anti-terrorist courts tried many blasphemy cases. By law the police need a warrant to search a home, but not to search a person. Despite this law, police entered homes without a warrant and sometimes stole valuables during searches. Specifically, human rights activists criticized the new Police Ordinance 2002 for broadening police power to search and enter homes. In the absence of a warrant, a policeman is subject to charges of criminal trespass. However, police seldom were punished for illegal entry.

The Government maintained several domestic intelligence services that monitor politicians, political activists, suspected terrorists, and suspected foreign intelligence agents. Credible reports indicated that the authorities routinely used wiretaps and intercepted and opened mail. The Supreme Court directed the Government to seek its permission before carrying out wiretapping or eavesdropping operations; however, the degree of compliance with this ruling was unclear at year's end.

Civil marriages do not exist; marriages are performed and registered according to one's religion. Upon conversion to Islam, the marriages of Jewish or Christian men remain legal; however, upon conversion to Islam, the marriages of Jewish or Christian women, or of other non-Muslims, that were performed under the rites of the previous religion are considered dissolved (see Section 2.c.).

While the Government generally does not interfere with the right to marry, the Government on occasion assisted influential families to prevent marriages they opposed. The Government also failed to prosecute vigorously cases in which families punished members (generally women) for marrying or seeking a divorce against the wishes of other family members.

In some cases, the authorities have detained relatives in order to force a family member who was the recipient of an arrest warrant to surrender (see Section 1.d.).

The Frontier Crimes Regulation, the separate legal system in the FATA, permits collective responsibility, and empowers the authorities to detain innocent members of the suspect's tribe, or to blockade an entire village (see Section 1.d.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and citizens generally were free to discuss public issues; however, some journalists practiced self-censorship, and human rights groups continued to report acts of intimidation against journalists. The Government did not attempt to exercise direct control over views expressed in the print media. Newspaper editorials and commentators increasingly were critical of the Government; however, direct criticism of the military and judiciary was rare. Investigative journalism was rare; instead, the press acts freely to publish charges and countercharges by named and unnamed parties and individuals representing competing political and social interests. Both governmental and nongovernmental entities sometimes pay for favorable media coverage.

In 2002, three ordinances on the press were adopted. The ordinances increased the penalties for defamation, imposed a system of prior authorization for the news media, and created a press council under considerable influence by the Government; however, no information was given as to when the ordinances would enter into force.

The Constitution also prohibits the ridicule of Islam, the armed forces, or the judiciary. The Penal Code mandates the death sentence for anyone defiling the name of the Prophet Mohammad, life imprisonment for desecrating the Koran, and up to 10 years in prison for insulting another's religious beliefs with the intent to outrage religious feelings (see Section 2.c.). The Anti-Terrorist Act stipulates imprisonment with rigorous labor for up to 7 years for using abusive or insulting words, or possessing or distributing written or recorded material, with the intent to stir up sectarian hatred. No warrant was required to seize such material. In addition, any person who printed, published, or disseminated any material from these organizations was subject to 6 months' imprisonment.

Reports of intimidation, heavy-handed surveillance, and legal action against journalists continued throughout the year. For example, there were credible reports that Amir Mir, senior assistant editor of the Herald, a magazine noted for its critical coverage of the Government, received threats from government officials during the year. On November 22, three unknown persons set fire to Mir's car and he received threatening telephone calls from a member of the ISI telling him that this "was just the beginning." Further, there continued to be some reported cases of journalist disappearances during the year; however, in most cases, the person reported as disappeared was found after several days of incommunicado detention in the custody



of police or security forces (see 1.d.). On December 16, Marc Epstein, Jean-Paul Guilloteau, and Khawar Mehdi Rizvi were detained by security forces for allegedly having faked a Taliban training session in Baluchistan. The two French journalists were charged with visa violations for traveling to Quetta without permission. Marc Epstein and Jean-Paul Guilloteau were released on December 24; however, there was no further information available on Khawar Mehdi Rizvi at year's end.

During the year a few journalists were arrested, according to the HRCP. The Government has considerable leverage over the press through its substantial budget for advertising and public interest campaigns and its ability to enforce regulations. Human rights groups, journalists, and opposition figures accused the Government of attempting to silence journalists and public figures, including through threats of violence and death. Provincial and local governments occasionally arrested journalists and closed newspapers accused of printing offensive material, but this was not a widespread practice. In 2001, the Government closed the Peshawar daily *Frontier Post* and arrested five members of its staff after the newspaper published a letter to the editor that contained derogatory characterizations of the Prophet Mohammad. During the year, a copy editor of the *Post* was convicted of blasphemy and sentenced to life-imprisonment. He filed an appeal; however, no ruling was made on the appeal at year's end (see Section 2.c.).

The Government no longer publishes daily newspapers; however, the Ministry of Information controls and manages the country's primary wire service, the Associated Press of Pakistan (APP). The APP is both the Government's own news agency and the official carrier of international news to the local media. The few small privately owned wire services practiced self-censorship.

A vocal private press criticized the President and the Government. However, violence against and intimidation of journalists was a nationwide problem. For example, the Committee to Protect Journalists reported that in October, unidentified gunmen killed Ameer Bux Brohi, a district reporter for the largest Sindh-language daily newspaper in Sindh Province. Some NGOs believe that Brohi's critical reporting of the Government motivated the killing. No known official action was taken by year's end.

The Government occasionally denied visas to journalists who were from India or were of Indian descent.

The broadcast media were mainly government monopolies directed by the Pakistan Broadcasting Corporation and Pakistan Television (PTV), although private cable channels broadcasting from abroad had a growing audience. Geo TV, Indus, and ARY carried live news coverage about the country, and often broke stories hours before PTV. In contrast, domestic news coverage and public affairs programming on PTV and state-run radio were controlled closely by the Government and traditionally reflected its views. One private radio station, one television broadcaster, and a semi-private cable television station were licensed under special contractual arrangements with the Government. The semi private television station, Shalimar Television Network (STN), occasionally rebroadcast PTV news. While the STN routinely censors those segments considered to be socially or sexually offensive, foreign news stories were rarely censored for content. The Ministry of Information exercised some influence over broadcasting through the selective allocation of government advertising budgets. It also monitored advertising on all broadcast media, editing or removing advertisements deemed morally objectionable.

Satellite dishes readily were available on the local market and were priced within reach of almost everyone with a television set—well into the lower-middle classes. South Asian satellite channels (usually India-based) have become important sources of news and popular entertainment. The Government shut down Indian channels from cable systems during the year. The MMA government in NWFP pledged to ban satellite and cable television in the province because of its "immoral and un-Islamic content." However, no action had been taken by year's end.

The competitive nature of politics helps to ensure press freedom since the media often serve as a forum within which political parties, commercial, religious, and various other interests vie. Although the press may not criticize Islam as such, debate about the practice of Islam, and criticism of religious leaders and movements, was permissible.

The press traditionally avoided negative coverage of the armed forces, and the Office of Inter-Services Public Relations (ISPR) loosely controlled press coverage of military matters. Although many journalists chose to exercise self-censorship regarding the military during the year, the Government permitted significant criticism of retired military officials. President Musharraf was the subject of intense and public criticism during the year.

In September 2001, the Government enacted the Freedom of Information Ordinance, which required every government office to designate a freedom of information

officer who would be responsible for providing replies to written applications within 21 days. However, the law excluded all classified documents and did not define what constitutes classified information.

There were no reports of any action taken against the responsible members of the police who used excessive force to disperse demonstrations during the year, in 2002, or in 2001. There were no further developments in the 2002 killing of the editor of "Kohistan."

During the year, the persons allegedly responsible for the 2002 killing of journalist Shahid Soomro were arrested and confessed to the police. They reportedly paid a high monetary sum to the victim's family and were released.

Foreign books must pass government censors before being reprinted. Books and magazines may be imported freely, but likewise are subject to censorship for objectionable sexual or religious content. On July 28, the Government banned an issue of Newsweek magazine that included an article on the Koran deemed offensive.

Obscene literature, a category broadly defined by the Government, was subject to seizure. Dramas and documentaries on previously taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality, were broadcast on television; however, some sensitive series have been canceled before being broadcast. In June, militants in the Punjab smeared three billboards and threatened to burn down posters featuring images of women if city officials did not remove them. The activists said the billboards were "vulgar and obscene." During the year, police cracked down on pornographic and unlicensed cinemas in the North-West Frontier.

The Government limited access to the Internet. During the year, the government restricted access to the South Asia Tribune periodically, and the Ministry for Information and Media Development also cautioned local media not to carry stories run by the Tribune.

The Government generally did not restrict academic freedom. However, the atmosphere of violence and intolerance fostered by student organizations, typically tied to religious political parties, continued to limit academic freedom. On some university campuses, well-armed groups of students, primarily from radical religious organizations, had armed clashes with and intimidated other students, instructors, and administrators over issues such as language, syllabus contents, examination policies, grades, doctrines, and dress. These groups frequently facilitated cheating on examinations, interfered with the hiring of staff, controlled who was admitted to the universities, and sometimes also controlled the funds of the institutions. Such control generally has been achieved through a combination of protest rallies, control of the campus media, and threats of mass violence. For example, in October, feuding tribes of students fought one another at Quaid-i-Azam University in Islamabad. One student was shot and killed. In November, at Karachi University, a student mob ransacked the Department of Visual Studies and destroyed musical instruments, sculptures and paintings. At Punjab University, the student wing of the political party Jaamat-i-Islami continued to impose its self-defined code of conduct on teachers and students by threatening to foment unrest on campus if its demands were not met.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom "to assemble peacefully and without arms subject to any reasonable restrictions imposed by law in the interest of public order;" however, the Government imposed significant restrictions on this right in practice. Rallies and processions on streets, roads, and railway stations remained generally prohibited, and provincial and district administrations were given authority to determine the time and place of meeting. Ahmadis have been prohibited from holding any conferences or gatherings since 1984 (see Section 2.c.). Throughout the year, the Government occasionally interfered with opposition rallies, which were held by an alliance of political parties. In 2000, the Musharraf Government enacted an ordinance banning all public political gatherings, processions, and strikes held outdoors. The ban was enforced unevenly.

District mayors occasionally exercised their power under the Criminal Procedures Code to ban meetings of more than four persons where demonstrations seemed likely to result in violence. During the year, police made preventive arrests of political party organizers prior to announced demonstrations. For example, in July, the district government denied a permit to hold a public meeting in Lahore. After the opposition parties threatened to disrupt a pro-government party's meeting, the Government allowed the rally to occur. The Government generally allowed all Islamist parties to hold rallies and campaign; and, during the year, the government granted rally permits to secular parties (see Section 3).

Unlike in previous years, there were no reports that the MQM was harassed in its regular political activities.

Police sometimes used excessive force against demonstrators (see Section 1.a.). The Government did not prosecute any members of the security forces responsible for excessive force against demonstrators in previous years, nor is it likely to do so.

The authorities sometimes prevented leaders of religious political parties from traveling to certain areas if they believed their presence would increase sectarian tensions or cause public violence (see Section 2.d.).

The Constitution provides for the right of association subject to restriction by government ordinance and law. NGOs were required to register with the Government under the "Cooperative Societies and Companies" Ordinance of 1960. NGOs usually register through the Ministry of Social Welfare and must submit to a 6-month probationary period during which the Government tracks their activities. NGOs also are required to submit a progress report after the completion of this period, and then they are registered formally. No prominent NGO reported problems with the Government over registrations during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and states that adequate provisions shall be made for minorities to profess and practice their religions freely; however, the Government limited freedom of religion. Islam was the dominant religion. The Constitution requires that laws be consistent with Islam and imposed some elements of Koranic law on both Muslims and religious minorities. All citizens, regardless of their religious affiliation, were subject to certain provisions of Shari'a, such as the blasphemy laws. Reprisals and threats of reprisals against suspected converts were common. Members of religious minorities were subject to violence and harassment, and police at times refused to prevent such actions or to charge persons who commit them, which contributed to a climate of impunity for acts of violence and intimidation against religious minorities.

Religious groups must be approved and register to function legally; there were no reports that the Government refused to register any group.

The Constitution protected religious minorities from being taxed to support the majority religion; no one may be forced to pay taxes for the support of any religion other than his own. For example, Sunni Muslims are subject to the "zakat," a religious tax of 2.5 percent of their income; however, Shi'a Muslims and other religious minorities do not pay the "zakat."

During the year, the number of cases filed under the blasphemy laws continued to be significant. A local NGO estimated that 157 persons had been incarcerated for violations of the blasphemy law during the year. For example, in July, Munawar Mohsin, an editor at the Frontier Post newspaper, was convicted of publishing a blasphemous letter and sentenced to life imprisonment (see Section 2.a.). The appeal of Wajihul Hassam, who in 2002 was accused of blasphemy, continued during the year. There were no developments in the 2000 trial of Nasir Ahmad. The blasphemy laws also have been used to "settle scores" unrelated to religious activity, such as intrafamily or property disputes. There was no further action taken in the 2001 blasphemy case against Pervez Masih, a Christian in Sialkot District. By year's end, the Lahore High Court acquitted two Christian brothers who had been sentenced to 35 years' imprisonment for allegedly desecrating the Koran and blaspheming the Prophet Mohammed. On August 7, the Lahore High Court upheld the life sentences of two Christians, Amjad Masih and Asif Masih, who allegedly set fire to the Koran while in police custody.

Police also arrest Muslims under the blasphemy laws; government officials maintain that approximately two-thirds of the total blasphemy cases that have been brought to trial have affected Muslims. An appeals court ruled that the case of Younis Shaikh, sentenced in 2000 on blasphemy charges, was to be retried. On November 21, Shaikh was acquitted and released from detention. The trial was ongoing in the 2002 killing of Yusuf Ali at year's end. The 1998 death sentence of Shi'a Muslim Ghulam Akbar was under appeal at year's end.

When blasphemy and other religious cases are brought to court, extremists often pack the courtroom and make public threats about the consequences of an acquittal. As a result, the accused often are denied requests for bail on the grounds that their lives would be at risk from vigilantes if released. Many judges also try to pass such cases to other jurists; some judges reportedly have handed down guilty verdicts to protect themselves and their families from religious extremists.

The Constitution specifically prohibited discriminatory admission to any governmental educational institution solely on the basis of religion. Government officials state that the only factors affecting admission to governmental educational institutions are students' grades and home provinces. However, students must declare their religion on application forms. Ahmadis and Christians reported discrimination in applying to government educational institutions due to their religious affiliation.

"Islamiyyat" (Islamic studies) is compulsory for all Muslim students in state-run schools. Although students of other faiths legally are not required to study Islam,

they are not provided with parallel studies in their own religions. In practice, teachers compel many non-Muslim students to complete Islamic studies.

Under the Madrassah Registration Ordinance of 2002 all madrassas (religious schools) were required to register with the Pakistan Madrassah Education Board and provincial boards or else risk being fined or closed. The ordinance was designed to regulate the madrassas, where many poor children are educated, and to combat religious extremism. The madrassas no longer were allowed to accept grants or aid from foreign sources, although madrassas offering courses in science, math, Urdu, and English were eligible for government funds. Madrassas were given 6 months to comply. Over 8,000, out of the approximately 10,000 to 20,000 madrassas in the country, were registered at year's end.

The Government designates religion on passports, and to get a passport citizens must declare whether they are Muslim or non-Muslim. Muslims also must affirm that they accept the unqualified finality of the prophethood of Mohammed and declare that Ahmadis are non-Muslims.

Permission to buy land comes from one municipal bureaucracy, and permission to build a house of worship from another. For all religious groups, the process appeared to be subject to bureaucratic delays and requests for bribes.

The Government distinguished between Muslims and non-Muslims with regard to politics and political rights. According to the Constitution, the President and the Prime Minister must be Muslim. The Prime Minister, federal ministers, and ministers of state, as well as elected members of the Senate and National Assembly (including non-Muslims) must take an oath to "strive to preserve the Islamic ideology, which is the basis for the creation of Pakistan" (see Section 3).

The Ahmadis are subject to specific restrictions under law. A constitutional amendment declared Ahmadis to be a non-Muslim minority because, according to the Government, they do not accept Mohammed as the last prophet of Islam. However, Ahmadis regard themselves as Muslims and observe Islamic practices. In 2002, the Government announced the restoration of a voter registration form that singled out Ahmadis by requiring them to swear they believe in the "finality of Mohammed's prophethood." The Government and anti-Ahmadi religious groups have used this provision extensively to harass Ahmadis. Ahmadis suffer from various restrictions of religious freedom and widespread societal discrimination, including violation of their places of worship, being barred from burial in Muslim graveyards, limits on freedom of religion, speech, and assembly, and restrictions on their press. Several Ahmadi mosques remained closed. Ahmadis have been prohibited from holding conferences or gatherings. Ahmadis are prohibited from taking part in the Hajj (the annual Muslim pilgrimage to Mecca). Some popular newspapers publish anti-Ahmadi "conspiracy" stories, which contribute to anti-Ahmadi sentiments in society.

Acts of sectarian and religious violence continued during the year (see Section 5). A number of attacks on churches and mosques brought into question the Government's ability to prevent sectarian and religious violence. The worst religious violence was directed against the country's Shi'a minority, who continued disproportionately to be victims of individual and mass killings. Despite the Government's ban on groups involved in sectarian killings, violence between rival Sunni and Shi'a Muslim groups continued during the year. Many of the victims were Shi'a professionals—doctors and lawyers—who were not politically active or involved with sectarian groups. During the year, at least 100 cases of sectarian violence occurred in the country, most carried out by unidentified gunmen. For example, in July, 57 persons were killed by three unknown militants in the Asna-Ul-Asharia mosque in Quetta. Security forces arrested three suspects in the mosque attack at year's end.

Sectarian violence between members of different religious groups received national attention during the year and continued to be a serious problem. Christians, Ahmadis, and other religious minorities often were the targets of such violence.

Christians have been victims of violence. For example, in July, a Roman Catholic Priest, Father George Ibrahim, was killed by unknown persons in an attack on a church in Okara District. During the year, police arrested an Islamic militant leader in connection with two attacks in 2002 on Christians in which 11 persons were killed; however, in most cases, there were no arrests in connection with past sectarian killings. Numerous such killings remain unresolved.

Several incidents of sectarian violence between rival Sunni and Shi'a groups typically occur during Muharram, the time when Shi'a Muslims mourn the death of the Prophet Mohammed's nephew Ali and Ali's son Hussain.

In November, the Government banned three previously banned groups that had resurfaced using new names. Over a hundred local and national offices were closed, and almost 2,000 members of these groups were arrested in the weeks following the announcement. Most detainees were low-level organization members who were subsequently released. In addition, violence in country has prompted the Government

on several occasions to round up hundreds of members of religious extremist groups and students at madrassas believed to be terrorist recruiting centers and training grounds.

Government authorities afford religious minorities fewer legal protections than are afforded to Sunni Muslim citizens. Members of religious minorities are subject to violence and harassment, and police at times refuse to prevent such actions or to charge persons who commit them.

Ahmadi individuals and institutions often are targets of religious intolerance, much of which is instigated by organized religious extremists. For example, on July 17, Brigadier Iftikhar Ahmad, a well-known Ahmadi, was shot in his home in Rawalpindi.

Ahmadis suffer from harassment and discrimination and have limited chances for advancement into management levels in government service. In 2002, most Ahmadis boycotted the national elections after the government developed two voting lists, one for Ahmadis and one for all other citizens, including other religious minorities. The predominantly Ahmadi town and spiritual center of Chenab Nagar (formerly known as Rabwah) in Punjab often has been a site of violence against Ahmadis (see Section 5).

Other religious minority groups also experienced considerable discrimination in employment and education. In the country's early years, minorities were able to rise to the senior ranks of the military and civil service; now many were unable to rise above mid-level ranks. The Government claimed that officers in the military were promoted strictly on merit, and there were two active duty generals who were members of religious minorities. The lack of religious minorities at higher levels of the military partially may be due to the limited number of minorities who opt for a career in the armed forces.

Discrimination in employment reportedly was common. Christians in particular have difficulty finding jobs other than menial labor, although Christian activists say the employment situation has improved somewhat in the private sector. Christians were overrepresented in the country's most oppressed social group—that of bonded laborers. Many Christians complained about the difficulty that their children face in gaining admission to government schools and colleges, a problem they attribute to discrimination. Many Christians continued to express fear of forced marriages between Muslim men and Christian women, although the practice was relatively rare. Reprisals against suspected converts to Christianity occur, and a general atmosphere of religious intolerance has led to acts of violence against religious minorities.

Although there were few Jewish citizens in the country, anti-Semitic sentiments appeared to be widespread, and anti-Semitic and anti-Zionist press articles were common.

For a more detailed discussion see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the Government limited them in practice. The Government at times prevented political party leaders and religious leaders from traveling to certain parts of the country (see Section 2.b.). Travel to Israel is prohibited by law. Government employees and students must obtain “no objection” certificates before traveling abroad, although this requirement rarely was enforced against students.

Citizens regularly exercised the right to emigrate. However, an Exit Control List (ECL), which was made public but was revised constantly, was used to prevent the departure of wanted criminals and individuals under investigation for defaulting on loans, corruption, or other offenses. In October, the Government added well-known minority rights activist Shahbaz Bhatti to the ECL. In response to domestic and international pressure, Bhatti was removed from the ECL in November. According to the Government, there were approximately 352 names on the ECL. No judicial action was required to add a name to the ECL; those named have the right to appeal to the Secretary of Interior and, if refused, to the Advocate General of the senior judiciary. In practice, courts have directed the Government to lift restrictions on some politicians on the ECL.

The law does not provide for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, nor has the Government adopted domestic legislation concerning the treatment of refugees or the granting of asylum status. The Government generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). The Government provided temporary protection to many persons during the year. Temporary protection has been provided to refugees from Afghanistan since 1979. According to the U.S. Committee for Refugees, approximately 1.5 million Afghan refugees remained in country at year's end. There also were many unregistered Afghans

in urban areas throughout the country, including in Peshawar, Quetta, Islamabad, Rawalpindi, and Lahore. In March, representatives of the Government, the Government of Afghanistan, and UNHCR signed a tripartite repatriation agreement providing for the return of Afghan refugees from the country. By year's end, 2.5 million Afghan refugees had been repatriated with UNHCR assistance since March 2002. During the year, some refugees from Afghanistan voluntarily repatriated themselves.

Many Afghan refugees continued to live and work in the country, and were self-supporting and lived outside of refugee camps, usually in urban or semi-urban areas. This resulted in some hostility among local communities whose residents resent the economic competition and believe that the refugees contribute to high crime rates. Conditions for refugees outside of the camps often were worse than for those in the camps. Refugees outside the camps also faced harassment by the police, especially in Peshawar, Islamabad, and Rawalpindi. Single women, female-headed households, and children who work on the streets faced particular security problems.

Most refugee camps were well established, and living conditions resembled those in neighboring villages, even though most direct assistance to the camps ended in the early 1990's. During the year, the Government and UNHCR announced the consolidation and closing of camps near the Khyber Pass in the NWFP and camps in the Balochistan province.

The Government occasionally harassed refugees and threatened them with deportation. There were reports of instances in which police demanded bribes from Afghans and threatened them with deportation if they did not pay. It is unknown how many Afghans may have been deported in this manner during the year. Complaints were made with the State and Frontier Regions Ministry, the Interior Ministry, and the NWFP provincial government that such summary deportations did not comply with the law. The refugee community expressed increasing fear of deportation, and cited this fear as the reason why more male family members remained at home, thus reducing family income. There were credible reports that some in the refugee community faced harassment by intelligence agencies reportedly looking for al-Qa'ida.

The Government cooperated with UNHCR to support voluntary repatriations to rural areas of Afghanistan considered to be safe. In 2002, UNHCR started a voluntary repatriation program and opened centers throughout both the country and Afghanistan and offered financial and other assistance to repatriating refugees.

Most able-bodied male refugees have found at least intermittent employment; however, local labor laws do not cover them. NGOs and private entities provided women and girls with better education and health care than was available in Afghanistan. However, Afghan women working for NGOs were targets for occasional harassment and violence by conservatives and Taliban sympathizers.

The resettlement of Biharis continued to be a contentious issue, and at year's end no further resettlement had occurred. According to press reports there are approximately 1.5 million displaced Kashmiris in the country. Under the law, the Kashmiris are entitled to the same rights as citizens; however, it is unknown how many Kashmiris are displaced from Indian-controlled Kashmir.

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

The Constitution provided citizens with the right to change their government; however, dominance of the political process by the President and the military severely limited the ability of citizens to exercise this right. President Musharraf has controlled the Government since 1999 and continued to dominate the federal coalition government led by the Pakistan Muslim League (Quaid-e-Azam). The 2002 national elections were deemed somewhat free and fair by many international observers, although there were serious flaws. NGOs and election observers accused the Government of pre-poll rigging, poll irregularities, and tampering with results on selected seats to help pro-government candidates.

In October 1999, General Pervez Musharraf overthrew the elected government of Prime Minister Nawaz Sharif. The Supreme Court later sanctioned the coup; however, it directed Musharraf to restore elected government within 3 years. Musharraf assumed the presidency by decree in 2001, while continuing as Chief of Army Staff and held a nationwide referendum held on April 2002 that extended his presidency for 5 years. Four months after the referendum, President Musharraf announced a controversial package of constitutional amendments, the Legal Framework Order (LFO), which amended the suspended Constitution to allow: the President to dismiss the Prime Minister and dissolve the Parliament; the creation of a National Security Council (NSC) as a constitutional body; and the insertion of a number of qual-

ification requirements for candidates for Parliament. Several of the amendments had the effect of transferring substantial executive power from the prime minister to the previously symbolic presidency.

Elections were held for local governments in 2001, and for the National Assembly in October 2002. Domestic and international observers criticized the elections as deeply flawed. In February, Senate elections were held and resulted in 55 seats for the Pakistan Muslim League-Quaid-e-Azam (PML-Q) and allied parties and 45 members for the opposition. A ruling coalition headed by the PML-Q controls both houses of the national Parliament and the provincial assemblies in Punjab and Sindh. After several months of negotiations, on December 29, the Government and the MMA voted in the national and provincial assemblies to incorporate a large part of the LFO into the 1973 Constitution as its 17th Amendment. The amendment affirmed Musharraf's presidency until 2007 and his right to serve concurrently as Chief of Army Staff until the end of 2004. The amendment allows the President to dissolve parliament, but requires him to obtain the consent of the Supreme Court within 30 days after doing so. Opposition parties say the amended constitution legitimizes the powerful role of the military in politics, and left a great deal of power in the hands of the president.

The National Assembly met during the year; however, no bills have been passed since 2002, with the exception of the national budget. President Musharraf, the intelligence services, and the military continued to dominate the Government. Corruption and inefficiency remained acute, although reforms initiated by the Government to reduce corruption have had some effect on officials at higher levels of government.

In 2002, President Musharraf held a nationwide referendum on a five-year extension of his presidency and claimed to have received a 97.5 percent vote in favor of the referendum. However, some independent observers found evidence of widespread fraud and coerced voting. The Supreme Court ruled that the referendum was constitutional; however, the court allowed the results to be revisited by an elected parliament. By year's end, the elected Parliament had not debated the April referendum. The Legislative Framework Order (LFO), which allowed: the empowerment of the President to dismiss the Prime Minister and dissolve the Parliament; the creation of a National Security Council as a constitutional body; and the insertion of a number of qualification requirements for candidates for Parliament. Under the auspices of the LFO-amended constitution, Pakistan held the first national and provincial assembly elections since the October 1999 coup. International observers, NGOs, and human rights activists, including the European Union Election Observation Mission (EUEOM), alleged serious flaws in the national and provincial election framework; however, these observers stated that the election day itself was generally free of serious irregularities. Three leading secular political parties (PPP, PML-N, and MQM) were hampered in their political activities by the absence in exile of their leaders.

Citizens' right to change their government also was restricted by the executive's strong influence on the judiciary. The Supreme Court demonstrated little independence during the year. Its unanimous decision in favor of the presidential referendum and its consistent support of government changes to electoral procedures resulted in approval of all of the Government's proposed electoral and constitutional changes (see Section 1.e.).

Despite the measures the Government designed to make the electoral commission independent of government control, the election commission came under severe criticism when it failed to protect an area clearly within its mandate from interference by state authorities. According to the EU, the electoral commission's failure to curb the authorities' misuse of state resources in favor of political parties for the PML-Q raised serious doubts about its independence. Furthermore, in 2002 the Government appointed Irshad Hassan Khan, the retired Chief Justice of the Supreme Court, to be Chief Election Commissioner. Irshad was known for his role in presiding over the April 2000 Supreme Court ruling that upheld the legality of the October 1999 coup. His appointment raised further doubts about the commission's independence.

President Musharraf continued to focus on the need to reduce the power of the central Government by devolving power to the local level. A National Reconstruction Bureau (NRB) was established at Cabinet level to develop new structures and processes for sub-provincial governments. Between December 31, 2000, and August 2001, elections for local government assemblies were held in the country's 97 districts. Directly elected union councilors formed an electoral college to elect a district mayor (nazim) and members of district council. According to local and international election observers, the elections generally were free and fair. However, the Govern-

ment was accused by some political parties of intervening in several mayoral races to ensure that the pro-Musharraf candidates were elected.

The Government permitted all existing political parties to function; however, they did so with restrictions on their ability to hold public rallies (see Section 2.b.). Before the 2002 elections, the Government forced the PPP and PML-N to elect leaders other than Benazir Bhutto and Nawaz Sharif by refusing to register any parties whose leaders had a court conviction. The Government also amended the Political Parties Act to bar any person from becoming Prime Minister for a third time. This amendment effectively barred Benazir Bhutto and Nawaz Sharif from power.

The Government arrested several persons in opposition political parties during the year. For example, in March Rena Sanuallah Khan, an opposition member of the Punjab provincial assembly, who had been critical of the 1999 coup and the proposed LFO amendments to the constitution, was detained by unknown members of the security forces. According to press reports and HRW, Khan was interrogated and beaten throughout the night before being released the next day. During his interrogation, Khan alleged that he was cut and he had unidentified chemicals poured into his wounds. He also had his eyebrows, mustache, and head shaved by the security members. On October 29, authorities arrested opposition leader Javed Hashmi and charged him with sedition. The Government has accused Hashmi of defaming the army after publicizing a letter allegedly written by disaffected army officers which criticized Musharraf and senior military leaders. The Government initially denied Hashmi access to a lawyer and family members; however, it later permitted such meetings, which were monitored by the security forces. On December 5, Hashmi was denied bail and ordered to move to a different prison. Hashmi remained awaiting trial at year's end.

In March 2000, President Musharraf issued an ordinance banning all political gatherings held outdoors (see Section 2.b.). The ban remained in effect at year's end but was seldom enforced. The National Accountability Ordinance (NAO) prohibits those convicted of corruption under the NAO from holding political office for 10 years (see Section 1.d.). In August 2000, the Government amended the Political Parties Act to disqualify automatically anyone with a court conviction from holding party office. Legal observers expressed concern over the concentration of power in the NAO, the fact that NAO chairmen have all been members of the military, and the presumption of guilt in accountability cases.

Because of a longstanding territorial dispute with India, the political status of the northern areas—Hunza, Gilgit, and Baltistan—was not resolved. As a result, more than 1 million inhabitants of the northern areas were not covered under the Constitution and have had no representation in the federal legislature. An appointed civil servant administers these areas; an elected Northern Areas Council serves only in an advisory capacity and has no authority to change laws or to raise and spend revenue.

There were 73 women in the 342-seat National Assembly; there was one woman in the Cabinet; and none in the Supreme Court. During 2001, the Government set aside one-third of the seats in the local council elections for female candidates. In 2002, the NRB enacted electoral reforms that include the tripling of National Assembly seats reserved for women. According to the Election Commission, 2,621 women competed for 1,867 reserved seats at the district level in 2001. In some districts, social and religious conservatives prevented women from becoming candidates; however, in several districts, female candidates were elected unopposed. Women participate in large numbers in elections, although some are dissuaded from voting by family, religious, and social customs. In districts of the NWFP and southern Punjab's tribal areas, conservative religious leaders lobbied successfully to prevent women from contesting elections or casting ballots. According to press reports, female voters were threatened and their families intimidated from voting and running for office. In 2002, the MMA coalition of religious parties declared that the families of women who voted in NWFP would be fined. Prime Minister Jamali has one female minister and one female special advisor. Provincial chief ministers also have named women to serve in their cabinets.

There were 10 minorities in the 342-seat legislature; there were none in the Cabinet; and there were none in the Supreme Court. The Government distinguished between Muslims and non-Muslims with regard to politics and political rights (see Section 2.c.). In addition to joint electorates, minorities could vote for reserved at-large candidates who would represent their groups. The Government restored the conditions for voting as outlined in the Constitution; however, pressure from religious groups led the Government to declare that Muslim voters had to sign an oath to declare the finality of the prophet Mohammed. Voters who did not sign the oath would be put on a separate electoral roll in the same constituency. This requirement



singled out Ahmadis. Under the previous electoral system, minorities voted for reserved at-large seats, not for non-minority candidates who represent geographic constituencies. Under Article 106 of the Constitution, minorities also had reserved seats in the provincial assemblies (see Section 2.c.).

In accordance with the Government's general ban on political party activities in the FATA, candidates were not allowed to register by political party, and political party rallies were not allowed. However, several political parties did campaign covertly. Tribal members, including large numbers of women in some areas, registered to vote despite campaigns by some tribes against their participation. However, on election day in 2002, far fewer registered women than registered men actually voted.

*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; however, they are required to be licensed. Government officials often were cooperative and responsive to their views. Human rights groups reported that they generally had good access to police stations and prisons.

International observers were permitted to visit the country and travel freely. Several international organizations, focused on refugee relief, maintained permanent offices in the country, although some reported difficulty in securing visas for their foreign staff.

The Ministry of Human Rights, a department within the Ministry of Law, Justice, Human Rights, and Parliamentary Affairs, finalized and began limited implementation of a reform program for jails. However, the department is not viewed as effective by human rights observers, and the situation in the prisons did not improve during the year.

The independent Human Rights Commission of Pakistan, based in Lahore, although hampered by a shortage of funds, conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials and other government officials.

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

The Constitution provided for equality before the law for all citizens and broadly prohibited discrimination based on race, religion, caste, residence, or place of birth; however, in practice there was significant discrimination based on these factors.

The spread of HIV/AIDS was estimated to have infected approximately 2,080 persons during the year, and there was societal discrimination against persons with HIV/AIDS. According to Haji Muhammed Hanif, the general secretary of the advocacy group, AIDS Prevention Association of Pakistan (APAP), "social attitudes were a significant factor in dictating how people infected with the virus reacted to the thought of having to disclose the nature of their illness before seeking treatment." In response, in October the Government launched a \$47 million dollar program to combat the disease; however, by year's end, it was unclear how the program would be implemented.

*Women.*—Domestic violence was a widespread and serious problem. Human rights groups estimated that a large number of women were victims of domestic violence at the hands of their husbands, in-laws, or other relatives. According to the HRCP, one out of every two women was the victim of mental or physical violence. The National Commission on the Status of Women reported in 2001 that violence against women "has been described as the most pervasive violation of human rights" in the country, and it called for legislation clearly stating that domestic violence against women is a criminal offense. Husbands were known to kill their wives even for trivial offenses, and often newly married women were abused and harassed by their in-laws. While abusers may be charged with assault, cases rarely were filed. Police usually returned battered women to their abusive family members. Women were reluctant to file charges because of societal mores that stigmatize divorce and make women economically and psychologically dependent on their relatives. Relatives also were reluctant to report abuse to protect the reputation of the family. There are no specific laws pertaining to domestic violence, except for the Qisas and Diyat ordinances, which rarely were invoked and may privatize the crime. However, Qisas and Diyat cannot be invoked where the victim was a direct lineal descendant of the perpetrator. Police and judges tended to see domestic violence as a family problem, and were reluctant to take action in such cases. Thus, it was difficult for women to obtain relief from the justice system in cases of domestic violence.

During the year, the press reported on hundreds of incidents of violence against women, and drew attention to the killings of married women by relatives over dowry

or other family-related disputes. Most of the victims were burned to death, allegedly in kitchen-stove accidents; some women reportedly were burned with acid. For example, in December, Mohammed Sajid was convicted of attacking and blinding his 17-year-old fiancée with acid in Punjab. The court sentenced Sajid to seven years in jail and ruled that Sajid be blinded by acid in a public setting. Police said the defendant was likely to appeal his conviction and sentence. During the year, in Punjab, 99 burn cases were reported. Human rights monitors asserted that many cases were not reported by hospitals and that, even when they were, the police were reluctant to investigate or file charges. Furthermore, human rights monitors agree that most “stove deaths” in fact are killings based upon a suspicion of an illicit sexual relationship or upon dowry demands. Increased media coverage of cases of wife burnings, spousal abuse, spousal killing, and rape has helped to raise awareness about violence against women.

The Government has criticized the violence against women and has opened some crisis centers for women. In 2002, the Crisis Center for Women in Distress helped 89 women through legal and medical referrals, counseling from trained psychologists, and a hotline for women in distress.

Rape was a pervasive problem. It is estimated that less than one-third of all rapes are reported to the police. The law provides for the death penalty for persons convicted of gang rape. No executions have been carried out under this law and conviction rates remain low. Police rarely respond to and sometimes are implicated in these attacks (see Section 1.c.).

According to HRCF, in most rape cases the victims are pressured to drop charges because of the threat of Hudood adultery or fornication charges against them if they cannot prove the absence of consent. All consensual extramarital sexual relations are considered violations of the Hudood Ordinances, and carry Hadd (Koranic) or Tazir (secular) punishments (see Section 1.e.). Accordingly, if a woman cannot prove the absence of consent, there was a risk that she may be charged with a violation of the Hudood ordinances for fornication or adultery. The Hadd—or maximum punishment for this offense—was public flogging or stoning; however, for Hadd punishments to apply, especially stringent rules of evidence were followed. Hadd punishments were mandatory if evidentiary requirements were met; for sexual offenses, four adult male Muslims must witness the act or the alleged perpetrator must confess. For non-Muslims or in cases where all of the 4 male witnesses were not Muslim, the punishment was less severe. The testimony of four female witnesses, or that of the victim alone, was insufficient to impose Hadd punishments; therefore, even if a man rapes a woman in the presence of several women, he cannot be subjected to the Hadd punishment. If Hadd punishment requirements were not met, the accused may be sentenced to a lesser class of penalties (Tazir); in practice most rape cases were tried at this level. Under Tazir a rapist may be sentenced to up to 25 years in prison and 30 lashes. No Hadd punishment has been applied in the more than 20 years that the Hudood ordinances have been in force. For Tazir punishments, there was no distinction between Muslim and non-Muslim offenders. According to AI, men accused of rape sometimes were acquitted and released, while their victims were held on adultery charges.

Women face difficulty at every level of the judicial system in bringing rape cases to trial. Police are reluctant to take the complaint and sometimes are abusive toward the victim; the courts do not have consistent standards of proof as to what constitutes rape and what corroboration is required; and judges, police, and prosecutors are biased against female rape victims. Judges on the whole reportedly were reluctant to convict; however, if there was some evidence, judges have been known to convict the accused of the lesser offense of adultery or fornication (consensual sex). Women also face problems in the collection of evidence: doctors tasked to examine rape victims often believe that the victims are lying; they are inadequately trained and equipped for the collection of forensic evidence pertaining to rape; that they do not testify very effectively in court; they tend to focus on the virginity status of the victim; and, due either to an inadequate understanding of the need for prompt medical evaluations or to inadequate resources, they often delay the medical examinations for many days or even weeks, making any evidence that they collect of dubious utility. Medical examiners and police personnel sometimes are abusive physically or verbally during these exams, especially in cases where a woman is charged with adultery or fornication (for which an exam may be requested) and does not wish to be examined (such women, despite the fact that by law they should not be examined without their consent, have been examined, and even have been beaten for their refusal to be examined). Police and doctors often do not know that a woman must consent to this type of exam before it can be performed, and judges may not inform women of their right to decline. If they report rape to the police, women's cases often are delayed or mishandled, and police or the alleged perpetrators fre-

quently harassed women to drop the case. Police sometimes accept bribes from the accused rapist to get the victim to drop a case; however, in other cases, police will request bribes from the victim to pursue the case against the accused rapist. Police tend to investigate the cases poorly, and may not inform women of the need for a medical exam or may stall or block women's attempts to obtain one.

The National Commission on the Status of Women in 2001 criticized the Hudood Ordinances and pointed out that a woman charged with adultery may have spent months in jail, suffered sexual abuse at the hands of the police, and seen her reputation destroyed. According to one human rights monitor, 80 percent of adultery-related Hudood cases were filed without supporting evidence. The Commission found that the main victims of the Hudood Ordinances are poor women who were unable to defend themselves against slanderous charges. These ordinances also have been used by husbands and other male family members to punish their wives and female relatives for reasons having nothing to do with sexual propriety, according to the Commission. One NGO run by a prominent human rights activist reported that 262 women were on trial for adultery in Lahore as of May 2001. An additional 33 were awaiting trial and 26 had been convicted under the Hudood Ordinances in 2001, the most recent statistics available.

Marital rape is not a crime. The Hudood Ordinances abolished punishment for raping one's wife. Marriage registration (nikah) sometimes occurs years before a marriage is consummated (rukhsati). The nikah (unconsummated) marriage is regarded as a formal marital relationship, and thus a woman or girl cannot be raped by a man to whom her marriage is registered, even if the marriage has not yet been entered into formally.

There were numerous reports of women killed or mutilated by male relatives who suspected them of adultery. It is estimated that at least 631 women were killed as a result of honor killings, known as "karo/kari" (or adulterer/adulteress) in Sindh, during the year. Approximately 102 honor killings took place in Punjab according to the HRC. The problem was believed to be even more extensive in rural Sindh and Baluchistan, where "karo/kari" killings were common. Tribal custom among the Baluch and the Pathans sanctions such killings. The National Commission on the Status of Women has rejected the concept of "honor" as a mitigating circumstance in a murder case and recommended that such killings be treated as simple murder. Women who were the victims of rape may become the victims of their families' vengeance against the victims' "defilement." The Government failed to take action in honor killing cases, particularly when influential families were involved.

Female genital mutilation (FGM) is practiced by the Bohra Muslims. There are an estimated 100,000 Bohra Muslims in the country. There were no available statistics on the extent to which the Bohra practice FGM; however, the practice of FGM in the Bohra community reportedly has declined in the last few years.

Sexual harassment is a widespread problem in the country, but there is no separate law to prosecute offenders. There is one article in the Pakistan Penal Code that deals with harassment.

Significant barriers to the advancement of women begin at birth. In general female children are less valued and cared for than are male children. According to a U.N. study, girls receive less nourishment, health care, and education than do boys. In 2002, the New York Times reported that the country has only 94 females for every 100 males, when the international average is 104 females for every 100 males.

Human rights monitors and women's groups believe that a narrow interpretation of Shari'a has had a harmful effect on the rights of women and minorities, as it reinforces popular attitudes and perceptions and contributes to an atmosphere in which discriminatory treatment of women and non-Muslims is accepted more readily. In May, the NWFP government approved legislation to create the Department of Vice and Virtue to "encourage human and Islamic values, discourage social evils and ensure the supremacy of law." Most NGOs oppose the formation of such a Department and feared it would lead to a "climate of intolerance;" however, there were no further developments by year's end. The NWFP also banned men from training female athletes or watching women play sports (see Section 5).

The value of women's testimony is not equal to that of a man's in certain court cases tried under the Hudood Ordinances or before a federal Shariat Court (see Section 1.e.).

In inheritance cases, women generally do not receive—or are pressed to surrender—the share of the inheritance they legally are due.

Civil marriages do not exist; marriages were performed and registered according to one's religion. Upon conversion to Islam, the marriages of Jewish or Christian men remain legal; however, upon conversion to Islam, the marriages of Jewish or Christian women, or of other non-Muslims, that were performed under the rites of

the previous religion are considered dissolved (see Section 2.c.). Children born to Jewish or Christian women who convert to Islam after marriage were considered illegitimate only if their husbands do not also convert, and if women in such cases do not separate from their husbands.

Both civil and religious laws theoretically protect women's rights in cases of divorce, but many women are unaware of their rights, and often the laws were not observed. One NGO reported that legal literacy is constrained by the lack of laws printed in local languages. No action was taken on the 2002 judicial reforms which planned to publish laws in Urdu, which is understood by the majority of citizens.

A husband legally is bound to maintain his wife until 3 months after the divorce. A father is bound to maintain his children until they reach the age of 14 for males, or 16 for females. However, the legal process is so complicated and lengthy that it can take years for the children to get maintenance.

Discrimination against women in some areas was particularly harsh. In some areas of rural Sindh and Baluchistan, female literacy rates were 2 percent or less. A survey of rural females by the National Institute of Psychology found that 42 percent of parents cited "no financial benefit" as the reason they kept their daughters from attending school and sent their sons instead. In Karachi, only 28 percent of girls completing matriculation (10th grade) exams in science during the year would be able to find places in government-run colleges, as opposed to 83 percent of boys passing the same tests. Education activists noted that many parents would like to educate their daughters; however, many parents reportedly chose not to send their daughters to school due to the poor quality of instruction and the lack of facilities.

In rural areas, the practice of a woman "marrying the Koran" still was accepted widely if the family cannot arrange a suitable marriage or wants to keep the family wealth intact. A woman "married to the Koran" is forbidden to have any contact with males more than 14 years of age, including her immediate family members.

Press reports indicate that the practice of buying and selling brides still occurs in parts of the NWFP and the Punjab. For example, on July 22, the press reported the case of a twenty-year-old female from the NWFP who was sold to a 75-year-old man from Punjab.

In December, the Supreme Court upheld in 1997 the federal Shariat Court's ruling that a Muslim woman can marry without the consent of her wali (guardian—usually her father). However, in practice, social custom dictates that couples are to marry at the direction of family elders. When this custom was violated, especially across ethnic lines, violence against the couple may result, and the authorities generally failed to prosecute such cases vigorously.

Although a small number of women study and teach in universities, postgraduate employment opportunities for women largely remain limited to teaching, medical services, and the law. Nevertheless an increasing number of women are entering the commercial and public sectors.

Women's organizations operate primarily in urban centers. Many concentrate on educating women about existing legal rights. Other groups concentrate on providing legal aid to poor women in prison who may not be able to afford an attorney.

In 2001, an amendment ordinance to the citizenship law was issued which enabled women married to foreigners to claim citizenship for their children.

*Children.*—The Government, through its laws and programs, does not demonstrate a strong commitment to children's rights and welfare. There is no federal law on compulsory education, and neither the federal nor provincial governments provide sufficient resources to assure universal education. The education system is in disarray. Studies showed the gross primary enrollment rate for the country was 86.2 percent. According to the World Bank, more than a third of the nation's 10-year-olds have never attended school. According to the U.S. Agency for International Development, boys average less than two years of attendance, girls less than one. Nearly two of every five children are undernourished. A reported 10,000 schools have closed in recent years due to a lack of teachers. Even those children who go to school are not assured of being able to read and write. According to UNICEF figures in 2001, a nationwide sample of children in grade five revealed that only 33 percent could read with comprehension, while 17 percent were able to write a simple letter.

Information about progress in educating girls was contradictory. According to The New York Times Magazine, only 29 percent of women can read, while approximately 44 percent of all adults are literate. A survey in 2001 found that the enrollment rate for girls under age 12 was 65 percent, which was less than that of boys (75 percent), but considerably higher than the 1990 figure of 50 percent. Since official government figures count at most 1.5 million school-age children in public and private schools and madrassas in Karachi (of an estimated 4 million or more between the ages of 5 and 14), enrollment figures of 65 and 75 percent are difficult to substan-

tiated. The female literacy rate has doubled during the past two decades, although, at roughly 27 percent, it was just more than half that of males.

Education was a provincial responsibility. In previous years, comprehensive surveys were performed to identify school buildings that were being misused as well as the large numbers of teachers and administrators who were not performing their duties or even showing up for work. Administrative action against these “ghost schools” began, and the Government was better placed to ensure that its education budget was not misused. The Punjab government also worked closely with both international and local NGOs to improve primary and secondary education. However, no legal action was taken against those found responsible for the misuse of government property. In August 2001, a former provincial official quoting a survey revealed that half of the third grade teachers at one school in Punjab did not know their multiplication tables. Nevertheless, the official claimed the Punjab government refused to dismiss unqualified teachers.

In 2002, the Government announced an ordinance regulating madrassas under a voluntary registration program that included the setting up of model schools, the setting of teacher training standards, and the standardization of the curricula in participating schools to include general education subjects. A board was to enforce the regulations, oversee participating schools, and control all internal and external funding for participating schools. Religious clerics objected to any government regulation of the madrassas, and as a result, the Government failed to enforce most of the requirements. The Ministry of Education claimed that 8,000 madrassas were registered with the Government at year’s end.

According to press reports, there are several madrassas where children were confined illegally and kept in unhealthy conditions, and there were reports of the abuse of children studying at madrassas during the year. Sexual abuse of boys was believed widely to occur at some madrassas.

Health care services, like education, remained seriously inadequate for the nation’s children. Children suffered a high rate of preventable childhood diseases. According to the National Institute of Child Health Care, more than 70 percent of deaths between birth and the age of 5 years were caused by easily preventable ailments such as diarrhea and malnutrition. Public health administration suffers from poor management, lack of accountability, unreliable or falsified statistics, and lack of cooperation among agencies. In 2001, 30 million children under the age of 5 were targeted for polio vaccinations. According to the Extended Program for Immunizations, 27 million children were successfully vaccinated. Only 83 cases of polio were reported in November 2002.

Children sometimes were kidnapped to be used as forced labor, for ransom, or to seek revenge against an enemy (see Section 6.d.). In rural areas, it is a traditional practice for poor parents to give children to rich landlords in exchange for money or land, according to human rights advocates. These children frequently were abused by these landlords and held as bonded laborers for life. Landlords also have been known to pay impoverished parents for the “virginity” of their daughters, whom the landlords then rape. Incidents of rape were common.

The HRCP reported that in the majority of child abuse cases, children were abused by acquaintances. Trafficking in children is a serious problem. Child prostitution involving boys and girls is known to exist but rarely is discussed. All forms of prostitution were illegal, and a person who abducted a child under the age of 10 and committed sexual assault may be sentenced to death (see Section 6.f.).

In July 2000, the Government passed the Juvenile Justice System Ordinance. The ordinance abolishes the death penalty for minors under 18 years of age, mandates that the Government provide children with legal assistance, prohibits children from being tried for crimes with adults, and prohibits the proceedings of juvenile courts from being published.

Child labor is a significant problem (see Section 6.d.).

Several NGOs promoted children’s labor rights and child protections, operating in Islamabad, and in the provinces.

*Persons with Disabilities.*—The Government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. The vast majority of persons with physical and mental disabilities are cared for by their families. However, in some cases, these individuals are forced into begging; organized criminal “beggarmasters” skim off much of the proceeds. Parents reportedly have given children as offerings to Baba Shah Dola, a shrine in Punjab where the children reportedly are deformed intentionally by clamping a metal form on the head that induces microcephalitis. Some human rights organizations asked local authorities to investigate this practice; however, there have been no investigations. There is a legal provision requiring public and private organizations to reserve at least 2 percent of their jobs for qualified persons with disabilities. Organi-

zations that do not wish to hire persons with disabilities instead can give a certain amount of money to the government treasury, which goes into a fund for persons with disabilities. This obligation rarely was enforced. The National Council for the Rehabilitation of the Disabled provides some job placement and loan facilities.

Mentally ill prisoners normally lack adequate care and were not segregated from the general prison population (see Section 1.c.).

*Section 6. Worker Rights*

*a. The Right of Association.*—The Industrial Relations Ordinance (IRO) permits industrial workers to form trade unions subject to major restrictions in some employment areas. However, the International Confederation of Free Trade Unions (ICFTU) reported the IRO only covers companies that employ 50 or more persons, and that companies sometimes subdivided their workforces into artificial subsidiaries (while keeping them all on the same premises) to evade the IRO. The Essential Services Maintenance Act (ESMA) covers the state administration, government services, and state enterprises such as oil and gas production, electricity generation and transmission, the state-owned airline, the national railroad, and ports. Workers in these sectors are allowed to form unions. However, the ESMA sharply restricts normal union activities, usually prohibiting, for example, the right to strike in affected organizations. A worker's right to quit also may be curtailed under the ESMA. For each industry subject to the ESMA, the Government must make a finding, renewable every 6 months, on the limits of union activity.

The ILO has stated repeatedly that the country's law and practice violate the Government's commitments under ILO Convention 87. The ILO also expressed concern about the practice of artificial promotions that exclude workers from the purview of Convention 111. In response to a government request, the ILO has provided technical assistance to help bring the country's labor laws into conformity with the ILO's conventions. However, no legislative action has been taken.

Unions were able to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—The right of industrial workers to organize and freely elect representatives to act as collective bargaining agents is established in law. In general, legal unions have the right to bargain collectively. However, the many restrictions on forming unions (see Section 6.a.) preclude collective bargaining by large sections of the labor force.

There is no provision allowing agricultural workers or teachers to unionize, as they are not defined as "an industry." Water and power workers may engage in "responsible trade unionism."

According to government estimates, union members make up approximately 10 percent of the industrial labor force and 3 percent of the total estimated work force. Unions claimed that the number of union members was underestimated.

Legally required conciliation proceedings and cooling-off periods constrain the right to strike, as does the Government's authority to ban any strike that may cause "serious hardship to the community" or prejudice the national interest. The Government also may ban a strike that has continued for 30 days. The rare strikes that did occur were generally short and illegal. Police do not hesitate to crack down on worker demonstrations. The law prohibits employers from seeking retribution against leaders of a legal strike and stipulates criminal penalties for offenders. Under the Industrial Relations Ordinance of 2002, courts only may impose fines for violations of this provision; imprisonment no longer is permitted. The level of fines has been increased. The law does not protect leaders of illegal strikes. There were no strikes during the year, and some labor leaders attribute this to the ban on strikes by large unions, such as Pakistan Railways and Pakistan International Airways (PIA).

The ESMA also restricts collective bargaining. For each industry subject to the ESMA, the Government must make a finding, renewable every 6 months, on the limits of union activity. In cases in which the Government prohibits collective bargaining, special wage boards decide wage levels.

Special wage boards were established at the provincial level and were composed of representatives from industry, labor, and the provincial labor ministry, which provided the chairman. Despite the presence of labor representatives, unions generally were dissatisfied with the boards' findings. Disputes were adjudicated before the National Industrial Relations Commission. A worker's right to quit also may be curtailed. Dismissed workers have no recourse to the labor courts.

The ESMA exempts export promotion zones (EPZs) from the IRO's granting of workers the right to form trade unions. The workers in EPZs have no protection against employer interference or anti-union discrimination. There was only 1 EPZ, in Karachi, with nearly 6,000 employees, according to government sources.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor, including by children; however, the Government did not enforce these prohibitions effectively. Critics argue that the ESMA's limitation on worker rights, especially the right to quit, constitutes a form of compulsory labor. The ILO objected to this as a violation of Convention 29. The Government responded that the maintenance of essential services is required for the defense and security of the country, and that continued reviews have limited these services to a few core areas such as electricity generation and distribution, and air and sea ports.

The Bonded Labor System (Abolition) Act (BLAA) outlawed bonded labor, canceled all existing bonded debts, and forbade lawsuits for the recovery of existing debts. The act makes bonded labor by children punishable by up to 5 years in prison and up to \$900 (PKR 50,000) in fines. However, provincial governments, which are responsible for enforcing the law, have failed to establish enforcement mechanisms. Strong social ties between employers and public officials at the local level further undercut the law's effectiveness. In addition, the law is written in English and frequently is incomprehensible to persons it is intended to protect. Some provincial laws appeared to violate the BLAA.

It is likely that handmade bricks and hand-woven wool carpets were produced with forced or indentured child labor. Illegal bonded labor is widespread. It was common in the brick, glass, and fishing industries and was found among agricultural and construction workers in rural areas. The Government undertook a survey of bonded labor during the year; however, no information on the results of this study were made public at year's end. Bonded laborers often were drawn from the ranks of the unskilled, low-caste, and often non-Muslim. The Bonded Labor Liberation Front (BLLF), an NGO, reported that it had freed about 1,000 bonded brick kiln workers in 2002. Bonded labor, including bonded child labor, reportedly was used in the production of carpets for export under the peshgi system, by which a worker was advanced money and raw materials for a carpet he promises to complete (see Section 6.d.). The lack of education among bonded laborers deprived them of the ability to perform the necessary calculations to know when they have paid their debts to bondholders. Bonded laborers who escape often face retaliation from former employers. Others returned to their former status after being freed because they lack the education, money, and mobility to seek a different livelihood. Although the police arrested violators of the law against bonded labor, many such individuals bribed the police to release them. Conservative estimates put the number of bonded workers at several million. The Government disputed that peshgi workers were "bonded" or "forced" laborers and argued that they were "contract laborers" who negotiate a salary advance in a free and open market.

Human rights groups report that as many as 50 private jails housing some 4,500 bonded laborers were maintained by landlords in rural Sindh.

The Constitution and the law prohibited slavery. However, in remote areas of rural Sindh, bonded agricultural labor and debt slavery have a long history. Landlords have kept entire families in private prisons and sold families to other landlords.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government has adopted laws and promulgated policies to protect children from exploitation in the workplace; however, enforcement of child labor laws was lax and child labor was a serious problem. The Constitution prohibits the employment of children under age 14 years in factories, mines, and other hazardous occupations. The Employment of Children Act prohibits the employment of children under age 14 in certain occupations and regulates their conditions of work. Under this law, no child is allowed to work overtime or at night. Penalties for the violation of the act include fines of up to \$300 (PKR 20,000) or 1 year in prison. As of year's end, no one had ever received the maximum penalty. Child labor was common and resulted from a combination of severe poverty, employer greed, and inadequate enforcement of laws intended to control it. The Government has not committed funds to combat child labor.

A recent ILO survey indicated that agriculture was the largest child labor industry; followed by the informal sector, which included domestic work, street vending, illegal work, and family businesses; hazardous work, such as the leather, surgical instruments, and brick kiln industries ranked third. The report also noted that when programs were developed to eliminate child labor in one industry, parents often shift their children to work in other industries.

During a press conference in 2000, the president of the Punjab Laborers Front stated that 100,000 children between the ages of 5 and 12 years were working in more than 4,500 brick kilns in Punjab.

Child labor, mostly female, was common in the carpet industry, much of it family-run. Carpet manufacturers, along with the ILO-IPEC, have established a program

to eliminate child labor from the industry through monitoring and rehabilitation, which continued throughout the year. In 2001, 285 informal education centers had been set up. Of the 9,519 children enrolled in the centers in 2001, 8,114 were active in the carpet industry and 1,405 were working siblings. In 2001, 30 new rehabilitation centers, capable of serving 950 children, were added to the existing 153 rehabilitation centers. The ILO program, aimed to decrease child labor in the carpet industry by promoting educational opportunities for children, has resulted in a rising demand for enrollment in public schools that far exceeds the capacity of existing schools.

Although surgical instrument manufacturers have acted to remove child laborers from their factories, approximately 15 percent of the child labor accounted for works in Sialkot. An ILO-IPEC program in the surgical instrument manufacturing industry in Punjab was expanded into its second phase in September. With this expansion, the program hoped to provide education opportunities to Sialkot child laborers.

Enforcement of child labor laws remained a problem. There were few child labor inspectors in most districts, and the inspectors often had little training and insufficient resources. They reportedly also were corrupt. By law, inspectors also may not inspect facilities that employ less than 10 persons; most child labor occurs in such facilities. Hundreds of convictions were obtained each year for violations of child labor laws, but low fines levied by the courts—ranging from an average of \$6 (PKR 364) in the NWFP to an average of \$110 (PKR 7,280) in Baluchistan—were not a significant deterrent. The Employment of Children Act allows for fines of up to \$275 (PKR 18,200). Penalties often were not imposed on those found to be violating child labor laws.

Soccer ball manufacturers, importers, the ILO, and UNICEF have implemented a plan to eliminate child labor from the soccer ball industry. This project, based in Sialkot, monitors the production of soccer balls at established stitching centers, and set up as many as 185 rehabilitation centers to educate former child laborers and their younger siblings. At year's end, the ILO child labor program began assessing their impact on child labor; however, the assessment the Government undertook is to be completed in 2004. In addition, the project sought to identify unemployed adults, especially women, from the families of former child stitchers to take up stitching work and replace lost income. Women initially were reluctant to move from their homes to stitching centers.

The Government has undertaken joint projects with various international organizations to address the child labor problem. While results generally are positive, the numbers of children involved are only in the low thousands in total.

The law prohibits forced and bonded child labor; however, forced child labor was a problem. There were reports that children in juvenile detention facilities were required to work. Children at the Karachi Central Jail, who were imprisoned for crimes they committed, were detained with their parents, or were born in jail, reportedly were involved in woodcrafts and television repairs. Verifying these reports was difficult because of limited outside access to the jail.

Children sometimes were kidnapped to be used for forced labor (see Section 5). Seventy percent of working children have the status of "unpaid family helpers." Observers also believed that the incidence of bonded labor among such children was significant, but there were no reliable figures available on this.

*e. Acceptable Conditions of Work.*—Federal statutes applicable throughout the country govern labor regulations. The minimum wage for unskilled workers is \$42 (PKR 2,500) per month, with only slightly higher minimum rates for skilled workers. It applies only to industrial and commercial establishments employing 50 or more workers and not to agricultural or other workers in the informal sectors. The national minimum wage does not provide a decent standard of living for a worker and family.

Federal law provides for a maximum workweek of 48 hours (54 hours for seasonal factories) with rest periods during the workday and paid annual holidays. These regulations did not apply to agricultural workers, workers in factories with fewer than 10 employees, and contractors. Large numbers of workers do not enjoy these benefits. Many workers were unaware of their rights.

Additional benefits required by the Federal Labor Code include official government holidays, overtime pay, annual and sick leave, health and safety standards in the workplace, health care, education for workers' children, social security, old age benefits, and a worker's welfare fund. Employees earning more than \$47 (PKR 3,120) per month do not receive all of these benefits.

The provinces have been ineffective in enforcing labor regulations because of limited resources, corruption, and inadequate regulatory structures. In general, health and safety standards are poor. Although organized labor presses for improvements, the Government has done little, and its efforts to enforce existing legal protections



are weak. There is a serious lack of adherence to mine safety and health protocols. For example, mines often only have one opening for entry, egress, and ventilation. Workers cannot remove themselves from dangerous working conditions without risking loss of employment.

Government officials stated that progress in implementing the 2001 labor reform package was made by year's end. Labor leaders continued to criticize the reform package as too limited in scope.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons, especially in women, is a serious problem. The law prohibits the trafficking of women under age 21 into the country for sexual purposes or kidnapping. The Constitution prohibits slavery and forced labor. The Government has done little to stem the flow of women trafficked into the country or to help victims of trafficking. The Government does not provide direct assistance to victims but does provide legal assistance and funding for NGOs that assist victims.

The country is a source, transit, and destination point for trafficking in women and children for sexual exploitation, but more significantly, for use as bonded labor. Thousands of women are trafficked into the country every year, mainly from Bangladesh. Smaller numbers of Burmese, Sri Lankan, Indian, Afghan, and Central Asian women also are trafficked into the country, and some citizen women are trafficked abroad, mainly to Afghanistan or Saudi Arabia to work as prostitutes or domestic workers. East Asian and Bangladeshi women are trafficked through the country en route to other destinations. Internal trafficking of Pakistani women and Afghani refugees from rural areas to urban centers is a problem. Trafficking in women has occurred for decades; there likely are several hundred thousand trafficked women in the country. Press reports indicate that the buying and selling of brides persists in parts of the NWFP and Punjab.

Foreign trafficking victims usually were deceived with false prospects of marriage or offers of legitimate jobs in the country. Traffickers also used force, abduction, threats, and coercion to entice and control trafficking victims. Traffickers generally were affiliated with powerful criminal interests. There have been some reports of lower level official complicity and corruption with regard to trafficking. The border police, immigration officers, customs officials, police, and other officials (including members of the judiciary), reportedly sometimes facilitated trafficking in return for bribes.

Trafficking victims do not have legal residency and, if found by the authorities, are detained, arrested, and prosecuted for violation of immigration laws or of the Hudood ordinances. The Hudood ordinances criminalize extramarital sexual relations and place a burden on female rape victims because testimony of female victims and witnesses carry no legal weight. If a woman brings charges of rape to court and the case cannot be proved, the court automatically takes the rape victim's allegations as a confession of her own complicity and acknowledgment of consensual adultery (see Section 5). These laws discourage trafficking victims from bringing forward charges. Without money to pay for bail, their pimps, who required them to return to prostitution, often bailed out trafficking victims. Small numbers of escaped victims of trafficking end up in shelters run by NGOs that assist trafficking victims, but most did not because there were few such shelters available. Many women who were not bailed out were not repatriated. Since most Bangladeshi women arrive without documentation, the Bangladesh High Commission will not take responsibility for them, and they remain confined to women's shelters. Some have been repatriated at the expense of individuals who discover them and pay for their return home. The National Commission on the Status of Women drew attention to the problem of "enforced prostitution and trafficking in women," noting that women are the victims of exploitation by police and pimps, and should be treated with compassion. One NGO, Lawyers for Human Rights and Legal Aid (LHRLA), has reported extensively on trafficking and has provided documentation of the problem; several other NGOs occasionally work on the issue. Lawyers for Human Rights and Legal Aid and the Society for Human Rights and Prisoner's Aid run specific programs to assist trafficking victims, and a few other local NGOs also assist trafficking victims on a smaller scale.

Young boys were trafficked to the Gulf to work as camel jockeys; reports estimated that there were between several hundred and a few thousand boys between the ages of 3 and 10 working as camel jockeys. Most are from Punjab or Sindh. The majority of these boys were sent to the Gulf countries by their parents, landless agricultural workers who receive either a monthly sum of money or a lump sum for their child's labor. Parents occasionally also accompany their children to the Gulf. However, some of these children were abducted by traffickers in the country and were sent abroad without the knowledge of their parents. The boys generally were sent to the Gulf countries under the passports of women posing as their mothers.

The conditions such children live under often were poor, and many children reportedly are injured or maimed while racing camels. The children reportedly do not receive proper medical care or schooling, and deliberately are underfed to keep them as light as possible. When they become too old to race, they are sent back to the country and left to fend for themselves. In May, twenty-two camel jockeys were returned to the country from the UAE. Within the country, children sometimes are kidnapped to be used as forced labor, for ransom, or to seek revenge against an enemy (see Section 6.d.).

The Government assisted underage children and has rescued some kidnapped victims. During the year, the Overseas Pakistani Foundation helped to repatriate 30 minor children who were trafficked to the Middle East to work. The establishment of crime circle in FIA to deal with child trafficking has produced a significant increase in apprehended traffickers.

The Government sponsored shelters and training programs for actual and potential trafficking victims. There were 276 detention centers where women were sheltered and given access to medical treatment, limited legal representation, and some vocational training. The Government provided temporary residence status to foreign trafficking victims; however, police often treated victims of trafficking as criminals. The Government does not provide specialized training to assist trafficking victims. Very few NGOs deal specifically with trafficking; however, many local and provincial NGOs provide shelter to victims of trafficking and women and children at risk for trafficking.

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## SRI LANKA

Sri Lanka is a republic with an active multiparty system. The popularly elected president, reelected in 1999 to a second 6-year term, and the 225-member Parliament, elected in 2001 for a 6-year term, share constitutional power. From 1983 until 2001, the Government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization that advocated a separate ethnic Tamil state in the north and east of the country. In December 2001, the Government and the LTTE each announced unilateral cease-fires, and a formal ceasefire accord was signed in February 2002. After participating in six rounds of talks facilitated by the Norwegian government, the LTTE suspended the negotiations in April, but both sides continued to observe the ceasefire accord. As a result of the peace process, there was a sharp reduction in roadblocks and checkpoints around the country. Approximately 341,000 internally displaced persons (IDPs) returned to their points of origin in the north and east, and authorities opened investigations into abuses by security force personnel.

President Chandrika Kumaratunga, head of the People's Alliance (PA) coalition, temporarily suspended Parliament November 4. The President also dismissed the ministers of defense, interior, and mass communications and assumed those portfolios herself because of what the President termed a "deterioration of the security situation" during the course of the peace process. Parliament reconvened November 19, and talks continued at year's end between representatives of the Prime Minister and the President over control of the three ministries and the Prime Minister's role in the peace process. The President reaffirmed her commitment to the peace process, but peace negotiations remained suspended at year's end.

The 2001 parliamentary election, which took place prior to the ceasefire, was generally free and fair but was marred by irregularities and resulted in at least 50 deaths. The election gave a parliamentary majority to the United National Front (UNF), a coalition of parties led by the United National Party (UNP). Stating during the election that it feared possible infiltration by the LTTE, the Government prohibited more than 40,000 Tamil voters living in LTTE-controlled territories from crossing army checkpoints to vote. During the year, the Supreme Court ruled that this action violated the fundamental rights of these prospective Tamil voters and cited and fined the Government for preventing citizens from exercising their right to vote. The Government generally respected constitutional provisions for an independent judiciary.

The Ministry of Interior, which President Kumaratunga renamed the Ministry of Internal Security on December 19, controls the 60,000-member police force, which has been used for military operations against the LTTE and is responsible for internal security in most areas of the country. In the past, the police paramilitary Special Task Force also engaged in military operations against the LTTE. The Ministry of Defense controls the 112,000-member Army, the 27,000-member Navy, and the 20,000-member Air Force. Home Guards, an armed force of more than 20,000 mem-

bers drawn from local communities and responsible to the police, provide security for Muslim and Sinhalese communities located near LTTE-controlled areas. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human right abuses.

Sri Lanka is a low-income country with a market economy based mainly on the export of textiles, tea, rubber, coconuts, and gems. It also earns substantial foreign exchange from the repatriated earnings of citizens employed abroad, and from tourism. The population was approximately 19.4 million. Real Gross Domestic Product (GDP) growth was 3.2 percent in 2002 and forecast at 5.5 percent for the current year. As an early peace dividend, the country was able to reduce defense expenditures and focus on getting its large public sector debt under control. The economy benefited as a consequence from lower interest rates, a recovery in domestic demand, increased tourist arrivals, a revival of the stock exchange, and increased foreign direct investment. The cohabitation impasse between the President and the Prime Minister in the last 2 months of the year had an adverse effect on the economy, particularly in the country's equity markets and with foreign direct investment.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no reports of security forces committing politically motivated killings and no reports of disappearances; however, the military and police reportedly tortured, killed and raped detainees. Prison conditions remained poor. There were reports of arbitrary arrest during the year. During 2002, the Government released more than 750 Tamils held under the Prevention of Terrorism Act (PTA). Only 65 Tamils held under the PTA remained in custody. The PTA, like the Emergency Regulations (ER) repealed in 2001, permitted warrantless arrests and nonaccountable detentions. Unlike in the recent past, there were few reports that security forces harassed journalists during the year. Violence and discrimination against women, child prostitution, child labor, limitations of worker rights, especially in the Export Processing Zones (EPZs), and discrimination against persons with disabilities continued to be problems. Violence against religious minorities increased, and institutionalized ethnic discrimination against Tamils remained a problem. Trafficking in women and children for the purpose of forced labor occurred, and there was some trafficking of women and children for the commercial sex industry. The Government acted against the children for sex trade, and international involvement in the sex trade declined significantly.

The LTTE continued to commit serious human rights abuses. The LTTE was responsible for arbitrary arrest, torture, harassment, disappearances, extortion, and detention. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna and the east. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. There was overwhelming evidence that the LTTE killed more than 36 members of anti-LTTE Tamil political groups and alleged informants during the year. There were also instances of intimidation of Muslims by the LTTE, and there was fighting between LTTE personnel in the east and Muslims that left several Muslims dead. The LTTE continued to control large sections of the north and east. The LTTE permitted journalists some access to the areas of the country it controlled. Some LTTE-imposed restrictions remained on freedom of movement of citizens. The LTTE denied those under its control the right to change their government, did not provide for fair trials, infringed on privacy rights, used child soldiers, and discriminated against ethnic and religious minorities.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, the Human Rights Commission (HRC) reported that six individuals died in police custody, two allegedly from police beatings. Sunil Hemachandra, arrested by Moragahahena police July 24, later died at the National Hospital in Colombo after an alleged police beating. On November 10, S.L. Kulatunga died at the National Hospital in Colombo after allegedly being beaten by Nivithigala police. The HRC reported that four other individuals died while in police custody, but the cause of death in each case may not have been the result of police brutality. During his arrest May 13, Ilandara Pedige Wijeratne became ill and was taken by Weliveriya police to the Gamlpaha Hospital, where he died. Michel Manokumara's death, following his arrest August 12 and release by Kosgama police, was ruled a suicide due to ingestion of rat poison. Garlin Sanjeeewa, arrested by Kadawatha police August 27, was found hanging in his cell. His death was ruled a suicide. On August 28, while Maturata police were arresting R.M. Loku Banda, he complained of chest

pains and was taken to the Maturata Hospital. According to medical officials, he died of natural causes due to heart failure.

There were no developments in the 2001 cases of Kanapathypillai Udayakumar, who died in custody, or of Sivagnanam Manohari, who allegedly was killed by Air Force personnel.

Security force impunity remained a problem, although during the year, the Government indicted security force personnel in several high profile cases. At year's end, the Government continued to investigate 5 cases of rape, 50 cases of torture, and approximately 500 cases of disappearance by security force personnel. The Government convicted six security force personnel in the 1996 killing of university student Krishanthi Kumaraswamy.

A trial in the Anuradhapura Magistrate's Court continued during the year of five Army personnel accused in 2000 of torturing nine Tamil civilians and murdering eight of them in Mirusuvil. Previously, an Army commander had administratively punished nine soldiers by having their salaries withheld (see Sections 1.b. and 1.c.).

On July 1, 5 individuals, including 2 police officers, were sentenced to death in the court proceedings involving the 2000 Bindunuwema rehabilitation camp deaths of 27 Tamil men. The sentences were immediately commuted to 23 years rigorous imprisonment. In an earlier court action January 4, an additional 23 individuals, including 1 police officer, were acquitted. The HRC stated that the police were guilty of "grave dereliction of duty." Police had been charged for taking part in the killings and for doing nothing to prevent the villagers from entering the detention camp. Violence after the killings continued for almost 1 week before police were able to restore order.

In previous years, some cases of extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces or civilians were killed or injured. In most cases, the security forces claimed that the victims were members of the LTTE, but human rights monitors believed otherwise. For example, hearings continued during the year against eight police officers indicted in the 1998 deaths of eight Tamil civilians in Thampalakamam, near Trincomalee. Police and home guards allegedly killed the civilians in reprisal for the LTTE bombing of the Temple of the Tooth a week earlier.

Court hearings involving five soldiers arrested for the 1999 gang rape and murder of Ida Carmelita, a Tamil girl, continued during the year. A case remained pending involving mass graves at Chemmani in Jaffna possibly containing the bodies of up to 400 persons killed by security forces in 1996. In the Chemmani area, 6 soldiers allegedly had buried between 120 and 140 bodies on the orders of their superiors. Exhumations in 1999 yielded 15 skeletons. Two of the victims were identified as young men who had disappeared in 1996. In 2001, 13 of the bodies had not been identified. The 6 soldiers named a total of 20 security force personnel, including former policemen, as responsible for the killings. The remaining unidentified bodies underwent DNA testing for identification purposes. The Attorney General's (A.G.) office indicated that it was not satisfied with the inconclusive initial results and reportedly sought funds to provide for more detailed testing.

During the year, representatives of the victims of the 1992 massacre of 35 Tamil civilians in the village of Mailanthani requested that the A.G. appeal the 2002 acquittal of the 21 soldiers accused of the killings.

In the January 2000 killing of Tamil politician Kumar Ponnambalam, two key suspects were killed by unknown assailants early in the year. Judicial proceedings continued with the remaining suspect.

In the past, the military wing of the People's Liberation Organization of Tamil Eelam and the Razeek group were responsible for killing a number of persons; however, there were no reports of such killings during the year. The security forces had armed and used these militias and a number of other Tamil militant organizations to provide information, to help identify LTTE terrorists, and, in some cases, to fight in military operations against the terrorists. The exact size of these militias was impossible to ascertain, but they probably totaled fewer than 2,000 persons. These groups were asked to disarm following the February 2002 ceasefire agreement between the Government and LTTE. The militia handed over some weapons to the Government; however, most observers believed that the groups kept some arms. Persons killed by these militants in the past probably included LTTE operatives and civilians who failed to comply with extortion demands.

During the year, there was credible evidence that the LTTE killed more than 36 members of anti-LTTE Tamil political groups and alleged Tamil informants for the security forces, mainly in the north and east. Both current and former members of anti-LTTE Tamil political parties were targeted by the LTTE. In one high-profile case, the deputy leader of the Eelam People's Revolutionary Liberation Front was shot and killed in Jaffna in June. The LTTE also targeted alleged Tamil informants

to the military, killing several during the year. A police officer was also killed in Colombo in an apparent LTTE attack.

Unlike in previous years, there were no attacks and counter-attacks between government forces and the LTTE, although in two incidents in March and June, the Navy sank LTTE ships allegedly carrying weapons and ammunition. Several LTTE personnel were killed in each of the incidents. There were no reports of suicide bombings during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances at the hands of the security forces during the year. In 2000, eight Tamil civilians were reported missing in Mirusuvil. At the year's end, five soldiers in that case had been charged with the killing and were standing trial (see Sections 1.a. and 1.c.).

In 2000, a fisherman, seen arrested by naval personnel near Trincomalee, disappeared. In 2002, the Trincomalee High Court ordered a police line-up; however, the witness did not identify any of the suspects. At the end of 2002, the High Court was conducting a habeas corpus hearing in conjunction with the case. There were no further developments by year's end.

Those who disappeared in 2001 and previous years usually were presumed dead. The 2000 U.N. Working Group on Enforced or Involuntary Disappearances listed the country as having an extremely large number of "nonclarified" disappearances. The Commander of the Army and the Inspector General of Police both criticized the disappearances and stated that the perpetrators would be called to account.

Four regional commissions, three established in 1994 and a fourth established in 1998, reported a total of 21,215 disappearances between 1988 and 1994, the majority of which occurred during the 1988–89 period of the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) uprising. The commissions found that many people disappeared after having been removed involuntarily from their homes, in most cases by security forces. Many of these cases were under continuing investigation by the A.G.'s office, but there were no developments during the year.

Although there have been few prosecutions of security force personnel to date, during the year, there were indictments and investigations, including the case against the security forces involved in the Bindunuwewa massacre (see Section 1.a.) and the killings in Mirusuvil (see Sections 1.a. and 1.c.). In November 2002, the Government formed a new commission to investigate disappearances in the Jaffna area during 1996–1997; however, the commission took no action during the year.

A U.N. Working Group on Enforced or Involuntary Disappearances report, released in 1999, cited the PTA and ER as important factors contributing to disappearances and recommended their abolition or modification to bring them into conformity with internationally accepted human rights standards. The ER was repealed in 2001, and there were no arrests under the PTA in 2002 or in the current year; however, some arrests were being made without full necessary documentation, such as detention orders, and the Government had not released by year's end all persons previously detained under the PTA (see Section 1.d.). The reviewing process for some cases continued during the year.

Tamil militias aligned with the former PA government also were responsible for disappearances in past years; however, there were no such reports during the year. The HRC had no mandate or authority to investigate abuses by militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. The Government largely disarmed these militias in 2002.

The LTTE released 10 people in 2002, including some soldiers, to the International Committee of the Red Cross (ICRC). At year's end, the LTTE was not known to be holding prisoners, but many observers believed that they were (see Section 1.g.).

*c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*—The Convention Against Torture Act (CATA) of 1994 makes torture a punishable offense. In practice, members of the security forces continued to torture and mistreat detainees and other prisoners, particularly during interrogation. Under the CATA, torture is defined as a specific crime with a 7-year minimum sentence for those convicted. The High Court has jurisdiction over violations. The CATA does not implement several provisions of the U.N. Convention Against Torture, although the Government maintained that CATA is in "substantial conformity" with the U.N. Convention. According to human rights groups, the result was that torture is prohibited under specific circumstances but allowed under others, and torture continued with relative impunity. In addition, the PTA makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court. In some cases, the detention may extend for years (see Section 1.d.).

Methods of torture included using electric shock, beatings, suspending individuals by the wrists or feet in contorted positions, burning, slamming testicles in desk drawers, and near-drowning. In other cases, victims were forced to remain in unnatural positions for extended periods or had bags laced with insecticide, chili powder, or gasoline placed over their heads. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and deaths in custody have occurred (see Section 1.a.). Medical examination of persons arrested since 2000 continued to reveal multiple cases of torture.

There were credible nongovernmental organization (NGO) reports that some members of the security forces tortured individuals in custody. For example, according to the Asian Human Rights Commission (AHRC) and the World Organization Against Torture (OMCT), on November 1, Bamunuarachchi Pathiranalage Sathkumara was arrested and allegedly tortured by police at the Kuliypitiya police station. He was given no reason for the arrest, and when he was released later in the day, he was warned by police not to admit himself to any hospital, despite having been beaten and hung from a ceiling beam with his hands behind his back. Nevertheless, Sathkumara's brother took him to the Kuliypitiya Hospital, where Sathkumara remained for 3 days, and filed a complaint with the police of Kurunegala. Also according to the OMCT and the AHRC, on September 13 and several succeeding days, Hikkaduwa Liyanage Sandun Kumara, 16, was allegedly assaulted severely by police at the Rathgama police station. Kumara allegedly had his head wrapped with his shirt and water poured on his face, nearly causing him to suffocate, and had, among other beatings, his head struck against a wall. He was eventually treated at Karapitiya Teaching Hospital on September 21 and 23. AHRC and OMCT reported that the Supreme Court ordered the National Police Commission to conduct a disciplinary inquiry into this case.

There were no developments in the case of Thivyan Krishnasamy, a student leader released from custody in March 2002. Because he was known as an outspoken critic of security forces in Jaffna, human rights observers claimed that he was arrested because of his political activism, but the police stated that he was connected to the LTTE. Following his arrest in 2001, he complained of being tortured. In support of his allegations of torture, the Jaffna Student Union held protests during the fall of 2001, and university administrators temporarily closed the university to avoid violence.

Rape and sexual assault in custody remained a problem, and several cases were before the courts. According to Amnesty International (AI), a case involved Nandini Herat, arrested in March 2002 for theft. While in the custody of the Wariyapola police, she allegedly was subjected to sexual torture. On July 14, the Officer in Charge of Wariyapola police was charged in the High Court under the Sri Lanka Torture Act of 1994. He was released on bail, but subsequently five other officers involved also were charged. AI reported that Herat and her father were intimidated and threatened by police in an attempt to get the charges withdrawn. There were no further developments by year's end. In the case of 2 women arrested in 2001 in Mannar who claimed that they were tortured and repeatedly raped by naval and police personnel, 14 officials were tried for rape, torture, or both. Two of the perpetrators were acquitted during the year, and the case continued at year's end. A fundamental rights case (see next paragraph) also was opened against the accused. Four other cases in which the security forces were accused of raping women in detention remained pending at year's end.

Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the high courts or Supreme Court. Courts have granted awards ranging from approximately \$150 (14,200 rupees) to \$1,940 (182,500 rupees). In some cases, the Government did not pay fines incurred by security force personnel found guilty of torture. Either the Government or the guilty party paid fines based on the decision of the judge hearing the case.

The A.G.'s Office and the Criminal Investigation Unit established units to focus on torture complaints. During the year, the units forwarded 50 cases for indictments, of which 20 resulted in indictments, but there were no convictions. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights Issues also continued to track criminal investigations of torture.

The Army committed a number of nonlethal abuses. For example, according to the Refugee Council (RC), 20 people were wounded October 22 when soldiers assaulted civilians at Munai near Point Pedro in Jaffna. In another incident, a soldier shot and seriously wounded a bus conductor on December 8 in Jaffna. The Jaffna Magistrates Court remanded three soldiers over the incident.

At year's end, five soldiers were standing trial in a case involving the 2000 exhumation of the bodies of eight Tamils allegedly tortured and killed by the army in Mirusuvil (see Sections 1.a. and 1.b.).

Impunity remained a problem. In the majority of cases in which military personnel may have committed human rights abuses, the Government has not identified those responsible or brought them to justice.

The 2000 U.N. Committee on Torture report was submitted to the Government in 2001 but had not been released to the public by year's end.

In the past, Tamil militants aligned with the former PA government engaged in torture; however, there were no such reports during the year.

The LTTE used torture on a routine basis.

Prison conditions generally were poor and did not meet international standards because of overcrowding and lack of sanitary facilities. Women were held separately from men. In some cases, juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted.

The Government permitted visits by independent human rights observers and the ICRC, which during the year conducted 69 visits to 33 government detention facilities, including prisons and military jails. The HRC also visited 690 police stations and 96 detention facilities (see Section 1.d.). According to the ICRC and the HRC, prison conditions generally were poor and did not meet international standards.

Conditions also reportedly were poor in LTTE-run detention facilities. The ICRC conducted eight visits in LTTE-controlled detention facilities. Due to the release of detainees in 2000 and the apparent release of the remaining soldiers held by the LTTE in 2002, ICRC visited fewer LTTE detention centers than in previous years (see Section 1.d.).

*d. Arbitrary Arrest, Detention, or Exile.*—There were reports of arbitrary arrest and detention during the year. Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained generally appeared within a few days before a magistrate, who could authorize bail or order continued pretrial detention for up to 3 months or longer. Security forces must issue an arrest receipt at the time of arrest, and, despite some efforts by the Government to enforce this standard, arrest receipts rarely were issued in previous years. Observers believed that the lack of arrest receipts in the past prevented adequate tracking of cases and permitted extended detentions and torture without making any persons directly responsible for those detainees. During the year, arrest receipts were still not issued in some cases.

In December 2002, the Government established the National Police Commission (NPC) in accordance with the 17th Amendment of the Constitution. The NPC, composed entirely of civilians, is authorized to appoint, promote, transfer, discipline, and dismiss all police officers other than the Inspector General of Police and has the power to establish procedures to investigate public complaints against the police.

In past years, the army generally turned over those it arrested under the ER to the police within 24 hours, although the police and the Army did not always issue arrest receipts or notify the HRC within 48 hours. The HRC has a legal mandate, generally respected by the police, to visit those arrested. Due to censorship and infrequent access, observers could not determine the state of affairs in LTTE-controlled areas.

There were some large-scale arrests of Tamils in June; however, the vast majority of those arrested were released shortly thereafter. In the past, many detentions occurred during operations against the LTTE. Most detentions lasted a maximum of several days, but some extended to several months. At year's end, 65 Tamils charged under the PTA remained in detention without bail awaiting trial. The Government released more than 750 Tamils arrested under the PTA during 2002.

The Committee to Inquire into Undue Arrest and Harassment (CIUAH), which includes senior opposition party and Tamil representatives, examines complaints of arrest and harassment by security forces and takes remedial action as needed. Opinions on the effectiveness of the CIUAH were mixed. Some human rights observers believed that the work of the committee deterred random arrests and alleviated problems encountered by detainees and their families. Others felt that, although the CIUAH continued to meet throughout the year, it took no significant action.

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and private citizens. Although the HRC is legally mandated to exercise oversight over arrests and detentions by the security forces and to undertake visits to prisons, members of the security forces sometimes violated the regulations and failed to cooperate with the HRC.

The Government continued to give the ICRC unhindered access to approximately 160 detention centers, police stations, and army camps recognized officially as places of detention. Due to the lapsing of the ER in 2001, the total number of persons de-

tained in military bases has been reduced dramatically, with the military making fewer arrests and transferring detainees to police facilities more quickly than in previous years. With the ceasefire agreement, the number of arrests by the military dramatically declined.

The LTTE in the past detained civilians, often holding them for ransom. There were reports of this practice during the year, particularly the multiple reports of kidnapping of Muslims in the east. Usually, the Muslims were released soon after being kidnapped and often after ransom was paid. At year's end, there were no reports of the LTTE holding Muslims in custody.

There are no legal provisions to allow forced exile, and the Government did not practice it.

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

The President appoints judges to the Supreme Court, the High Court, and the courts of appeal. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appoints and transfers lower court judges. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the President and the Parliament.

In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them and have the right to counsel and the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition, the Ministry of Justice operated 11 community legal aid centers to assist those who could not afford representation and to serve as educational resources for local communities. However, at year's end, the legal aid centers had not tried any cases. There are no jury trials in cases brought under the PTA. Confessions, obtained by various coercive means, including torture, are inadmissible in criminal proceedings but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases come to trial, decisions were made relatively quickly.

Most court proceedings in Colombo and the south were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east were in Tamil and English, but many serious cases, including those having to do with terrorism, were tried in Colombo. While Tamil-speaking judges existed at the magistrate level, only four High Court judges, an Appeals Court judge, and a Supreme Court justice spoke fluent Tamil. Few legal textbooks and only a single law report existed in Tamil, and the Government has complied slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil.

The Government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property (see Section 5).

In the past in Jaffna, LTTE threats against court officials sometimes disrupted normal court operations. Although the Jaffna court suspended activities due to security concerns in 2000, it reopened in 2001 and functioned continuously since then. During the year, the LTTE expanded the operations of its court system into areas previously under the Government's judicial system in the north and east. With the expansion, the LTTE demanded that all Tamil civilians stop using the Government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE implemented the change through the threat of force.

The LTTE has its own self-described legal system, composed of judges with little or no legal training. LTTE courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. The courts reportedly imposed severe punishments, including execution.

The Government claimed that all persons held under the PTA were suspected members of the LTTE and therefore were legitimate security threats. Insufficient information existed to verify this claim and to determine whether these detainees were political prisoners. In many cases, human rights monitors questioned the legitimacy of the criminal charges brought against these persons. In 2002, The A.G. dismissed more than 750 PTA cases. During the year, 65 Tamils charged under the PTA remained in detention. The Government claimed that the remaining cases were of individuals directly linked only to suicide bombings or other terrorist and criminal acts.



The LTTE reportedly held a number of political prisoners. The number was impossible to determine because of the secretive nature of the organization. The LTTE refused to allow the ICRC access to these prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for the right to privacy, and the Government generally respected this provision in practice; however, it infringed on citizen's privacy rights in some areas. The police generally obtained proper warrants for arrests and searches conducted under ordinary law; however, the security forces were not required to obtain warrants for searches conducted either under the lapsed ER or the PTA. The Secretary of the Ministry of Defense was responsible for providing oversight for such searches. The Government was believed to monitor telephone conversations and correspondence on a selective basis. However, there were no reports of such activity by security forces during the year.

In September 2002, the Government removed the LTTE from proscription. This meant that members of the LTTE were no longer subject to arrest simply because of their status.

The LTTE routinely invaded the privacy of citizens by maintaining an effective network of informants. The LTTE forcibly recruited children during the year (see Section 6.d.). However, during the year, the LTTE also released 141 children. In late 2002, the LTTE handed over an additional 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE did not accept children (see Section 6.d.). Unlike in previous years, there were no reports that the LTTE expelled Muslims from their homes.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—Hostilities between the Government and the LTTE abated with the announcement of unilateral ceasefires in December 2001, followed by a formal ceasefire accord agreed to in February 2002. Subsequently, both sides released a number of prisoners, and the key road connecting Jaffna with the rest of the island opened. The abatement of hostilities led to a sharp reduction in roadblocks and checkpoints around the country, to the return of approximately 341,000 IDPs to their points of origin in the north and east, and to the opening of investigations into actions by security force personnel.

In April 2002, naval personnel in Nilaveli opened fire and injured two Tamil women. The circumstances surrounding the incident remained unclear, and the investigation into the incident remained open at year's end.

In 2001, the Army created the Directorate of Human Rights and Humanitarian Law. The directorate was charged with coordinating, with the assistance of ICRC training (see Section 4), all human rights activities for the Army and with overseeing the human rights cells that are assigned throughout the military. The Army also stated that all of its personnel had completed the appropriate training and pledged to adhere to the rules of international humanitarian law. Early in 2002, the Air Force and Navy instituted similar programs. The armed forces operated under written rules of engagement that severely restricted the shelling, bombardment, or use of excessive firepower against civilian-occupied areas. During the year, the Army instituted further mandatory human rights training programs for officers and enlisted personnel.

The Government continued to provide food relief, through the Commissioner General for Essential Services and the Multi-Purpose Cooperative Societies, to displaced and other needy citizens, including those in areas controlled by the LTTE. The Government delivered food rations to the Vanni area, a LTTE-controlled area in the north, through a checkpoint that was controlled on one side by the security forces and on the other by the LTTE. The border into the territory controlled by the LTTE remained open during the year. Unlike in previous years, NGOs could move assistance into LTTE-controlled areas without extensive Government oversight.

During 2002, the Ministry of Defense reported capturing several LTTE personnel with weapons in government-controlled areas in direct contradiction of the terms of the ceasefire agreement. The Government reportedly returned most LTTE personnel directly to the closest LTTE checkpoint. Some, however, were detained for longer periods. Previously, the military sent the LTTE cadre it captured or who surrendered to rehabilitation centers. The ICRC continued to visit former LTTE members in government rehabilitation camps, although the 2000 massacre of more than 20 such detainees at a government-run detention facility at Bindunuwewa, near Bandarawella, led observers to question the continued security of residents of these facilities (see Sections 1.a. and 1.g.).

In view of the scale of hostilities in previous years and the large number of LTTE casualties, some observers found the number of prisoners taken under battlefield conditions to be low. Observers concluded that many LTTE fighters apparently were

killed rather than taken prisoner. Some observers believed that, on the government side, an unwritten “take-no-prisoners” policy had been in effect. The military denied this claim, stating that other factors limited the number of prisoners taken, such as the LTTE’s efforts to remove injured fighters from the battlefield, the proclivity of its fighters to choose suicide over capture, and the LTTE’s occasional practice of killing its own badly injured fighters. There were no reports of security force personnel executing LTTE personnel during the year.

In previous years, the Government refused to permit relief organizations to provide medical attention to injured LTTE fighters, although it offered to treat any LTTE injured entrusted to government care. According to credible reports, injured LTTE cadres surrendering to the Government received appropriate medical care.

The LTTE admitted that in the past it killed security forces personnel rather than take them prisoner. Past eyewitness accounts confirmed that the LTTE executed injured soldiers on the battlefield. At year’s end, the LTTE reportedly had released all security force personnel it was holding; however, the LTTE was believed to have killed most of the police officers and security force personnel captured in the past few years.

The LTTE routinely used excessive force in the war, including by targeting civilians. Since the peace process began in December 2001, the LTTE has engaged in kidnapping, hijackings of truck shipments, and forcible recruitment, including of children. The LTTE was widely believed by credible sources to have increased its recruitment during the year. There were intermittent reports of children ranging in age from 13 to 17 escaping from LTTE camps. During the year, the LTTE released 141 children. (see Sections 1.f. and 5.). The Sri Lanka Monitoring Mission (SLMM) received approximately 200 complaints about child abductions during the year, and credible sources said those children were recruited to be child soldiers. Senior LTTE officials alleged to foreign officials that child soldiers were volunteers. During the year, the LTTE and UNICEF reached an agreement on the demobilization and rehabilitation of child soldiers and began work on an action plan to address issues relating to child labor, including underage recruitment. However, the LTTE provided little follow-up to the plan.

The LTTE expropriated food, fuel, and other items meant for IDPs, thus exacerbating the plight of such persons in LTTE-controlled areas. Malnutrition remained a problem in LTTE-controlled areas, as well as in other parts of the Vanni region, with nutrition levels falling below the national average. Experts reported a high rate of anemia and a low birth rate. Confirmed cases of malnutrition included hundreds of children.

Landmines were a serious problem in Jaffna and the Vanni and, to some extent, in the east (see Section 5). Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of displaced persons and rebuilding. At the end of 2002, a U.N. team had begun coordinating the process of mapping the mined areas in the country and established oversight for a mine removal program. During the year, a U.N. team established a landmine map database, which was shared with all the 12 demining agencies that worked in the country. During the year, the military and the LTTE removed mines in areas they controlled. The Government reported as many as 15 mine-related casualties among civilians per month

*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, the Government restricted these rights, often using national security grounds permitted by law. In 2002, criminal defamation laws, which had been used often by the Government to intimidate independent media outlets, were eliminated. In 2001, the Government officially lifted the censorship on war reporting. However, even when no specific government censorship was exercised, private television stations imposed their own, informal censorship on international television news re-broadcast in the country.

Although the Government owned the country’s largest newspaper chain, two major television stations, and a radio station, a variety of independent, privately owned newspapers, journals, and radio and television stations dominated the media. Most independent media houses freely criticized the Government and its policies. The Government imposed no political restrictions on the establishment of new media enterprises.

The President officially eased censorship restrictions on foreign journalists in a circular published in 2000; however, material for publication or broadcast within the country, regardless of author, remained subject to government approval until the repeal of censorship laws in 2001. Claims of harassment and intimidation of private media declined.

Reporters Without Borders (RWB) wrote to the President and the Prime Minister in May regarding a death threat made May 7 against British Broadcasting Corporation correspondent Ponniah Manikavasagam, who had just completed an interview with a leader of the LTTE and which was broadcast by the BBC. RWB believed that a pro-government paramilitary group, the Eelam People's Democratic Party, was responsible for the threat, made a few days after two Sinhalese journalists were threatened by LTTE members in Vavuniya, the northern town where Manikavasagam was based. Additionally, according to the RC, journalists in Jaffna staged a protest October 12 because of an Army attack at Manipai and Nellyyadu on four journalists.

In 2002, the defamation laws were repealed and all cases pertaining to the defamation laws were dropped.

The Sri Lanka Tamil Media Alliance (SLTMA) was formed in 1999 to protect the interests of Tamil journalists, who alleged that they were subject to harassment and intimidation by Tamil paramilitary groups and government security forces. Regional Tamil correspondents working in the war zones complained of arbitrary arrest and detention in the past and difficulty in obtaining press accreditation. The SLTMA filed cases on behalf of Tamil journalists, but its cases had not succeeded in the courts.

The Press Complaints Commission of Sri Lanka was established during the year to provide a venue for citizens to bring complaints against media outlets. The Commission began full operations by November, and started to investigate complaints.

Unlike in the previous year, travel by local and foreign journalists to conflict areas was not restricted. The LTTE did not tolerate freedom of expression. It tightly restricted the print and broadcast media in areas under its control. According to RWB, 50 armed LTTE activists near the eastern town of Batticaloa August 7 ambushed a distribution truck of *Thinamurasu*, a Tamil-language weekly, and burned 5,000 copies of the newspaper. In the past, the LTTE killed those reporting and publishing on human rights.

In 2002, two Air Force personnel were convicted of forcibly entering the home of and threatening a well-known journalist who reported regularly on defense matters. The two received 9-year sentences, were released on bail, and continued to appeal the charge during the year.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

The LTTE restricted academic freedom, and it repressed and killed intellectuals who criticize its actions. The LTTE also severely repressed members of human rights organizations, such as the University Teachers for Human Rights (UTHR) and other groups. Many former members of the UTHR have been killed and others were in hiding.

*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. Although the PTA may be used to restrict this freedom, the Government did not use the Act for that purpose during the year. Numerous peaceful political and nonpolitical rallies were held throughout the country during the year.

The 1981 Referendum Act states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled. However, the Government generally granted permits for demonstrations, including those by opposition parties and minority groups.

In October 2002, special task force police killed eight Tamil civilians during a protest in Akkaraipattu. Police and the commission tasked with investigating the incident claimed that the crowd was trying to enter the police compound and the police were defending themselves. Tamils continued to dispute this finding, asserting that the protest was peaceful.

The LTTE does not allow freedom of association in the areas it controls. The LTTE reportedly used coercion to make persons attend its rallies. On the Jaffna Peninsula, the LTTE occasionally posted publicly the names of Tamil civilians accused of associating with security forces and other Government entities. The Jaffna Library, destroyed during the war, was reconstructed and was set to reopen during the year, but the LTTE prevented the reopening. The LTTE killed Tamil civilians who cooperated with the security forces in establishing a civil administration in Jaffna under a political leadership elected freely and fairly in 1998.

*c. Freedom of Religion.*—The Constitution accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the Government generally respected this right in practice. Despite the special status afforded by the Constitution to Buddhism, major religious festivals of all faiths are celebrated as public holidays.

Foreign clergy may work in the country, but the Government sought to limit the number of foreign religious workers given temporary work permits. Permission usually was restricted to denominations registered with the Government. The Government prohibited the entry of new foreign clergy on a permanent basis. It permitted those already in the country to remain.

During the year, there were confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by extremist Buddhist monks. Christian organizations reported an increase in attacks, with several per week by year's end. Village police were often reluctant to pursue Buddhist monk agitators out of deference for their position. At year's end, no arrests had been made.

Two legal developments during the year raised religious freedom concerns. In July, the Supreme Court denied a Catholic order of nuns the right to be incorporated on the grounds that its medical services to the poor constituted proselytism. In January, the Supreme Court ruled against incorporation of New Harvest Wine Ministry, an Evangelical group, stating that Christian institutions should not couple religious education with charitable deeds. Also during the year, the Ministry of Hindu Affairs drafted a bill that would prevent proselytism to Hindus, including the use of outreach-type materials or media, and would require all conversions of Hindus to be reported to a local government official for investigation of possible force or allurements. The draft bill was under review at year's end.

In 2001, four Sinhalese attacked a Muslim cashier. When the Muslim community protested police inaction, rioting Sinhalese confronted the Muslim persons, and two Muslims were killed. The police investigation into this incident remained open and no arrests were reported. There were no developments in this case during the year.

The LTTE expelled virtually the entire Muslim population from their homes in the northern part of the island in 1990. Most of these persons remain displaced. During the year, the LTTE leadership met with the leaders of the Muslim community to discuss the peace process. In the past, the LTTE expropriated Muslim homes, land, and businesses and threatened Muslim families with death if they attempted to return. The LTTE made some conciliatory statements to the Muslim community, but most Muslims viewed the statements with skepticism. There also was intimidation of Muslims in the east by the LTTE, and, throughout the year, there was sporadic fighting between LTTE personnel and Muslims. For example, on April 17-18, five Muslims were killed and scores displaced during fighting with the LTTE in Mutur, near the eastern port city of Trincomalee. In August, five Muslims were killed, and numerous Muslim-owned businesses and houses were burned during fighting in the Eastern Province.

The LTTE has been accused in the past of using church and temple compounds, where civilians were instructed by the Government to congregate in the event of hostilities, as shields for the storage of munitions.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution grants every citizen “freedom of movement and of choosing his residence” and “freedom to return to [the country]”, and the Government generally respected the right in practice. However, in the past, the war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Tamils had to obtain police passes to move freely in the north and east, and frequently they were harassed at checkpoints throughout the country. These security measures had the effect of restricting the movement of Tamils.

Starting in 2001, most travel restrictions were lifted by the Government. Areas with limited access continued to be near military bases and high security zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. Some observers claimed the high security zones were excessive and unfairly claimed Tamil agricultural lands, particularly in Jaffna. The LTTE limited travel on the road connecting Jaffna in the north to the rest of the country; however, in April 2002, the Government lifted all its restrictions on travel to Jaffna.

By late 2001, there were over 800,000 IDPs in Sri Lanka. With the advent of the peace process, the United Nations High Commissioner for Refugees (UNHCR) reported that 341,000 IDPs had returned to their places of origin, leaving roughly 500,000 IDPs in the country. According to the RC, approximately 100,000 IDPs were unable to resettle as a result of the High Security Zones. An estimated 65,000 Tamil refugees live in camps in Tamil Nadu in southern India. Approximately 100,000 refugees may have integrated into Tamil society in India over the years. According to the UNHCR, a small number may have returned from India during the year.

The LTTE has discriminated against Muslims and, in 1990, expelled some 46,000 Muslim inhabitants—virtually the entire Muslim population—from their homes in areas under LTTE control in the northern part of the island. Most of these persons remained displaced and lived in or near welfare centers. There were credible reports that the LTTE warned thousands of Muslims displaced from the Mannar area not to return to their homes until the conflict is over. However, it appeared that these attacks by the LTTE were not targeted against persons due to their religious beliefs; rather, it appeared that they were part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. During the year, the LTTE invited the Muslim IDPs to return home, asserting they would not be harmed. Although some Muslim IDPs had begun returning home, the vast majority had not returned. Instead, they were awaiting a guarantee from the Government for their safety in LTTE-controlled areas.

The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. In particular, the LTTE taxed civilians traveling through areas it controlled. In the past, the LTTE disrupted the movement of IDPs from Trincomalee to Jaffna by hijacking or attacking civilian shipping, although there were no such reports during the year.

The law does not provide for the granting of asylum and/or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. Asylum issues did not arise during the year. There were no reports of refoulement, the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in practice through multiparty, periodic, free and fair elections held on the basis of universal suffrage; however, recent elections have been marred by violence and some irregularities. Power is shared between the President (elected in 1999 for a 6-year term) and the 225-member Parliament. The right to change the government was exercised in the December 2001 parliamentary elections in which the UNF, a coalition of parties led by the UNP, won a majority in Parliament for the next 6-year period. Stating that it feared possible infiltration by the LTTE, the Government prohibited more than 40,000 Tamil voters living in LTTE-controlled territories from crossing army checkpoints in order to vote. During the year, the Supreme Court ruled that this action violated the fundamental rights of these prospective Tamil voters. The Supreme Court ruling cited and fined the commander of the Army, the then-Commissioner of Elections, and the Government for preventing citizens from exercising their right to vote. The commander of the Army claimed that he was following orders from the Government based on information that the LTTE was planning to infiltrate government-controlled areas on election day.

Following elections held in December 2001, the UNP and its allies formed the new Government. The president's party, the PA, led the opposition in Parliament. Co-habitation ties between the President and Prime Minister have been difficult and were exacerbated in November when the President declared an emergency, suspended Parliament for 15 days and dismissed 3 ministers, taking personal control of the defense ministry. In doing so, the President cited concerns about national security. Discussions continued at year's end over the control of the three ministries and the Prime Minister's role in the peace process.

The President suspended Parliament from July to September 2001 out of concern that her coalition had lost its majority in Parliament because of defections. The suspension of Parliament angered opposition parties, which sponsored numerous demonstrations. One of these demonstrations ended with the deaths of two marchers killed by security forces (see Section 2.b.). After further defections from her coalition, the President dissolved Parliament in October 2001, and called for elections to take place in December 2001.

On election day in December 2001, 12 supporters of the Sri Lankan Muslim Congress were killed, allegedly by hired thugs of a PA candidate. Former PA Member of Parliament Anuruddha Ratwatte and his two sons were indicted for conspiring in the killings. In addition, 15 others, including security force personnel, were indicted for their alleged involvement in the murders. In June, Ratwatte and 14 others were granted bail by a 5-judge bench of the Supreme Court, setting aside the majority order of the High-Court-Trial-at-Bar.

Despite an extremely violent campaign preceding the 2001 election, including credible reports of the use of intimidation by both of the major parties, voter turnout

exceeded 70 percent. The People's Alliance for Free and Fair Elections reported 755 incidents of violence and 49 deaths; the Center for Monitoring Election Violence reported 4,208 incidents and 73 deaths; and the police reported 2,247 incidents and 45 deaths connected to the election.

In September 2001, the Parliament passed the 17th Amendment, which established (among other commissions) an independent Commission on Elections, which was to be tasked with ensuring free and fair elections; however, implementing legislation was not passed by year's end.

A delegation from the European Union monitoring the 2001 election expressed concern about violence and irregularities in the voting, but concluded that the election "did to a reasonable degree reflect the will of the electorate."

There were 10 women in the 225-member Parliament. There was one woman in the Cabinet, and two sat on the Supreme Court. In December 1999, a woman, Chandrika Kumaratunga, was elected President for a second term.

There were 28 Tamils and 24 Muslims in the 225-member Parliament.

The LTTE continued to refuse to allow elections in areas under its control, although it did not oppose campaigning by certain Tamil parties in the east during the December 2001 parliamentary elections. In previous years, the LTTE effectively had undermined the functioning of local government bodies in Jaffna through a campaign of killing and intimidation. This campaign included the killing of two of Jaffna's mayors and death threats against members of the 17 local councils. During the period of the conflict, the LTTE killed popularly elected politicians, including those elected by Tamils in areas the LTTE claimed as part of a Tamil homeland.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Several domestic human rights NGOs, including the Consortium of Humanitarian Agencies, the University Teachers for Human Rights, Jaffna, the Civil Rights Movement, and the Law and Society Trust, monitored civil and political liberties. There are no adverse regulations governing the activities of local and foreign NGOs, although the Government officially required NGOs to include action plans and detailed descriptions of funding sources as part of its registration process. Some NGO workers viewed this as an attempt by the Government to exert greater control over the NGO sector after previous human rights groups' criticisms. Few NGOs complied with these reporting requirements.

The Government continued to allow the ICRC unrestricted access to detention facilities (see Sections 1.c. and 1.d.). The ICRC provided international humanitarian law training materials and training to the security forces. The UNHCR, the ICRC, and a variety of international NGOs assisted in the delivery of medical and other essential supplies to the Vanni area (see Section 1.g.).

The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to the ALRC, the HRC often was not as effective as it should have been. The HRC adopted a tribunal-like approach to investigations, declining to undertake preliminary inquiries in the manner of a criminal investigator, and often told victims to find their own evidence. The HRC did not issue an annual report about human rights abuses. Nevertheless, the HRC conducted 690 visits to police stations and 96 visits to detention facilities. The HRC had 2,500 cases of alleged human rights abuse pending. Activists expressed some satisfaction with the HRC leadership's prompt investigation into the 2000 Bindunuwewa massacre.

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

The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights. The Supreme Court regularly upheld court rulings in cases in which individuals filed suit over the abridgment of their fundamental civil rights. The HRC and the CIUAH are other mechanisms the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts (see Section 1.d.). There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS; however, there was some societal discrimination against these groups.

*Women.*—Sexual assault, rape, and spousal abuse (often associated with alcohol abuse) continued to be serious and pervasive problems. Amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation, and modified rape laws to create a more equitable burden of proof and to make punish-

ments more stringent. Marital rape is considered an offense in cases of spouses living under judicial separation, and laws govern sexual molestation and sexual harassment in the workplace. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and judicial officials should be required. The Government set up the Bureau for the Protection of Children and Women within the police in 1994 to respond to calls for greater awareness and attention; however, there was no information on any action taken by the Bureau, nor on the number of crimes against women.

There were several reported incidents of rape or attempted rape by security forces during the year. According to the RC, two policemen were accused October 23 of the attempted rape of a Mrs. Selvarajah at Uyilankulam in Mannar District. Three soldiers were accused August 26 of attempted rape of a woman at Inbaruty in Vadamarachchi in the Jaffna Peninsula. During the year, the police reported approximately 900 rape investigations in the country compared with 865 rape investigations in 2002. Despite the number of reported rapes, there were no convictions in the cases involving security force personnel.

Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurred (see Section 6.f.). Prostitution was not legal, and it was a problem. Some members of the police and security forces reportedly participated in or condoned prostitution.

The Constitution provides for equal employment opportunities in the public sector. However, women had no legal protection against discrimination in the private sector where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Women constituted approximately one-half of the formal workforce.

Women have equal rights under national, civil, and criminal law. However, questions related to family law, including divorce, child custody, and inheritance, are adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, except in the case of Muslims, who followed their customary marriage practices. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

*Children.*—The Government was committed to protecting the welfare and rights of children but was constrained by a lack of resources. Expenditures for health and education for children declined as a percent of GDP between 1998 and 2001. Nevertheless, the Government demonstrated its commitment through extensive systems of public education and medical care. The law requires children between the ages of 5 and 14 to attend school. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. Health care, including immunization, also was free.

Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. In September 2002, the police opened an office to work directly with the National Child Protection Authority (NCPA) on children's issues, to support NCPA investigations into crimes against children, and to arrest suspects based on those investigations.

Under the law, the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also broadens the definition of child abuse to include the involvement of children in war. The NCPA included representatives from the education, medical, retired police, and legal professions; it reported directly to the President.

The Government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalty for pedophilia is not less than 5 years and up to 20 years, as well as an unspecified fine. During the year, 11 cases of pedophilia were brought to court; however, there were no convictions.

Child prostitution was a problem in certain coastal resort areas. The Government estimated that there were more than 2,000 child prostitutes in the country, but private groups claimed that the number was much higher (see Section 6.f.). Citizens committed much of child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution (see Section 6.f.). The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation, and worked with local NGOs that provided shelter. The Tourist Bureau

conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

The LTTE used child soldiers and recruits children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as 13 years of age, surrendered to the military, and credible reports indicated that the LTTE stepped up recruiting efforts (see Section 1.g.). In 1998, the LTTE gave assurances to the Special Representative of the U.N. Secretary General for Children in Armed Combat that it would not recruit children under the age of 17. The LTTE did not honor this pledge, and, even after the ceasefire agreement, there were multiple credible reports of the LTTE forcibly recruiting children (see Section 6.d.). For example, during the year, UNICEF reported that there were over 700 cases of forcible child recruitment by the LTTE and that more than 1,300 children remained in LTTE custody at year's end. During the year, the Government began participation in an inter-regional project aimed to prevent and reintegrate children involved in armed conflict. The project was sponsored by the International Labor Organizations's International Program for the Elimination of Child Labor, which the Government began working with in 1996.

*Persons with Disabilities.*—The law forbids discrimination against any person on the grounds of disability. It is believed no cases were filed under this law. There was some discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. The World Health Organization estimated that 7 percent of the population consisted of persons with disabilities. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The Government also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination.

*Indigenous People.*—The country's indigenous people, known as Veddas, numbered fewer than 1,000. Some preferred to maintain their isolated traditional way of life, and they are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. Some Veddas complained that they were being pushed off of their land in protected forest areas.

*National/Racial/Ethnic Minorities.*—There were approximately 1 million Tamils of comparatively recent Indian origin, the so-called "tea estate" Tamils or "Indian" Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. Approximately 75,000 of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. Without national identity cards, they were vulnerable to arrest by the security forces. However, the Government stated that none of these persons would be forced to depart the country. During 1999, the Government introduced a program to begin registering these individuals, and 15,300 tea estate Tamils received identity cards in 2001, and the registration process continued during the year. On October 7, Parliament passed a bill granting full citizenship to over 160,000 tea estate Tamils.

Both local and tea estate Tamils maintained that they suffered long-standing systematic discrimination in university education, government employment, and in other matters controlled by the Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Government respects the constitutional right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views; however, in practice, such rights were subject to administrative delays, and unofficially were discouraged. Nonetheless, approximately 20 percent of the 6.9 million work force nationwide and more than 70 percent of the plantation work force, overwhelmingly Hill Tamil, was unionized. In total, there were more than 1 million union members. Approximately 15–20 percent of the nonagricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politi-



cally independent. More than 30 labor unions had political affiliations, but there were also a small number of unaffiliated unions, some of which had active leaders and a relatively large membership. During 2002, the Ministry of Employment and Labor registered 174 new unions and canceled the registration of 150 others, bringing the total number of functioning unions to 1,689 by the end of 2002. About 500 unions were considered active. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report. This requirement is the only legal grounds for cancellation of registration.

In 1999, Parliament passed an amendment to the Industrial Disputes Act (IDA), which requires employers to recognize trade unions and the right to collective bargaining and prohibits anti-union discrimination. This law was being implemented. Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Anti-union discrimination is a punishable offense liable for a fine of \$200 (20,000 rupees).

During the year, the International Confederation of Free Trade Unions (ICFTU) filed a formal complaint against the Government in the ILO Freedom of Association Committee regarding an allegedly flawed referendum July 9 at the Jaqalanka Ltd. factory in the Katunyake Free Trade Zone. At year's end, the complaint was resolved, with both sides reportedly making concessions on the issue. Unions may affiliate with international bodies, and a few have done so.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining; however, very few companies practiced it. At year's end, about 50 companies belonging to the Employers' Federation of Ceylon (EFC) had collective agreements. All collective agreements must be registered at the Department of Labor. By year's end, companies belonging to the EFC signed 128 collective agreements.

According to the ICFTU, there were some violations of trade union rights in the EPZs. Only seven unions were active in EPZs, partially because of severe restrictions on access by union organizers to the zones. In order to give effect to the IDA and ILO conventions on collective bargaining and trade union activity, the Board of Investment (BOI) issued a new labor standards manual in October 2002 instructing BOI companies, including those in EPZs, to recognize Trade Union activities and the right to collective bargaining.

There are 10 trade unions operating in the EPZs. Collective bargaining units are recognized as unions in 4 out of approximately 200 factories.

In BOI enterprises without unions, including those in the EPZs, worker councils—composed of employees, employers, and often a public sector representative—generally provided the fora for labor and management negotiation. According to the new BOI labor manual and BOI sources, the councils have the power to negotiate binding collective bargaining contracts, although no such contracts have been signed to date. Labor advocates criticized the employees' councils as ineffective worker representatives.

All workers, other than police, armed forces, prison service and those in essential services, have the right to strike. By law, workers may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. These mechanisms were effective, and new reforms placed limits on the amount of time allowed to resolve arbitration cases; however, there continued to be substantial backlogs in the resolution of cases. The President retains the power to designate any industry as an essential service.

Civil servants may submit labor grievances to the Public Service Commission (PSC). If not satisfied with PSC decisions, civil servants may appeal to the Administrative Appeals Commission set up in July under the 17th Amendment to the Constitution. They may also seek judicial protection under fundamental rights protection provisions in the Constitution. Government workers in the transportation, medical, educational, power generation, financial, and port sectors have staged brief strikes and other work actions in the past few years. There were numerous public sector, but relatively few private sector, strikes during the year.

The law prohibits retribution against strikers in nonessential sectors. Employers may dismiss workers only for disciplinary reasons, mainly misconduct. Incompetence or low productivity are not considered appropriate grounds for dismissal. Dismissed employees have a right to appeal their termination before a labor tribunal.

Approximately 125,000 workers were employed in 12 EPZs/Industrial Parks operated by the BOI. A large percentage of these workers were women. Under the law, workers in the EPZs have the same rights to join unions as other workers. Few unions have formed in the EPZs, partially because of severe restrictions on access by union organizers to the zones. While the unionization rate in the rest of the country was approximately 20 percent, the rate within the EPZs was under 10 percent.

Labor representatives alleged that the Government's BOI, which manages the EPZs, including setting wages and working conditions in the EPZs, discouraged union activity. The short-term nature of employment and the relatively young workforce in the EPZs made it difficult to organize. Labor representatives alleged that worker councils in the EPZs only had the power to make recommendations. The recent BOI manual stated that Employees' Councils could represent workers in collective bargaining and industrial disputes. Labor representatives alleged that the Labor Commissioner, under BOI pressure, had failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions. While employers in the EPZs generally offered higher wages and better working conditions than employers elsewhere, workers faced other concerns, such as security, expensive but low quality boarding houses, and sexual harassment. In most instances, wage boards established minimum wages and conditions of employment, except in the EPZs, where wages and work conditions were set by the BOI.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor; however, there were reports that such practices occurred. The law does not prohibit forced or bonded labor by children specifically, but government officials interpreted it as applying to persons of all ages (see Section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that some of these children had been abused.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. A recent amendment to the Employment of Women and Youth Act (EWYC) prohibits all other forms of family employment of children below 14. The Compulsory Attendance at Schools Act, which requires children between the ages of 5 and 14 to attend school, has been in effect since 1998, although it still was being implemented. A child activity survey, carried out in 1998 and 1999 by the Department of Census and Statistics, found almost 11,000 children between the ages of 5 and 14 working full time and another 15,000 engaged in both economic activity and housekeeping. The survey found 450,000 children employed by their families in seasonal agricultural work throughout the country.

The EWYC and the Factories Ordinance govern employment of young persons between 14 and 18 years of age. Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There were no reports that children were employed in the EPZs, the garment industry, or any other export industry, although children sometimes were employed during harvest periods in the plantation sectors and in non-plantation agriculture. It was believed that many thousands of children were employed in domestic service, although this situation was not regulated or documented. A 1997 study reported that child domestic servants were employed in 8.6 percent of homes in the Southern Province. The same study reported that child laborers in the domestic service sector often were deprived of an education. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops.

The National Child Protection Authority is the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the Police Department are responsible for the enforcement of child labor laws. Government inspections were unable to eliminate child labor (see Section 5), although an awareness campaign coupled with the establishment of hotlines led to an increase in prosecutions. The Labor Department reported 161 complaints regarding child labor in 2002, with 72 of these cases withdrawn due to lack of evidence or faulty complaints. From January to July, the Labor Department reported 102 complaints, with 14 cases withdrawn and 23 prosecuted. Penalties for employing minors were increased from approximately \$10 (1,000 rupees) and/or 6 months imprisonment to \$100 (10,000 rupees) and/or 12 months imprisonment.

Although the law prohibits forced or bonded labor by persons of any age, some rural children reportedly have served in debt bondage (see Sections 5 and 6.c.).

The LTTE continued to use high school-age children for work as cooks, messengers, and clerks, as well as soldiers. In some cases, the children reportedly helped build fortifications. In the past, children as young as age 10 were said to be recruited and placed for 2 to 4 years in special schools that provided a mixture of LTTE ideology and formal education. The LTTE used children as young as age 13 years in battle, and children sometimes were recruited forcibly (see Section 5). Com-

pulsory physical training, including mock military drills even for children and the aged reportedly occurred. According to LTTE spokesmen, training was meant to keep the population fit; however, it was believed widely that the training was established to gain tighter control and provide a base for recruiting fighters. Individuals or small groups of children intermittently turned themselves over to security forces or religious leaders, saying that they had escaped LTTE training camps throughout the year.

*e. Acceptable Conditions of Work.*—While there is no universal national minimum wage, approximately 40 wage boards established by the Department of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family, but the vast majority of families had more than one worker. The Ministry of Labor effectively enforced the minimum wage law for large companies, but there was no monitoring of the informal sector. The monthly minimum wage in the garment industry was approximately \$27 (2,800 rupees), and approximately \$20 (2,100 rupees) in the hotel industry.

In July 2002, the daily wage rate (fixed by a collective agreement) in the tea plantations managed by plantation management companies was increased from \$1.24 (121 rupees) to \$1.51 (147 rupees). In the rubber sector, the daily wage was raised from \$1.15 (112 rupees) to \$1.35 (131 rupees).

The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5½-day workweek). Overtime has been changed from to 100 hours per year from 60 hours per month under a recent ruling. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. Workers receive 14 days of annual leave, 14 to 21 days of medical leave, and approximately 20 local holidays each year. Maternity leave is available for permanent, seasonal and part-time female workers. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent and feared they would lose their jobs if they removed themselves from the work situation.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. Female citizens traveled to Middle Eastern countries to work as domestics, and some reported being forced into sexual exploitation. A small number of Thai, Russian, and Chinese women had been trafficked to Sri Lanka for purposes of sexual exploitation. Some children were trafficked internally to work as domestics and for sexual exploitation.

The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine.

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere (PEACE), a domestic NGO, estimated that there were 6,000 male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime (see Section 5). PEACE also reported that an additional 7,000 men age 15 to 18 years were self-employed prostitutes.

The NCPA has adopted, with ILO assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work in 2002 on children's issues, including trafficking in children.

The country's reputation as a destination for foreign pedophiles declined significantly because of improved law enforcement and increased publicity.

The Government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs.



## WESTERN HEMISPHERE

### ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a bicameral legislative assembly composed the Government. A Governor General, appointed by the British monarch, was the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976, 5 years before independence. In the 1999 elections, which observers described as free but not fair, the ALP retained power by winning 12 of 17 parliamentary seats. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The security forces are responsible for law enforcement, and civilian authorities maintained effective control of them. Some members of the security forces committed human rights abuses.

The country had a mixed economy with a strong private sector. The population was approximately 76,000. Tourism and financial services were the most important source of foreign exchange earnings. The Government was the largest employer, employing approximately 11,500 workers. The country offset a slight decline in tourism since 2000 by borrowing, and its large and growing external debt remained a serious problem. Real economic growth was projected to be negligible for the year, compared to 2.7 percent in 2002. The Labor Commission estimated that the unemployment rate was 11–13 percent at year's end.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were allegations of police brutality. Prison conditions were poor, and there were allegations of abuse of prison inmates and sexual harassment of female prison guards. Opposition parties had greater opportunities to express their views through two radio stations; however, the radio station owners continued to report efforts by the Government to limit their access to the public. Societal discrimination and violence against women continued to be problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, there were occasional allegations that the police committed unwarranted killings, usually in connection with apprehension of suspects.

On November 22, police shot and killed escaped convict Frederick Martin James, who had been serving a 23-year sentence for attempted murder. According to police, James was armed with a gun and opened fire when they tried to apprehend him. At year's end, the Director of Public Prosecution (DPP) ordered an inquest into the circumstances of James' death.

In the case of the May 2002 police killing of Andy "Natty Rough" Francis, the coroner's inquest concluded that the death was a lawful killing.

In the September 2002 case in which Glen Harper died at his home in the Gambles area while police were attempting to subdue him after he beat his father unconscious, the coroner's inquest concluded that Harper's death was accidental.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the authorities generally respected these prohibitions in practice; however, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

In October, police shot bystander Khary Roberts while chasing a suspected burglar in broad daylight. Roberts hired an attorney to take civil action against the po-

lice force; at year's end, the police concluded an internal investigation into the shooting but had not made the results public.

Prison conditions were poor. Conditions at the sole, 18th century-built prison worsened considerably after a fire destroyed most of the facility in 1999. The prison remained overcrowded, with 149 prisoners (142 men and 7 women). Prison conditions were inadequate, particularly recreation and rehabilitation facilities. The Rehabilitation Center for prisoners found guilty of committing minor crimes held an additional 13 male prisoners at year's end.

In July 2002, the Government established a task force to investigate and report any inappropriate behavior by management and staff at the prison during the previous 6 months and to investigate allegations of sexual harassment among prison staff and prisoners. While the Government did not make the report public, in September 2002, the Outlet newspaper reported that it called for the Prison Superintendent to step down, citing claims by female prison officers that he had harassed them sexually; charges the Superintendent denied. The Labor Ministry's Permanent Secretary declined to take action on the task force report, based on an analysis by the Labor Commissioner that the report lacked sufficient evidence to support its recommendation that the Prison Superintendent be discharged. Nonetheless, the Prison Superintendent was placed on pre-retirement leave, and his contract was not renewed in May.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison. There was no separate facility for juveniles, who were housed with adult inmates.

Pretrial detainees were not held in the same area as convicted prisoners.

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 prohibitions in practice.

The police force consists of approximately 600 persons (including the fire brigade), and it has disciplinary machinery in place to handle public complaints. Headed by a Police Commissioner, the force has 25 senior officers and 23 inspectors. Independent departments handle immigration and driver licenses, which formerly were part of the police force's responsibilities. The Police Welfare Association has advocated for additional training for the police, particularly in the area of management training for senior officers.

Criminal defendants have the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. However, members of the opposition United Progressive Party (UPP) asserted that there were instances where this was violated, particularly on Thursdays or Fridays, and that increasingly, arresting and detention officers were unavailable to arrange bail or to expedite the process of releasing detainees.

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

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which is always employed in the case of death sentences. There are no military or political courts.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. In capital cases only, the Government provided legal assistance at public expense to persons without the means to retain a private attorney. Courts may reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and government authorities generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, of the press, and other forms of communication, and the authorities generally respected these provisions in practice. Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion, often publishing vigorous criticism of the Government. However, the opposition party alleged that the Government restricted access to electronic media, effectively denying them equal coverage.

The Government owned one of the four general interest radio stations and the single television station. A religious station broadcast without impediment. One of the Prime Minister's brothers owned the second radio station, and another brother was the principal owner of the sole cable television company. The government-controlled media reported regularly on the activities of the Government and the ruling party.

In 2001, the country's first independent broadcast media, the Observer radio station, began operation. It was accessible to all political and religious groups and was utilized occasionally by the Government. The opposition accused the Government of trying to marginalize the Observer radio station by refusing to grant it duty free concessions; ZDK Radio, which is owned by members of the Prime Minister's family, received such concessions. The opposition UPP, which published the Crusader newspaper, also applied for and received a radio license in 2001; its radio station began operation in June.

The Prime Minister filed a defamation suit against the Observer radio station and members of the UPP for widely publicizing the as yet unsubstantiated rape charges brought by Monique Kim Barua against him. The Prime Minister filed this case after Barua's attorneys decided that they could not adequately establish their case and dropped the charges.

The Government continued to restrict the opposition's access to the media, and there continued to be allegations of censorship as the result of subtle coercive pressure by influential persons. For example, owners of the Observer radio station claimed that several large corporations declined to advertise on the station for fear of losing lucrative government contracts. In addition, the Government, citing violations of the Telecommunications Act, revoked the owners' license to operate satellite transmission equipment and seized the equipment. At year's end, the Government withdrew individual charges against the owner, but continued to press charges against the company. The case was heard in court in September 2002, but the judge had not issued a ruling by year's end.

According to the DPP, the police were conducting an internal investigation and an inquest had begun into the May 2002 case in which a lone masked assailant shot and killed the 1-year-old son of fire fighter Eldred Jacobs in a brutal attack at his home that wounded Jacobs and other family members. The newspapers reported that Jacobs, recently transferred from police headquarters, had said on a radio call-in program that he believed in the veracity of allegations of criminal wrongdoing made against the Prime Minister, and that the police would not arrest the Prime Minister because they too were implicated.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. The police generally issued the required permits for public meetings but sometimes denied them to avert violent confrontations. The opposition held several demonstrations during the year to protest government policies and alleged government scandals. There were no reports of police interference with these demonstrations.

A court convicted and fined one remaining protester among the residents of Bendals arrested in a protest demonstration in 2001 over threats to public health caused by the operation of nearby quarries; the case against the others was dismissed in 2002.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

For a more detailed discussion, see the 2003 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 assessed all claims for refugee status or asylum by persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully through a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by

secret ballot. The Constitution requires general elections at least every 5 years; these elections must be held by March 2004. The Commonwealth observer group that monitored the last elections reported irregularities in the electoral process and assessed the elections as free but not fair. The Governor General appoints the senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition.

In the 1999 elections, the ALP retained power by winning 12 of 17 parliamentary seats and capturing 53.2 percent of the popular vote. In June, the ALP majority dropped to nine seats, with the defection of three parliamentarians. Except for a period in opposition from 1971–76, the ALP has held power continuously since 1951. The opposition charged that the ALP's longstanding monopoly on patronage and its influence over access to economic opportunities made it extremely difficult for opposition parties to attract membership and financial support.

In 2002, the Government appointed an Electoral Commission to oversee the registration of voters and upcoming national election, which includes five members. Three of the commission members (including the Chairman) were nominated by the Prime Minister and two were nominated by the opposition party. In preparation for elections, the Electoral Commission registered 42,616 voters (in contrast to the 52,348 in the last election) in a new voter registration process begun in July. This process was highly scrutinized by both parties and outside observers, given that the voters' register was outdated and widely condemned as inflated by observers of the last election. On November 13, the final voters' list was released.

There were no impediments to participation by women in government or politics. The Directorate of Gender Affairs participated in workshops to encourage women to become active in politics. There were no women elected to the 17-seat House of Representatives; there was 1 woman appointed to the 17-seat Senate. There were three female candidates running in the upcoming national elections. In addition, the Speaker of the House of Representatives and the President of the Senate, both appointed positions, were women. The Attorney General, a Guyanese national resident in Antigua, was the only woman in the Cabinet.

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

There were no governmental restrictions on the formation of local human rights organizations. The Antigua and Barbuda Human Rights Association, chaired by a lecturer at the University of the West Indies, met sporadically. It represents individuals and groups who claimed that their rights had been violated.

The Government's Ombudsman has reviewed an increasing number of cases annually. The Ombudsman is chosen by both houses of Parliament; a resolution sets the term length. The current Ombudsman's term is 10 years or until age 70, whichever occurs first. The Office of the Ombudsman operates independently of the judiciary and the Director of Public Prosecutions; however, recommendations for trial must be approved by the DPP. The Ombudsman's office has the authority to pursue a recommendation through the ministry involved, directly with the Prime Minister, and ultimately may take the matter to Parliament. The Ombudsman, Hayden Thomas, reported that 90 percent of the cases he pursued were resolved successfully by contact with the concerned ministries. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, the ministries were often slow to implement his recommendations.

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

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally respected these provisions in practice.

*Women.*—Violence against women was treated as a matter of public concern, and nongovernmental social welfare groups focused on the problem. Women in many cases were reluctant to testify against their abusers. A 1999 Domestic Violence Act prohibits and provides penalties for domestic violence, as well as rape and other sexual offenses. Organizations such as the Government's Directorate of Gender Affairs sought to increase women's awareness of their rights under the law in cases of domestic violence. The Directorate of Gender Affairs instituted a domestic violence program that included training for police officers, magistrates, and judges. The Directorate also ran a domestic abuse hotline and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children. There were a number of active NGOs that addressed issues affecting women.

Prostitution is prohibited, but it was a problem.

Sexual harassment is illegal, but it was rarely prosecuted. According to the Labor Department, there was a high incidence of sexual harassment reported by employees in both the private and public sectors.



While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector; 54 percent of the public service and over half the permanent secretaries—the most senior positions—were female. In addition, 41 percent of the bar association members were female.

The Professional Organization for Women of Antigua was a networking and resource group for female executives. It held seminars for women entering the workforce during the year.

*Children.*—While the Government repeatedly expressed its commitment to children's rights, its efforts to protect those rights in practice were limited. The Government provided education for children through the age of 16; it was free, universal, and compulsory. However, schools faced many shortages, and parents typically provided desks and chairs for their children. Although shared textbooks were provided, parents often purchased books; parents also must provide uniforms. Children had access to health care and other public services.

Child abuse remained a problem. The age of consent is 16 years. In 2001, the police uncovered a child pornography and prostitution ring, and high-ranking members of society reportedly were implicated. A task force with representatives from both the government and nongovernmental sectors was created to investigate the matter. No cases have been prosecuted; several were dismissed because the complainant failed to appear.

*Persons with Disabilities.*—No specific laws mandate accessibility for persons with disabilities, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There was no evidence of widespread discrimination against persons with disabilities, although the Government did not enforce the constitutional anti-discrimination provisions. In 2002, there was one complaint that a person was not hired due to a disability; the Labor Commission resolved this case and determined the complaint was not valid because of the nature of the job. The Commission did not receive any complaints during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belong to a union, and the hotel industry was heavily unionized. There were two major trade unions: The Antigua and Barbuda Trades and Labour Union (ATLU) and the Antigua and Barbuda Workers' Union (AWU). The ATLU was associated with the ruling ALP, while the larger and more active AWU was allied rather loosely with the opposition.

The law prohibits anti-union discrimination. The Labor Commission may require employers and employees to submit to mediation if antiunion discrimination is alleged. However, the mediator's recommendations are not binding, and either party may seek recourse to the courts. Employers found guilty of anti-union discrimination are not required to rehire employees fired for union activities. On February 5, the Government ratified International Labor Organization (ILO) Convention 100 (Discrimination in Employment).

Unions are free to affiliate with international labor organizations, and they did so in practice.

*b. The Right to Organize and Bargain Collectively.*—Labor organizations were free to organize and bargain collectively.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, and petroleum workers, in addition to health and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are then prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition, an injunction may be issued against a legal strike when the national interest is threatened or affected. The ILO's Committee of Experts repeatedly requested the Government to amend certain paragraphs of the 1976 Industrial Courts Act and the extensive list of essential services in the Labor Code, asserting that these provisions could be applied to prohibit the right to strike.

Most sectors of the public work force experienced payment delays of at least 6 weeks during the summer and fall, which caused widespread public frustration and precipitated crippling strikes and "sick-outs" by air traffic controllers, port authorities, prison officials, and teachers. By year's end, the Government had made arrangements to address these late payments and no subsequent strikes occurred.

There are no export processing zones, but there are free trade zones that facilitated services such as international banking and gambling. The Labor Code applied equally to workers in these zones as elsewhere in the country.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution forbids slavery and forced labor, including that by children, and they did not exist in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition, persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The Labor Commissioner's Office also had an Inspectorate that investigated exploitative child labor matters. In September 2002, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Labor Code provides that the Minister of Labor may issue orders, which have the force of law, to establish a minimum wage. In 2002, a tripartite committee of representatives from employers, employees, and government met and recommended changes to the minimum wage. In December 2002, the Minister of Labor increased the minimum wage and set it at \$2.22 (EC\$6.00) an hour for all categories of labor. The minimum wage provided a barely adequate standard of living for a worker and family, and in practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek was 40 hours in 5 days. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services continue to pay 60 percent of wages for an additional 7 weeks, for a total of 13 weeks.

The Government has not yet developed occupational health and safety laws or regulations, but a section of the Labor Code includes some provisions regarding occupational safety and health. Plans to incorporate comprehensive legislation on safety, health, and the welfare of workers into the existing Labor Code have not been implemented. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. Although there were no reports that persons were trafficked to, from, or within the country, an Antiguan task force evaluating the Antiguan passport office determined that passports could be fraudulently obtained, raising the possibility that fraudulent passports could be used to facilitate migrant smuggling or trafficking in persons.

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## ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. After protests in December 2001 led to the resignation of President Fernando de la Rúa and a succession of interim presidents elected by the Legislative Assembly, presidential elections were held in April. No candidate gained sufficient votes to win the election in the first round; however, former President Carlos Menem withdrew his candidacy before the second round, and Nestor Kirchner was declared the President and assumed office on May 25. The Constitution provides for an independent judiciary, but it was often inefficient and at times subject to political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Federal Police (PFA) report to the Secretary of Security under the Ministry of Justice, Security, and Human Rights, as do the Border Police ("Gendarmeria") and Coast Guard. The PFA has jurisdiction in the Federal Capital and over federal crimes in the provinces. Provincial police are subordinate to the provincial governors. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country is resource rich and has a market-based mixed agricultural, industrial, and service economy and a population of approximately 36.2 million. Despite a severe economic and financial crisis in recent years, the economy grew during the

year, spurred by the liberalization of the exchange rate and high commodity prices for key exports such as soybeans and wheat. Real economic growth was approximately 8 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were instances of killings and brutality by police and prison officials. Authorities prosecuted some police for such actions, although impunity continued, particularly in jails and prisons. Police corruption was a problem. Overcrowding in jails and prisons was a problem. Police sometimes arbitrarily arrested and detained citizens. The judiciary was slow and showed clear signs of politicization. The judiciary continued to work through the legacy of human rights abuses committed during the “dirty war” of the 1976–83 military regime. Anti-Semitism remained a problem, despite steps to combat it. Domestic violence against women was a problem. Discrimination against racial and ethnic minorities persisted. Child labor was a problem. There were reports 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 political killings; however, some persons asserted that killings of protesters during demonstrations were politically motivated (see Section 2.b.). Police and prison officers were responsible for killings involving the use of unwarranted or excessive force. The authorities investigated, and in some cases, detained, tried, and convicted the officers involved; however, impunity for those who committed abuses was sometimes a problem. The Center for Legal and Social Studies calculated that in the Buenos Aires region there were 149 violent deaths, civilian and official, involving security forces in the first 6 months of the year; some of these were killings at the time of apprehension, while others involved killings by stray bullets. There were also a few prison killings with suspected official involvement.

On February 6, authorities discovered the remains of Patricia Villalba and Leyla Bshier Nazar in a field near La Darsena, Santiago del Estero Province. Villalba was reportedly killed with the participation of provincial authorities to prevent disclosure of information concerning the prior death and dismemberment of Bshier Nazar. By November, the presiding judge had arrested 27 people in connection with the crime and charged 7 with the killings. Among those accused of killing Villalba were Antonio Musa Azar, the former provincial chief of intelligence, and three policemen, Hector Albarracin, Jorge Gomez, and Francisco Mattar.

On August 5, prisoner Lucas Ricardo Carrizo was found hanged in his cell in the Ezeiza Penitentiary Complex 1, just days before becoming eligible for parole. Other prisoners reported that Carrizo was present when Carlos Sandez Tejada was killed in the same prison in July 2002. These deaths and those of Maximiliano Noguera in 2000 and Miguel Angel Arribas in 1999 were suspected to have been committed to cover up a ring of corruption in Caseros prison whereby prison officials released inmates to carry out robberies. The day after Carrizo's death, the Minister of Justice dismissed 69 members of the Penitentiary Service, including the director of the Ezeiza complex. By mid-August, Judge Alberto Banos had ordered the arrest of 22 former Caseros prison staff.

There were no developments in the case of the 2002 killing of Daniel Chocobar (see Section 1.c.). Authorities prepared to try a provincial police chief for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki; three other police were charged with a coverup (see Sections 1.c. and 2.b.). On November 14, three police officers were acquitted of the 2002 killing of Roque Sebastian Villagra. Nine Federal Police detained and charged for the 2002 beating and drowning of Ezequiel Demonty had still not been tried by year's end. Authorities detained seven police who awaited trial in the beating and death of Andrea Viera in May 2002.

Investigations continued into the deaths that occurred in Buenos Aires, Rosario, and Santa Fe in 2001 during lootings and demonstrations. Seven active or retired police remained in detention for five deaths being investigated by the federal judiciary. A Rosario judge found “insufficient evidence” to proceed to trial of police suspected of three killings. A police officer remained in jail awaiting trial for the killing of Claudio Lepratti, a fourth person killed in Rosario. There were no developments in the investigation of a related killing in Cordoba.

The investigation into the 2001 killings of Gaston Galvan and Miguel Burgos continued. There was no new information on the investigations of the 2001 shooting death of 16-year-old Martin Gonzalez in Tigre, Buenos Aires Province (with suspected involvement of a policeman) or the deaths of Carlos Santillan and Oscar

Barrios in 2001 (apparently related to confrontations between police and roadblock protesters).

In March, the chief prosecutor for the provincial Supreme Court opened an investigation into possible prosecutor negligence in San Isidro concerning investigative irregularities in some of the deaths of over 60 minors killed in supposed confrontations with police in Buenos Aires Province in 1999 and 2000. In August, the provincial police also initiated an administrative investigation of two police officers.

The trial of policeman Felipe Gil, under detention for the deaths of José Zambrano and Pablo Rodríguez in Mendoza Province in 2000 was expected to begin in March 2004.

On November 12, a court convicted 12 Federal Police officers for the 2000 killing of Manuel Fernández in Jujuy.

The investigation into the 1994 terrorist bombing of the Buenos Aires Jewish Community Center (AMIA) in which 85 persons were killed advanced significantly. A court indicted 12 Iranian officials and 1 Lebanese national, and the former Iranian Ambassador to Argentina at the time of the blast was briefly detained in the United Kingdom. The trial of 20 suspects (15 of whom are former police officers) accused of providing material support for the attack continued at year's end. President Kirchner pledged his support for the investigation and efforts to achieve justice in this case (see Section 2.c.).

In August, the President revoked a 2001 presidential decree proscribing extraditions for dirty war crimes and finalized the country's ratification of the U.N. Convention on the Non-Applicability of Statutes of Limitations to War Crimes and Crimes Against Humanity. The decree also encouraged the Congress to annul the 1986 and 1987 "Full Stop" and "Due Obedience" de facto amnesty laws for crimes committed during the 1976–83 dirty war. In August, the Congress passed such an annulment with retroactive effect, clearing the way for courts to reopen major criminal cases against military officials that had been shelved following the amnesty laws. Two of these cases, related to the Naval Mechanics School and the First Army Corps, led to judicial arrest orders for a number of former security force members.

Cases already underway because of prior court challenges to the constitutionality of the amnesty laws continued. These included the investigation by Judge Claudio Bonadio into the kidnapping and killing of exiled Montonero guerrillas upon their return in 1979–80 as well as Judge Rodolfo Canicoba Corral's investigation into cooperation among military and security officials of six countries as part of "Operation Condor."

The Supreme Court continued to weigh the constitutionality of the amnesty laws; however, in September, it referred a challenge to amnesty laws to a lower appeals court, further delaying a final decision.

Judicial authorities in Spain, Italy, France, Sweden, and Germany sought to prosecute those believed responsible for disappearances and killings during the military regime. France renewed its effort to extradite former naval officer Alfredo Astiz, who was convicted in absentia for the deaths of two French nuns. Italy and Sweden also sought his extradition for the disappearance of three Italians and a Swedish national. Germany continued to pursue its extradition request for dirty war suspects, including former head of the First Army Corps, Carlos Guillermo Suarez Mason. In July, more than 40 suspects were detained and held for several weeks on charges of genocide and other abuses pursuant to a Spanish judge's request.

Retired Navy officer Ricardo Cavallo, arrested in Mexico in 2000, was extradited to Spain to face charges of genocide, torture, and terrorism. The Mexican courts dismissed the torture charges as having expired. This was described as a landmark case of an extradition from one country to another to face charges on gross human rights abuses committed in a third country.

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

Judicial proceedings and extradition attempts related to killings, disappearances, and torture committed by the 1976–83 military regimes continued (see Section 1.a.).

The Under Secretariat for Human Rights, which maintains the files of the National Commission on Disappeared Persons, received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship. While some human rights groups claimed that as many as 30,000 persons disappeared, the number of compensation applications suggested that a figure between 10,000 and 15,000 may be more accurate.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate an estimated 250 to 300 cases of kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. The Grandmothers also assisted families in pre-

senting cases of kidnapped children nationwide and have identified over 70 children of persons who disappeared.

A number of those suspected of crimes linked to appropriation of the children of disappeared persons remained under detention, including Francisco Gomez and his wife, and Navy doctor Jorge Luis Magnacco.

In September, the Supreme Court ruled not to force a suspected daughter of a couple who disappeared to provide a blood sample for DNA analysis to prove her true identity.

Human rights activists continued to pursue “truth trials” intended to correct official records, especially with regard to the fate of those who disappeared and those born in captivity (see Section 1.a.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the Criminal Code provides penalties for torture similar to those for homicide; however, some torture and brutality by police and prison guards continued to occur. Human rights organizations described police brutality, the occasional use of torture on suspects, and corruption within the prison and police forces. The Government investigated some past reports of police or prison brutality; however, few cases were tried and even fewer resulted in convictions. Threats to witnesses and advocates made prosecution of abuses and reform more difficult. Provincial judicial authorities effectively deactivated a registry of abuses. In 2002, the Government created a Secretariat for Human Rights for Buenos Aires Province, which established a Program for the Prevention of Torture.

The wife of jailed robbery suspect Gumersindo Vergara, who was alleged to have committed suicide in September in northwest Chubut Province, reported that her husband’s body showed signs of torture. The family’s lawyer also presented evidence of police intimidation.

There were no further developments related to the five police jailed for the torture of Javier Villanueva in 2001.

Prison conditions were often poor. Some facilities were old and dilapidated, and many prisons and jails were overcrowded. A notable increase in crime and stricter provisions for early release, combined with a slow judicial system, led to overcrowded prisons and police stations. In September, a press report on Buenos Aires Province stated that there were 6,200 detainees in police station facilities designed for 3,000, and the 36 provincial prison units designed for 15,000 inmates held 22,000. The report also noted that the province was building 4 additional prisons to house 2,800 inmates. The overcrowding contributed both to security problems—such as jailbreaks and riots—and to mistreatment of prisoners.

Impunity for corruption, torture, and brutality by prison guards and officials remained a serious problem. Prisoners who filed torture and mistreatment complaints were targeted for torture or killed. While some provincial prison officials were dismissed, there were no known developments with respect to the prosecution of suspects in these attacks.

Under national regulations, pretrial prisoners may not be held together with convicted prisoners; however, reliable reports indicated that this segregation of prisoners often was not respected in practice.

The law provides for separate facilities for women and for minors, and these were available.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Penal Code limits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. In the past, human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or inaction. There were reports that in some provinces paramilitary groups worked in conjunction with police elements.

In addition to the PFA and Border Police, each province has its own police force. These are generally under a police hierarchy which in turn responds to a Security Minister or other executive branch council. In practice, the effectiveness of and respect for human rights by different forces varied considerably. Corruption was systemic in some forces, and impunity for police abuses was common.

Some of the most common practices included contract abuses, extortion of and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Police were also often involved in drug trafficking and kidnapping. In October, the head of the PFA and at least 14 other senior PFA captains were dismissed on charges of corruption. In Buenos Aires Province, dozens of upper level provincial police were subject to investigation for “illicit enrichment,”

and the former head of the provincial police resigned after it was discovered he had inexplicably deposited several hundred thousand dollars in an offshore account. In April, authorities discovered a Salta Province counternarcotics police chief with 50 kilos of cocaine and arrested him for drug trafficking. Addressing police corruption was difficult, in part, because the suspects intimidated whistleblowing colleagues, judicial officials, and civilian witnesses. Threats and beatings allegedly aimed to intimidate witnesses were common and, in some cases, occurred in connection with murders believed committed by members of security forces or their criminal allies (see Section 1.a.).

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argued that this provision of law was disregarded in order to extort money from persons by threatening to charge them with illegal weapons or drug possession.

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often resulted in lengthy pretrial detentions (see Section 1.e.). If convicted, a prisoner usually received credit for time already served. According to local authorities, approximately 70 percent of the inmates in the federal prisons of the greater Buenos Aires area were in pretrial detention.

The law provides for the right to bail, and it was utilized in practice.

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; however, while the judiciary is nominally independent and impartial, its judges and judicial personnel were inefficient and, at times, subject to, and apt to exercise, political influence. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a sense that many decisions were arbitrary. Allegations of corruption were reported widely, but only a small number of investigations, judicial impeachment trials, and dismissals of judges actually took place. Allegations of corruption in provincial courts were even more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

The Council of Magistrates submits a slate of candidates for each federal judicial vacancy to the President, whose selection is subject to Senate approval. The Council also conducts impeachment hearings of judges and administers the federal court system. In October, there were 90 vacant positions and 34 slates awaiting executive decisions. Five new judges were appointed, and one was removed.

In June, Supreme Court Chief Justice Julio Nazareno resigned soon after an impeachment process began in the Chamber of Deputies. With the encouragement of the Justice Minister, the Impeachment Committee in the Chamber brought charges against a second Supreme Court Justice, Eduardo Moline O'Connor, and, in December, the Senate voted to impeach him. In October, a third Justice, Guillermo Lopez, resigned after the Impeachment Committee began proceedings against him.

In June, the Government adopted a new public disclosure and consultation process for Supreme Court nominees and later implemented a similar procedure for other judicial appointments. In October, Raul Zaffaroni became the first Supreme Court nominee approved under the new procedures.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary and witnesses (see Sections 1.a., 1.b., and 1.c.).

In July, the clerk of a court in the Federal Capital reportedly stated in an administrative investigation that she had been subject to coercion and pressure from judges, prosecutors, and high ranking police, in relation to a major 1996 armored car robbery.

The prosecutor in the case of the June 2002 killing of Ian Duran, a teenage witness in a murder case, failed to carry out basic notification procedures required for a trial, and the proceedings were found null and void. The prosecutor claimed Duran's killing was unrelated to the prior murder. Another prosecutor was appointed to renew the investigation. There was no further information on the numerous threats reportedly received in relation to the case.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to oral trials in criminal cases, replacing the old system of written submissions. However, substantial elements of the old system re-

main, some of which have the potential to bias a judge before oral testimony is heard. Lengthy delays in trials were a problem. Although the 1994 Constitution provides for trial by jury, implementing legislation has not been passed. There is a provision for counsel for indigents; however, in practice, counsel may not always be provided due to a lack of resources. Suspects other than minors are presumed innocent, and defendants have the right to appeal, as do prosecutors.

Some children's advocates considered laws regarding minors outdated and in need of reform in view of the country's commitments under the U.N. Convention on the Rights of the Child (see Section 5.).

On May 20, President Duhalde pardoned Enrique Gorriaran Merlo, the final remaining prisoner from the 1989 La Tablada barracks assault. He also pardoned two other La Tablada prisoners who had already been given provisional release, as well as the leader and six members of the "carapintada" military uprising.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. In practice, local police stopped and searched individuals on the pretext of checking documents—a practice that increased as crime rates rose.

The law provides the PFA with search, seizure, and entry powers without a court order in cases of danger.

The law provides for legislative oversight of government intelligence activities and prohibits unauthorized interception of private communications; however, in practice the legislative oversight has yet to be effectively applied.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The Federal Government owned the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

In September, the Supreme Court struck down dirty war era limitations on broadcast media ownership, thereby allowing nonprofit organizations to own radio stations.

During the year, the journalists' association, Periodistas, reported continued attacks on journalists, including threats and scuffles with police during coverage of demonstrations. In addition, some sources cited an increased tendency by national and provincial government agencies to withhold advertising to manipulate media coverage. Concerns were also raised about the degree to which major print media, subject to severe financial constraints, exercised self-censorship in their criticism of the Government in exchange for favorable government treatment of debts and allocation of official advertising.

There were no developments in the investigation of the 2001 threats against journalists Edgardo Soto, Carlos Abrehu, or Martin Oeschger.

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 the Government generally respected this right in practice. During the year, numerous peaceful protests and demonstrations occurred throughout the country (see Section 6.a.). Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Protest marches, roadblocks, and other demonstrations occurred frequently during the year and were usually peaceful. Often the protests and roadblocks were related to loss of employment and distribution of public benefit programs. In only a few cases did security forces and demonstrators engage in violent confrontations. In November, in the Province of Jujuy, Marcelo Cuellar was killed outside a police station during a protest over the suspicious death of prisoner Cristian Ibanez. Six police were arrested in connection with the deaths. Demonstrators were detained in several instances, leading to charges that the Government was "criminalizing" protests. It was reported that hooligans often inserted themselves into otherwise peaceful demonstrations in order to provoke confrontations with police.

Three Buenos Aires provincial police, including a chief, remained under detention for killing two demonstrators, Maximiliano Kosteki and Dario Santillan, following a confrontation between security forces and roadblocking "piqueteros" in June 2002. In addition, a prosecutor requested a trial for eight other police accused of breaking into United Left/Communist Party headquarters and shooting and kicking demonstrators seeking refuge.

The Constitution and the law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution states that the Federal Government “sustains the apostolic Roman Catholic faith,” and the Government provided the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

The Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship is responsible for conducting the Government’s relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and obtain tax exempt status must register with the Secretariat and report periodically in order to maintain their status.

Acts of discrimination and violence against religious minorities, particularly the Jewish and Muslim communities, continued. Combating this and other forms of intolerance was a priority for the National Institute against Discrimination, Xenophobia, and Racism (INADI). The Government continued to support a public dialogue to highlight past discrimination and to encourage improved religious tolerance. There were a number of reports of anti-Semitic acts and of threats against Jewish organizations and individuals during the year. The most frequent incidents included anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country.

In late 2002, the Tucuman provincial Supreme Court ruled that a non-Christian governor could be sworn in under a modified, nonreligious oath of office.

Cemetery desecrations continued to occur. On September 20, a Jewish cemetery in the Province of Santa Fe was desecrated.

There were no developments in the desecration of approximately 150 tombs in an Islamic Cemetery in La Matanza in July 2002 nor in the case of an anti-Semitic note left with an anti-tank grenade outside a Jewish Club in La Plata in November 2002.

There were no developments in the 2001 attack on the Shi’a Muslim mosque in Buenos Aires, the bomb threat reportedly received 2 days later by the San Justo Islamic Cultural Center in Buenos Aires, or the letter bomb that injured musician Alberto Merenson.

The Government participated actively in the International Holocaust Education Task Force.

The Supreme Court’s investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires remained at a virtual standstill. However, the investigation to find those directly responsible for the 1994 bombing of the AMIA Jewish community center in which 85 persons died advanced significantly (see Section 1.a.).

In March, the judge heading the ongoing investigation of the AMIA bombing issued an arrest order for four Iranian officials suspected of planning the terrorist attack. They included Moshen Rabbani, former cultural attache, diplomatic courier Barat Balesh Abadi, Iranian Intelligence Minister Ali Fallahian, and diplomat Ali Akbar Parvaresh. In May, the judge requested the arrest of Lebanese national Imad Mugniyeh, whom the Government already sought as a suspect in the 1982 bombing of the Israeli Embassy in Buenos Aires. In August, the judge requested the arrest of an additional eight Iranian officials, including the Ambassador at the time of the 1994 bombing, Hadi Soleimanpour, who was then detained for possible extradition in the United Kingdom. Soleimanpour was later released for insufficient evidence. Presidents Duhalde and Kirchner encouraged the investigation into the bombings, provided an intelligence report to support the investigation, gave permission to open sealed intelligence service files, and allowed agents from the State Intelligence Secretariat to testify in court.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and laws provide for these rights, and the Government generally respected them in practice.

The law provides for granting of asylum or refugee status to persons who meet the definitions in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The cooperation program between the Argentine Refugee Committee and the UNHCR was extended



through the end of the year and resulted in a reduction in the number of pending requests for refugee status from roughly 2,500 to 800.

In December, the Congress passed a migration law that is expected to reduce discriminatory treatment against migrants and significantly assist migrants in obtaining legal residence status.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In April, presidential elections were held with no candidate receiving sufficient votes to win outright. Before a runoff could be held, former President Carlos Menem withdrew his candidacy, and, according to constitutional procedures, Nestor Kirchner was declared the winner and assumed the Presidency on May 25.

The Constitution calls for political parties to implement measures to increase women's representation in elective office. Decrees provide that one third of the members of both houses of Congress must be women, a goal which was effectively achieved through balanced election slates. In the Senate, 30 of 71 Senators were women. There were 87 women among the 255 representatives in the Chamber of Deputies. The Minister of Social Development was the only woman in the Cabinet. There were no female Supreme Court justices, although a woman was nominated for a vacancy in December, and women were prominent in other levels of the judiciary.

There were no known indigenous, ethnic, or racial minorities in the national legislature, the Cabinet, or the Supreme Court.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government was usually cooperative, although not always responsive to their views.

Among the most active human rights organizations were the Grandmothers of Plaza de Mayo, the Mothers of Plaza de Mayo Founding Line, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, Coordinator Against Police and Institutional Repression, and New Rights of Man.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary, witnesses, and local human rights organizations (see Section 1.e.).

There were no developments in the 2001 shooting into the home of Estela de Carlotto, a leader of the Grandmothers of the Plaza de Mayo.

Within the Federal Government, the Ministry of Justice, Security and Human Rights' Under Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Directorate General of Human Rights of the Ministry of Foreign Relations, International Trade, and Worship. The Foreign Ministry and Ministry of Justice, Security and Human Rights cooperated with international human rights entities, issuing an open invitation in 2002 to specialized U.N. human rights committees to visit the country and providing helpful follow up information and assistance on key cases. However, the Government was reported to have successfully sought Supreme Court reprimand of a judge in late 2002 for having provided a critical academic opinion in a case on arbitrary detention raised at the Inter-American Commission on Human Rights (IACHR).

On August 25, representatives of the IACHR again visited the country. The chief IACHR representative praised the annulment of the amnesty laws and the general cooperation of government authorities. He also noted citizens' recognition of their rights to bring cases before the IACHR. He expressed concerns about human rights in the province of Santiago del Estero, where people were afraid to criticize the Government, and paramilitary groups worked with police elements.

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

The Constitution and law provide for equal treatment for all citizens, and the law provides for prison terms of up to 3 years for discrimination based on race, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

INADI is mandated to identify and combat all forms of intolerance in the country. INADI investigated violations of the anti-discrimination law and carried out re-

search and educational programs to promote social and cultural pluralism and combat discriminatory attitudes. After several years of institutional difficulties, the law establishing INADI was amended to provide INADI with greater independence and its own budget, although such changes were still not fully implemented.

An interministerial committee held an extensive series of public consultations throughout the country, including in provinces with considerable migrant and indigenous populations. These discussions, assisted by the U.N. were aimed at developing and implementing a National Plan Against Discrimination, Xenophobia, and Other Forms of Intolerance, to follow up on the conclusions of the 2001 U.N. Conference in Durban with specific measures to provide effective protection to the most vulnerable sectors of society.

*Women.*—Domestic violence and sexual harassment against women were recognized as serious societal problems; however, the lack of official statistics on these crimes made accurate measure of the problems difficult. The Government, through the National Council of Women, continued its attempts to implement a standardized statistical system on domestic violence.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station, and the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the victim's home or workplace.

Reliable statistics as to the extent of rape were not available. Rape falls under the Law of Crimes Against Sexual Integrity. Marital and acquaintance rape involving force are offenses under the law; however, the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape vary from 6 months to 20 years.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitory housing. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence; however, few other shelters existed.

Nongovernmental organizations (NGOs) working in the area of women's rights stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses. In addition, there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights.

Sexual harassment occurred widely but was actionable in some areas.

Soliciting for prostitution is generally illegal but did occur. Some women have been trafficked to the country for prostitution (see Section 6.f.).

Despite legal prohibitions, women encountered economic discrimination and occupied a disproportionate number of lower paying jobs. Often women were paid less than men for equivalent work, although this is prohibited explicitly by law.

The National Council of Women carried out programs to promote equal opportunity for women in the social, political, and economic arenas. The Special Representative for International Women's Issues, a unit in the Ministry of Foreign Affairs, participated in studying domestic law standards so as to adapt them to the rules of international law. That office and the National Council of Women, together with the Labor Ministry and union and business organizations, formed the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

*Children.*—The Government voiced strong commitment to issues of children's rights and welfare, including education and health; however, budgetary restrictions for programs continued. National, provincial, and local agencies worked with international agencies, including UNICEF, to promote children's welfare.

The law requires that all children receive a minimum of 9 years of schooling, beginning at 6 years of age. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling was unavailable in some rural areas. The 2001 census showed that 98 percent of all children of primary school age attended school, with roughly the same percentages for both genders. There were numerous federal and provincial health care programs for children, although not all children had access to them.

Child abuse and prostitution continued to occur, but there was progress in some areas. In the city of Buenos Aires, the Council for the Rights of Girls, Boys, and Adolescents implemented a hot line and a network of neighborhood defenders offices to assist victims. The council received 71 reports of child commercial sexual exploitation in 2002. In conjunction with other agencies and organizations, such as UNICEF, the council also conducted active educational and awareness raising ef-

forts. Prosecutors and police pursued cases of Internet child pornography and sought additional legal tools to confront such cybercrime. On September 2, Buenos Aires provincial police reportedly dismantled a child prostitution ring, detaining 6 women and 1 man who exploited 15 girls ranging in age from 8 to 17.

The country's economic crisis disproportionately affected children, and poverty reduction under recovery was slow. Consequently, many of the emergency measures implemented to assist children and families with children in 2002 continued. Separately, the national and provincial governments sought to assure more effectively that minors detained by police were not held in regular police custody, to train security forces, and to track and investigate cases of violence against minors.

UNICEF and the National Council for Childhood, Adolescence, and the Family expressed concern about existing laws for judicial proceedings regarding minors. Children under the age of 16 have immunity. However, under the Law of Guardianship, those accused of a crime who are between the ages of 16 and 18 are taken before a judge and assumed guilty of the crime, without the benefit of a trial. Punishment is based not on the severity of the crime but on the financial ability of the guardians to provide treatment and rehabilitation. Thus, minors who commit serious crimes but come from wealthier families may be released to the guardians, while minors from impoverished backgrounds may be sent to juvenile detention centers for lesser crimes.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services and mandates access to buildings for persons with disabilities. There was some progress in these areas. On September 23, the Government formed a committee, with governmental and nongovernmental participants, to follow up on the Implementation of the Inter-American Convention for the Elimination of All Forms of Discrimination Against Persons with Disabilities. The committee's first report noted a failure to comply with current legislation in the areas of employment opportunities, health, and social integration. It also called for a National Plan for Physical and Communication Accessibility and penalties for noncompliance with the law.

The law mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Laws mandating greater accessibility to buses and trains for persons with disabilities were not fully enforced.

NGOs and special interest groups claimed accessibility laws and an employment quota reserving 4 percent of national government jobs for people with disabilities often were not respected in practice. They noted that the law provided no deadlines or penalties and was not mandatory for the provinces. Disability advocates estimated an unemployment rate of over 90 percent for persons with disabilities.

*Indigenous People.*—The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. However, in practice, indigenous people did not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs (INAI) is the government agency responsible for implementing these provisions. The Indigenous Advisory Council has not yet been established as provided in the law creating INAI.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—were believed to represent less than 5 percent of the national population. Estimates of the number of indigenous persons varied widely, between 450,000 cited by demographers to 1.5 million according to the nongovernmental Indigenous Association of the Argentine Republic. In September, the National Statistics Institute stated its intention not to release the results of 2001 census data collected on indigenous identity.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous persons had higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people continued to be hampered by a lack of trained teachers.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin.

Since 1994, the Government has returned approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction, pollution, and road construction.

National, Racial, and Ethnic Minorities.—Racist incidents were underreported, and racism often was denied as a problem; however, members of racial minorities, such as those of African descent, reported frequent cases of verbal insults and, in some cases, physical assaults on the streets of Buenos Aires. Accounts by those who have been subject to incidents of racial prejudice indicated that the problem was more common than reported. Members of minority groups reported avoiding buses and other crowded public facilities out of fear of being subjected to racial harassment.

On October 3, Ricardo Guzman Zevallos, a Peruvian lawyer, was reportedly detained and beaten by police who insulted him based on his national origin. Guzman Zevallos filed complaints with INADI and the courts.

In 2001, the U.N. Committee on the Elimination of Racial Discrimination expressed concern regarding reports throughout the country of police brutality committed on a variety of pretexts because of a persons' race, color, or ethnic origin.

There were no new developments in the 2001 deaths of Marcelina Meneses, a Bolivian woman, and her baby who were insulted and then were pushed or fell from a suburban train.

In March, the courts convicted a man of threatening a woman of African descent, Elisa Souza de Melgarejo, and inciting racial hatred in 2000, and sentenced him to 10 months in jail, which was suspended in exchange for community service.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form “free and democratic labor unions, recognized by simple inscription in a special register,” and unions exercised this right. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force was organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally supported the Justicialist Party. Most unions were affiliated with one of the two factions of the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers' Central, also was recognized legally.

Labor groups not affiliated with the CGT continued to argue that the Professional Associations Law provision for legal recognition of only one union per sector conflicts with International Labor Organization (ILO) Convention 87.

The law prohibits anti-union practices, and the Government generally enforced this prohibition in practice.

Unions are free to join international confederations without government restrictions; many unions also were active in international trade secretariats.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which cover roughly three-fourths of the formally employed work force. According to the ILO, the ratification process impedes free collective bargaining because the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards but also considers whether the agreement complies with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year when the Government refused to approve any collective agreements under the above criteria.

The 2000 Labor Reform Law allows collective bargaining on a regional, provincial, or company basis. A conciliation service, which began operation in 1997, helped reduce the number of labor disputes in courts.

The Constitution provides for the right to strike, and workers exercised this right. Numerous small scale strikes generally protested sector-specific problems.

There are three functioning export processing zones with many others legally registered but not active. The primary commercial advantages of these zones are related to customs and duty exemptions. The same labor laws apply within these zones as in all other parts of the country.

*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.*—Child labor was a problem, and the Government continued its effort to develop and implement a national plan of action to eliminate it.

The labor laws allow children to work at the age of 14, and in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 15 and 16 may work in a limited number of job cat-

egories, and for limited hours. The penalty for employing underage workers ranges from \$350 to \$1,750 (1,000 to 5,000 pesos) for each child employed.

In 2002, the Ministry of Labor published, with support of the ILO's International Program for the Eradication of Child Labor (IPEC), a Diagnostic Synthesis on Child Labor that estimated 483,000 children were working in 2000. Using a broader definition, to include children working in their homes, the Diagnostic estimated there were 1.5 million child laborers.

In 2000, the President formally established a National Commission for the Eradication of Child Labor to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGOs. The commission, whose activities are financed largely by IPEC, began working with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area to undertake activities to address child sexual exploitation.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage increased for the first time since 1993 from \$70 to \$105 dollars (200 to 300 pesos); however, it still did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector who constituted an estimated 40 percent of the work force.

Employers are required by law to insure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. However, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation or coercion, or in the case of minors; however, there were reports that persons were trafficked to, from, or within the country.

Penalties for trafficking ranged from 4 years to 15 years in prison. The law also prohibits alien smuggling, indentured servitude, and similar abuses. Other laws may also be used to prosecute crimes associated with trafficking, such as kidnapping, forced labor, use of false documents, and prostitution. Child prostitution was a problem; in Buenos Aires alone, there were 71 reports of child commercial sexual exploitation in 2002 (see Section 5).

There were reports of some small scale trafficking in persons in the country, which remained primarily a destination country but also occasionally a source and possibly a transit country. During the year, there was a report of a woman seeking work in Spain who was forced into prostitution. Some of the women brought from the Dominican Republic to work in Argentina in the mid- to late-1990s were coerced into prostitution. An investigation encompassing nearly a dozen such women continued, and the International Organization of Migration (IOM) approved the return of 57 Dominicans in 2002 and during the year. On October 13, the press reported that police in Cordoba Province found six Paraguayan women between the ages of 18 and 21 who had been brought to the region in August with promises of domestic employment but who were subsequently pressed into prostitution, including through the confiscation of their documents.

There was no government agency charged with coordinating policy to combat trafficking; however, the Foreign Ministry's Office of the Special Representative for International Women's Affairs did undertake some preventive consciousness raising initiatives, such as holding seminars on trafficking in conjunction with the IOM. While there were no government programs specifically to assist trafficking victims, the Office for Assistance to the Victims of Crime provided practical, legal, and psychological support to over a dozen Dominican victims of trafficking who were pursuing cases in the legal system. However, there were few mechanisms in place to detect trafficking victims and direct them to this assistance. The Government seldom detained immigrants on immigration-related charges.

## BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the Government after May 2002 elections that observers found to be generally free and fair. The judiciary was independent.

The national police force maintains internal security, and the small Royal Bahamas Defence Force (RBPF) is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continued to be reports that security forces occasionally committed human rights abuses.

The country has a developing market-based economy that depends primarily on tourism, which accounts for 60 percent of the gross domestic product. The country's population is approximately 305,000. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While many citizens enjoyed relatively high income levels, there was considerable underemployment and poverty. The unemployment rate was estimated at 10.8 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of unwarranted police killings and that police occasionally beat and abused detainees. Prison conditions remained harsh. The police occasionally used arbitrary arrest and detention. Lengthy pretrial detention and delays in trials were problems. Violence and discrimination against women and violence against children also were problems. Discrimination against persons with disabilities and persons of Haitian descent persisted.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, there were reports of possibly unwarranted killings by the RBPF.

In February, the body of a young man was found on the Grand Bahama Freeway. The family of the victim made allegations of police mistreatment following the coroner's report that his wounds were not the result of a traffic accident as previously thought. Police claimed there was no evidence to support the family's assertion, and the matter remained before the Coroner's Court at year's end.

On August 7, a RBPF reserve police officer shot and killed a 16-year-old girl. Police asserted that the victim's friend brandished a weapon and fired, which resulted in return fire by the police. The supposed gun used by the victim's friend was not found. The Coroner's Court, which investigates cases involving sudden or unnatural deaths arising from accident or violence, was reviewing her death at year's end.

In December 2002, police officers shot and killed a young man who was fleeing a suspicious vehicle. Claiming the man was armed and reaching for a gun, police initiated the gunfire. Further investigation proved the victim was unarmed. At year's end, this matter remained before the Coroner's Court.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat or otherwise abused suspects. Many past allegations of abuse involved beatings to extract confessions; however, no formal complaints involving beatings to extract confessions were filed during the year. Two cases alleging police brutality from 2001 and 2002 were still waiting to be reviewed by the Coroner's Court. Human rights monitors and members of the public continued to express concern over such instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority, and pledged to address any wrongdoing by police officers (see Section 1.d.).

Conditions at Her Majesty's Prison at Fox Hill, the only prison, remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, held more than 800 of the approximate 1,500 total inmate population. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. There was no appropriate or effective inmate classification system. Prisoners were initially assigned to the Maximum Security Unit before a housing determination was made as a means of "breaking them in" to prison life. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water, or toilet and laundry

facilities. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in small cells 23 hours per day. Food service operations were inadequate and unsanitary. Opened in August 2002, the new Remand Center provided some overcrowding relief. However, prison officials estimated that there were approximately 700 prisoners awaiting trial, many of whom were confined in cells with convicted prisoners.

Prison officials estimated that approximately 8 percent of the prison population was infected with the HIV virus, although an Amnesty International (AI) report found that the infection rate was closer to 20 percent. Approximately one-third of prisoners suffered from tuberculosis.

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The Government provided limited funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials instituted some technical and vocational programs, and correctional officers were undergoing instruction to become certified trainers, although the process was hindered by resource constraints. In December, the Ministry of National Security initiated a farming program for the prisoners to become more self-sufficient. Modern training facilities were equipped with new computers, and the prison also offered some educational and literacy programs for prisoners; however, less than 25 percent of inmates participated in these programs.

Women were held separately from male prisoners. The prison's female population was approximately 40 inmates, considerably less than the female unit's full capacity of 200. Conditions for women were less severe, and the facilities had running water. However, women did not have access to the technical or vocational programs available to male prisoners.

The new maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, along with children made wards of the court by their parents because of "uncontrollable behavior," were housed at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls. On October 26, a fire set by a resident of the Center resulted in the deaths of three girls. The girls were locked in their rooms, and it was alleged that there were not adequate fire safety procedures in place to evacuate the children. At year's end, an investigation was underway.

At the Migration Detention Center on Carmichael Road, children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for long stretches of time, these children did not have access to educational materials or a place to exercise and play.

Domestic and international human rights groups visited the prison and detention center during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arrested and detained persons arbitrarily. In general, the authorities conducted arrests openly and, when required, obtained judicially issued warrants.

The RBPF is commanded by a Commissioner who is supported by a Deputy Commissioner, four Assistant Commissioners, and a Director of Human Resources. The Force is divided into three districts: Headquarters, New Providence/Southern Bahamas, and Grand Bahama/Northern Bahamas. In 2002, the RBPF had 2,694 members.

The Police Complaints and Corruption Branch, which reports directly to the Deputy Commissioner of Police, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the Attorney General. Local human rights observers doubted the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believed that many incidents of improper police behavior were unreported. The Government appointed a four-person committee to oversee the complaints and corruption branch; members report directly to the Minister of National Security and consult with the Police Commissioner. Police officials insisted that their investigations were fair and thorough. There were 302 complaints against the police during the year, compared with 398 in 2002. Of these 302 cases, 173 remained under investigation at year's end, and 59 resulted in disciplinary action. Examples of disciplinary action included suspension without pay, fines, and dismissal. No officers were dismissed during the year because of alleged human rights abuses. Police officials believed that continuing turnover in personnel was a contributing factor in disciplinary cases.

The law provides that a suspect must be charged within 72 hours of arrest. The Government generally respected the right to a judicial determination of the legality of arrests. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 72 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Arrested persons may hire an attorney of their choice, and the Government did not provide legal representation except to destitute suspects charged with capital crimes. Recent estimates by AI showed that approximately 40 percent of inmates were not represented by legal counsel at their trial. Some local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, in the last fiscal year the Government spent approximately \$150,000 (B\$150,000) on attorneys in legal aid matters in New Providence and Grand Bahama, although a legislated legal aid program did not exist.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention (see Section 1.e.). The Constitution mandates that suspects can be held for a "reasonable period of time" before trial. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years. An AI report stated that, in August 2002, at least 735 of the over 1,000 prisoners at Fox Hill were awaiting trial.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at a detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtained legal status. In the detention center, which can hold up to 500 detainees (with tent space for an additional 500), women and men were housed separately. The highest occupancy during the year was approximately 750 in May. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of detention varied dramatically by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison where they may remain often for weeks or months after serving their sentences, pending deportation.

Exile is illegal and was not practiced during the year.

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

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judicial system had a large backlog of cases, and delays reportedly lasted as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters.

Despite these measures to improve efficiency, complaints persisted of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been brought in from abroad; while familiar with English common law, they lacked experience regarding local law and procedures. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence; however, a police inspector or more senior police offi-



cial may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press, and the Government generally respected this right in practice.

Three daily and several weekly newspapers, all privately owned, expressed a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines were readily available.

There is a government-run radio station and five privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas, presented a variety of views, although opposition politicians claimed, with some justification, that their views did not receive as extensive coverage as those of the Government.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally granted such permits.

The law permits private associations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution explicitly calls for respect for Christian values, and there were no allegations of violations of religious freedom during the year.

For a more detailed discussion, see the 2003 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 office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There was no legislation providing for the granting of asylum and/or refugee status to persons who meet the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and applications for political asylum were supposed to be adjudicated on a case-by-case basis at the cabinet level. The Government asserted that all migrants who claimed asylum were interviewed by trained immigration officials; however, this was disputed by AI. The UNHCR reviewed the interview records of cases they were provided and offered recommendations on certain cases. Local and international human rights observers criticized the Government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. Coupled with the lack of Creole-speaking immigration officers, Haitian migrants were often unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition, those requesting asylum screening often lacked access to legal counsel.

The Department of Immigration reported that 4,654 persons were repatriated to their home countries during the year. A total of 12 persons (all Cuban nationals) requested asylum; 6 of these cases were recommended for approval and were pending a response from Cabinet at year's end. The other six were denied.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a constitutional, parliamentary democracy with general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote. Voting is by secret ballot. The two principal political parties are the ruling PLP and the opposition Free National Movement (FNM). In May 2002, the PLP won 29 of 40 seats in the House of Assembly and formed the new Government under Perry Christie. The FNM won only seven seats, and independents won four. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although

it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There were no legal impediments to participation by women in government and politics. The 40-seat House of Assembly had 8 elected female members; there were 7 appointed female Senators, including the President of the Senate. A woman served as Deputy Prime Minister and Minister of National Security. Women also headed several other ministries.

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

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

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

The Government generally respected in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contained certain provisions that discriminated against women.

*Women.*—Violence against women continued to be a serious, widespread problem. Government crime statistics did not separate domestic violence from other incidents of violence. The Government operated a toll-free hot line in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. In 2000, the Department of Social Services, in partnership with a private company, established, for the first time, a safe house to assist battered women. The Domestic Court, which exclusively addresses family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases and has a backlog of at least a few months. The court can and does impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights saw a need to improve the effectiveness of enforcement of the court's orders.

Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. The police recognized domestic violence as a high priority and provided specialized training for all incoming officers and offered continuing training in domestic violence. The police force has made efforts to increase awareness of domestic violence in the Family Islands.

Rape, including spousal rape, is illegal. The RBPF Central Detective Unit issued a Preliminary Report stating there were 111 rapes reported during the year, down 20 percent from 2002. The Police Force credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty was frequently applied.

Prostitution is illegal. According to the Chief Superintendent of Police, there was at least one raid of a "strip tease" establishment in which prostitution was practiced. No minors were found to be involved in this instance.

The Constitution does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favored men over women. Prominent women of all political persuasions continued to push for an amendment to the Constitution and related laws to redress this situation. However, the introduction of a similar amendment in 2002 failed for a lack of popular support, largely due to opposition from religious leadership.

Women participated fully in society and were well represented in the business and professional sectors.

*Children.*—The Government claimed child welfare and education are priorities, but lacked sufficient funding to maintain and improve standards. The public schools, in particular, lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory for children through the age of 16, and most children attend school until this age. Cultural biases often forced unwed pregnant teenagers out of public schools, and a quasi-governmental group sought to put these girls in an alternative school program. The Department of Social Services is responsible for abandoned children up to 18 years of age, but had very limited resources at its disposal. The government hospital housed 21 abandoned children for a few years because there was no effective foster care program in which to house them.

Both the Government and civic organizations conducted intensive public education programs aimed at the problem of child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems.

The Central Detective Unit reported 145 cases of unlawful sexual intercourse with minors during the year. An additional 17 cases of incest were reported to the police. Further breakdown of these statistics was unavailable. The law requires that all persons who have contact with a child they believe to be sexually abused report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against perpetrators. The Department may remove children from abusive situations if the court deems it necessary.

*Persons with Disabilities.*—Although the 1973 National Building Code mandates certain accommodations for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement. There were housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities were accessible to persons with disabilities. Parking for the disabled was provided in most parking lots. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations (NGOs) that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and non-residential institutions provided a range of education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

*National/Racial/Ethnic Minorities.*—Unofficial estimates suggest that between 20 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens (approximately 10 percent of the total population) resided in the country legally, some observers believed that an equal or greater number were in the country illegally. Haitian children were granted access to education and social services. Children born of non-Bahamian parents or to a Bahamian mother with a non-Bahamian father in the Bahamas do not automatically acquire citizenship.

Although Haitians and Bahamians of Haitian descent generally were well integrated into society, nonviolent inter-ethnic tensions and inequities persisted. Some members of the Haitian community complained of discrimination in the job market, and resentment of continued Haitian immigration was widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians were scarce.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides labor unions with the right of free assembly and association, and workers exercised these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged to unions.

Three major umbrella labor organizations—the National Workers Council of Trade Unions and Associations, the Trade Union Congress, and the National Congress of Trade Unions—along with individual labor unions, all functioned independently of government or political party control.

The Constitution and the Industrial Relations Act (IRA) prohibit anti-union discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforced labor laws and regulations uniformly throughout the country.

In order to resolve trade disputes more quickly, in 1996 Parliament amended the IRA to establish an industrial tribunal. According to the act, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final

and can only be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees.

All labor unions have the right to maintain affiliations with international trade union organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

The IRA requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Workers have the right to strike, and it was generally respected in practice; however, the Government has the right to intervene in the national interest to assure delivery of essential services. Unions threatened several work stoppages against both public and private employers during the year.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates asserted that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor by all persons, including children, and such labor did not exist in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors, and some children worked part time in light industry and service jobs.

*e. Acceptable Conditions of Work.*—Effective July 1, 2000, the minimum wage for government employees was \$4.45 (B\$4.45) per hour. A minimum wage for the private sector was established in January 2002, at \$4.00 (B\$4.00) per hour. In view of the high cost of living, these minimum wages did not provide more than a subsistence living for a worker and family. The 2001 Minimum Wage Act, which reduced the regular workweek from 48 hours to 40 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor is responsible for enforcing labor laws and has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The Ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons; however, the Penal Code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked to, from, within, or through the country, and the Government did not prosecute any cases against traffickers.

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## BARBADOS

Barbados is a longstanding constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. Citizens choose their representatives in elections, which are free and fair. The most recent parliamentary election, held in May, returned Prime Minister Owen Arthur of the Barbados Labour Party (BLP) for a third successive term in office. The judiciary is independent.

The Royal Barbados Police Force (RBPF) is responsible for law enforcement and is under the control of civilian authorities. The small Barbados Defense Force (BDF) maintains national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. During the year, members of the security forces committed some human rights abuses.

The market-based economy relied on tourism, services, light manufacturing, and agriculture. The country's population was approximately 276,000. The Government was the largest employer, employing about 20 percent of the work force. Real economic growth was estimated at 2 percent during the year, compared with a decline of 0.6 percent in 2002. The inflation rate was about 2 percent, compared with 0.1 percent in 2002. Tourism rose by 4.5 percent, compared to a drop of 2.8 percent in 2002. The unemployment rate at the end of September was 11.7 percent, versus 10.3 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were occasional allegations of excessive use of force by police and reports of poor prison conditions. Societal violence against women and children remained problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no 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 specifically prohibits torture and inhuman or degrading punishment or other treatment. The majority of complaints against the police alleged unprofessional conduct and beating or assault.

At year's end, assault charges filed by students at the University of the West Indies against a police officer were still pending before the court. These charges arose out of an incident in 2001 when students barricaded the main campus road and clashed with police (see Section 2.b.).

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. The authorities generally adhered to these basic principles, although there were occasional allegations that officials used excessive force.

Prison conditions remained inadequate. The sole adult prison (Glendairy) was antiquated and overcrowded, with more than 940 male and 44 female inmates in a 150-year-old structure built for 350 inmates. In September, the Government approved the construction of a new maximum security prison with planned capacity for up to 600 prisoners.

There are separate areas for pretrial detainees and convicted prisoners at the prison; however, there was occasional mixing due to space constraints.

There is a separate wing for female prisoners at the adult prison. The sole juvenile prison has separate facilities for boys and girls.

As a result of the alleged beatings of 36 inmates in 2001, the authorities brought 100 charges against 9 prison officers, mainly for assault. At year's end, the officers were free on bail pending further court hearings.

The Government allowed private groups to visit prisons to ascertain conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within a reasonable time, and the Government generally respected these provisions in practice. Criminal defendants have the right to counsel, and attorneys had ready access to their clients.

For a decade, the authorities have issued firearms to special RBPF foot patrols in high crime areas in response to public concern. In 2000, the Government created an armed special rapid response unit, which continued to operate during the year. Aside from this exception, the 1,328-person police force was mostly unarmed, in keeping with its British traditions. In addition, the law provides that the police can request the BDF to assist them as needed with special joint patrols.

The police force has a complaints authority known as the Office of Professional Responsibility, headed by a superintendent, to deal with matters of inappropriate police conduct. Although Parliament passed a law in 2001 creating an independent board to review complaints against the police, this entity was not yet functioning at year's end.

The Constitution prohibits exile, and it 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 judiciary includes the Supreme Court, which consists of the High Court and Court of Appeal. The Governor General, on the recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing within a reasonable time by an independent and impartial court, and the Government generally respected this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty.

The Government provided free legal aid to the indigent in family matters, child support, criminal cases such as rape or murder, and for all cases involving minors. There is a limit of approximately \$2,100 (λ1,300) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates challenged this limit and sued the Government on the grounds that it effectively deprived them of their right to due process.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

The Government did not censor mail. However, the Government restricted the receipt and importation of foreign publications deemed to be pornographic.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were two independent daily newspapers, both of which presented opposition political views. There were six radio stations, two of which were owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) was government-owned. Although CBC was a state enterprise, it regularly reported views opposing government policies.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Political parties, trade unions, and private organizations functioned and held meetings and rallies generally without hindrance.

The Public Order Act of 1970 requires police approval for public assemblies, which was granted routinely.

Gatherings related to school activities do not require written police permission. At year's end, a court case arising from arrests at a 2001 student demonstration had not yet been heard, and all parties remained free on bail.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. While the predominant religion was Christianity, members of many other religions worshipped with full freedoms.

For more detailed information, see the 2003 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 and legal residents move freely within the country and leave and enter it without restriction.

The Government has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Political parties compete in free and fair elections by secret ballot at least every 5 years. There were no impediments to participation in the political process, and all citizens over the age of 18 may vote. The Prime Minister exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bi-

cameral Parliament and the judicial system. In the May elections, the BLP, led by Prime Minister Owen Arthur, won its third parliamentary election, returning to office with a 23–7 seat majority over the Democratic Labour Party.

There are no legal impediments to the participation of women and minorities in government or politics. Approximately one-third of the cabinet members were women, including the Deputy Prime Minister, who served concurrently as the Attorney General and Minister of Home Affairs.

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

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

The government Ombudsman's office hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The Governor General appoints the Ombudsman on the recommendation of the Prime Minister in consultation with the Leader of the Opposition; Parliament must approve the appointment. The Ombudsman serves until age 65 but may be extended for an additional 5 years. The office is prohibited from involvement in policy issues involving foreign affairs, immigration questions, and certain other matters. The office did investigate complaints of inappropriate behavior by police. The Ombudsman's reports were submitted to Parliament.

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

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex. The Government generally respected these rights in practice.

The Government sustained a well-financed fight against the high incidence of HIV/AIDS. In addition to actions designed to limit the spread of the disease, the Government initiated programs designed to assist persons living with HIV/AIDS and to discourage discrimination against infected persons.

*Women.*—Violence and abuse against women continued to be significant social problems. One official reported that one of every five injured women treated in the emergency room was there as a result of domestic violence. In March, the U.N. Committee on the Elimination of Discrimination Against Women specifically raised concerns about violence against women in reporting to the U.N. General Assembly. In 2001, there were 71 cases of rape reported to the police; more recent figures were not available but the Police Commissioner reported a 22 percent decrease in rapes reported during the year. Spousal abuse remained a significant criminal activity during the year, despite legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order.

The Domestic Violence Law specifies the appropriate police response to domestic violence; it is intended to protect all members of the family, including men and children. It applies equally to marriages and to common law relationships. Criminal penalties for violent crimes were the same regardless of the sex of the offender or the victim; however, in practice female offenders usually received lighter sentences than their male counterparts for similar offenses. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police has a Victim Support Unit, made up of civilians and volunteers, which offered support to victims, particularly female victims, of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club ran a crisis center staffed by trained counselors and provided legal and medical referral services. The Government funded a shelter for battered women, which accommodates 20 women and children; nongovernmental organizations operated it. The shelter offered psychological and physiological counseling by trained counselors to victims of domestic violence.

Prostitution is illegal, but it was a problem, fueled by poverty and tourism. The media occasionally reported about prostitution, usually in the context of concern over HIV/AIDS. There is no statute specifically prohibiting sexual tourism, and no statistics on it; anecdotal evidence suggests it occurred.

Government statistics showed that women bore a greater share of the unemployment burden than men; the unemployment rate for women was 12.6 percent at year's end, compared to a rate of 8.9 percent for men.

Sexual harassment in the workplace was a problem, but no statistics were available. Media reports often indicated that women were afraid to report sexual harassment because they feared persecution in the workplace. Legislation aimed at pre-

venting sexual harassment in the workplace was under discussion in connection with other proposals to harmonize labor legislation among the Caribbean nations. In addition, the Barbados Workers Union continued to seek guidelines on sexual harassment in contracts and agreements it concluded with employers.

Women actively participated in all aspects of national life and were well represented at all levels of both the public and private sectors. They headed 44 percent of all households and were not discriminated against in public housing or other social welfare programs. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth. Women owned approximately 30 percent of all businesses in the Small Business Association and carried in excess of 70 percent of the recent mortgages in the country. The Government reported that the number of female applicants for the police force, as well as for other jobs traditionally held by men, continued to increase. Nonetheless, women held only 162 police positions out of the total of 1,328.

The National Organization of Women was an affiliate of the Caribbean Women's Association, a regional women's organization.

*Children.*—The Government was committed to children's human rights and welfare, although violence and abuse against children remained serious problems. The Government provided for compulsory education until the age of 16. The national health insurance program provided children with free medical and dental services for most medical conditions. The Child Care Board has a mandate for the care and protection of children. This involved investigating day care centers, cases of child abuse or child labor, the provision of counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family-related issues, and the Child Care Board conducted counseling for child abuse victims.

The press reported that there was an increase in the number of complaints of rape of girls and boys under 16 years old. In September, the Child Care Board Chairman reported that at least 1,023 girls between ages 11 and 15 were victims of statutory rape in the years from 1977–2001, based on birth data. According to the media, police officials were concerned that children had become targets because rapists saw them as less likely to be infected with the HIV/AIDS virus.

*Persons with Disabilities.*—Other than constitutional provisions of equality for all, there are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services. Informal surveys suggested that there were 10–12,000 persons with disabilities in the country. The Ministry of Social Transformation established a Disabilities Unit to address the concerns of persons with disabilities and created an advisory committee on disabilities. Despite these efforts, in September newspapers again reported problems of added fees assessed to parents and transport difficulties for disabled children at government schools. Free primary school education was not available to all persons with disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, has long advocated the introduction of legislation prohibiting discrimination. In September 2002, the Government issued a White Paper on Persons with Disabilities outlining policies to facilitate the full integration and participation in society of persons with disabilities, but no action to adopt such policies had been taken by year's end.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers freely exercised their right to form and belong to trade unions and to strike. Of a work force of 144,800 persons, approximately 30 percent belonged to trade unions. Of those employed, 28,000 worked in the public sector, 20,400 in wholesale and retail trade, and 13,100 in the tourism sector. Overall union membership declined slightly during the year due to job losses in some industries. There were two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, was independent of any political party or the Government. Some officers of the largest union, the Barbados Workers' Union, were associated personally with the Democratic Labour Party. Most unions belonged to the Congress of Trade Unions and Staff Associations.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. While there is no specific law that



prohibits discrimination against union activity, the courts provided a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment. Legislation to address the union recognition process was still pending at year's end.

Trade unions were free to form federations and were affiliated with a variety of regional and international labor organizations. The Caribbean Congress of Labor has its headquarters in the country.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Normally, wages and working conditions were negotiated through the collective bargaining process, but in 1993 the Tripartite Prices and Incomes Policy Accord established a 2-year wage freeze. Since then, negotiated protocols contain provisions for increases in basic wages and increases based on productivity. Protocol Four, which covers 2001–04, was intended to encompass the needs of an increasingly global workforce as the Caribbean nations move towards the development of a single market economy and the free movement of skilled labor. It included an appendix covering the treatment of HIV/AIDS in the workplace. These protocols do not have the force of law.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures. The International Labor Organization (ILO) has criticized the Better Security Act of 1920, which provides that persons who willfully and maliciously break a contract knowing that it would cause injury to persons are liable for a fine or 3 months' imprisonment. The ILO asked that the law be amended on the grounds that it could be invoked in the case of a strike; the Government had not taken any action to do so.

In 2000, the nonunion Barbados Police Association supported the police over unfulfilled promises of increased wages and increased allowances. At year's end, the Government was still reappraising civil service salary scales. The Government insisted that the police should be included in this exercise and that they should not receive special treatment. In the interim, in keeping with promises made by the then-Attorney General in 2000, Parliament approved an allowance package for certain ranks of the police force.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced, compulsory, 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 legal minimum working age of 16 was broadly observed. Compulsory primary and secondary education policies reinforced minimum age requirements (see Section 5). The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers.

*e. Acceptable Conditions of Work.*—The law provides for and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants (entry level commercial workers). Household domestics were entitled to a minimum wage of \$0.75 (BDS\$1.50) per hour, although in actual labor market conditions, the prevailing wage was about \$3.00–3.50 (BDS\$6.00–\$7.00) per hour. There were two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants was \$2.13 (BDS\$4.25) per hour and the minimum wage for 16- and 17-year-old shop assistants was \$1.97 (BDS\$3.95) per hour. The minimum wage for shop assistants was marginally sufficient to provide a decent standard of living for a worker and family; most employees earned more. Some persons also received remittances from relatives abroad or operated cottage industries to supplement their income.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government respects ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Employers must provide a minimum of 3 weeks' annual leave. Unemployment benefits and national insurance (social security) covered all workers. A comprehensive, government-sponsored health program offered subsidized treatment and medication.

The Factories Act of 1983 sets the officially recognized occupational safety and health standards. The Labor Department enforced health and safety standards and followed up to ensure that management corrected problems cited. The Factories Act

also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee could challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identified safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Barbados Workers Union accused government-operated corporations in particular of doing a "poor job" in health and safety. The Government pledged to undertake inspections of government-operated corporations and manufacturing plants, and the Labor Department's Inspections Unit conducted several routine annual inspections of such corporations. During the year, several workers died as a result of cave-ins or falls while digging deep trenches. These well-publicized incidents led to increased calls for more stringent safety standards. Workers had a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

*f. Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons, although laws against slavery and forced labor could be applied. The Government signed but has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the U.N. Convention against International Organized Crime. There were no reports that persons were trafficked to, from, or within the country.

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## BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly governed the country. The Governor General represented Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa's People's United Party (PUP) held 22 of the 29 seats in the House of Representatives following generally free and fair elections on March 5. The judiciary is independent.

The Police Department has primary responsibility for law enforcement and maintaining order. The Belize Defence Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Armed BDF soldiers routinely accompanied police patrols in Belize City in an attempt to reduce the violent crime rate. The police report to the Minister of Finance and Home Affairs, while the BDF report to the Minister of Defence and National Emergency Management. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy was primarily agricultural, although tourism has become the principal source of foreign exchange earnings; the country's population was approximately 262,000. There was a very small industrial sector, comprising limited agribusiness, clothing, and boat manufacturing. The agricultural sector was heavily dependent upon preferential access to export markets for sugar and for bananas. In 2002, gross domestic product grew at a rate of 4.4 percent, inflation stood at 2.3 percent, and 40 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Principal human rights abuses included alleged unlawful police killings, brutality and excessive use of force by members of the security forces, allegations of arbitrary arrest and detention, and lengthy pretrial detention. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were reports of trafficking in persons, but the Government enacted and enforced anti-trafficking legislation.

### 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 political killings; however, the security forces were accused of some unlawful or unwarranted killings.

On June 7, police constable Sheldon Arzu killed Ruben Alarcon in the police station on Caye Caulker. Alarcon died from two close-range gunshot wounds to his back. Alarcon, who was not in custody at the time of the killing, was at the police station seeking the release of two friends. Police officials told the press that Arzu acted in self-defense after Alarcon threatened him with an empty beer bottle. The

police department suspended Arzu and, on June 19, charged him with manslaughter. At year's end, his trial was pending.

On June 14, a group of police officers fired into a crowd outside a Ladyville nightclub, killing Darnell McDonald and injuring two others. A police investigation concluded that police constable Sherwood Wade fired the fatal shots. The authorities charged Wade with manslaughter, and his trial was pending at year's end.

On August 20, prison guards killed inmate Mark Stuart. Media reports claimed Stuart was shot 49 times. Stuart, who was awaiting trial on a murder charge, had been acquitted of killing a cellmate during a prison stay in 1998. A preliminary investigation indicated that Stuart attacked a prison officer with a knife and refused to back down despite a warning shot fired into his leg. It was unclear whether any guards would be reprimanded for the killing, but all prison guards subsequently exchanged their weapons for stun guns and pepper spray.

On September 10, BDF private Giovanni Gutierrez shot and killed Aaron Mariano while on a routine Belize City police patrol. Press accounts stated that the patrol wanted to detain Mariano for allegedly assaulting a police officer earlier in the day, and that Mariano was unarmed and running away from the patrol when Gutierrez shot him in the back of the head. Although reports conflicted as to whether Gutierrez acted under orders, authorities charged Gutierrez with manslaughter.

There were no developments in the January 2002 deaths of Kirk Thompson and Edmund Velasquez. On August 5, the Prime Minister's office released the official Commission of Inquiry report into the September 2002 deaths of two Maya loggers at the hands of five forestry and police officials. The report found that the use of lethal force against Alfredo Teck and Seriano Choc was justifiable and that the officers acted in self defense.

In January, the authorities charged police constable Kevin Alvarez and his two brothers with murder and conspiracy to commit murder in the December 2002 shooting death of Albert Pennil.

On February 5, the Chief Justice sentenced police constable Mervin Vernon to 9 months' imprisonment and a payment of \$2,500 (Bz \$5,000) to the victim's family, after a jury found Vernon guilty of causing death by careless conduct in the 2001 killing of Frederick Reynolds.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or other inhuman punishment; however, there were several reports that police and prison staff used excessive force.

Some of the most common complaints received by the office of the Ombudsman involved alleged misconduct and abuse by police and Department of Corrections personnel. The Ombudsman reported that the number of such reports decreased; however, a number of cases of alleged abuses featured in the press were never reported to the Ombudsman's office. In many cases, the Government ignored reports of abuses; withheld action until the case had faded from the public's attention, at which point no action was taken; or transferred guilty officers to other districts. Despite this generally poor approach, the Government did take action in a small number of cases. The Ombudsman stated that police use of force was appropriate in the majority of cases he investigated, usually due to the complainant having resisted arrest, even if the level of force used was sometimes excessive.

On August 24, police superintendent Ewart Itza, in civilian attire, ordered uniformed officers to detain Lincoln Cardinez and Timothy Cano. Once at the Dangriga police station, Itza beat Cardinez and pistol-whipped Cano in the head. Itza ordered the subordinate officers not to provide Cano with medical care; both men were locked in a cell overnight before being released without charges the next morning. The authorities investigated the brutality claims, charged Itza with wounding and harm, and suspended him pending trial. On December 5, police further charged Itza with false imprisonment, threat of death, aggravated assault, and using insulting or indecent words.

On December 22, the police suspended constable Adrian Lopez and charged him with attempted rape and indecent assault. The victim reported that Lopez arrested her for a traffic violation and drove her to a deserted airfield, where he tried to rape her before she escaped.

There were no developments in the May 2002 case in which prison officer Ean Daley shot and injured four inmates.

Prison conditions were poor, but they improved during the year due to initiatives undertaken by new private management. The country's only prison, in Hattieville, built in 1993 and designed for 500 inmates, held 1,050 male and 24 female prisoners, resulting in significant overcrowding. The budget provided only \$6 (Bz\$12) per prisoner per day to cover all operating costs of the prison. In the remand sec-

tion, 205 detainees shared 30 15- by 20-foot cells, equipped with beds for only a quarter of that number. The prison had a medical clinic with four beds, a full-time doctor, and two nurses. Prisoners often had to pay for their own treatment and medicine.

Pretrial detainees were housed in overcrowded cells separate from convicted criminals. There was no separate facility for inmates with mental illnesses. First-time offenders were housed in the same building as those who committed capital crimes. Incidents of gang- and drug-related violence in the prison continued. Prison breaks, confiscation of weapons, and reports of beatings also occurred during the year.

There were reports of brutality by prison wardens. Inmates claimed that guards sometimes beat troublesome prisoners. A common punishment was placing inmates in a small, unlit, and unventilated punishment cell.

In addition, prisoners enforced their own code of conduct and attacked prisoners convicted of heinous crimes such as child molestation. On June 17, convicted murderer Phillip Tillett walked past security and left the maximum-security section of the prison. He then stabbed and killed Kirk Belisle, a medium-security burglary convict. Tillett was charged with murder, although prison guards denied seeing the stabbing.

The prison included a separate facility for women, located 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The 24 women held there occupied 17 cells. The facility was clean, and inmates had access to limited educational and vocational classes.

Juvenile prisoners lived in a separate, newly reorganized section of the main prison. The new youthful offenders program included 16 hours per day of structured schooling, exercise, and vocational training. Opportunities for work or skills training at the prison expanded to involve approximately 60 percent of prisoners. Inmates earned small stipends for work on projects like the prison's farm, construction projects, and internal public announcement station. Some took welding or crafts classes or took advantage of a limited educational curriculum, and 14 became certified emergency medical technicians.

In 2002, the Government privatized the management of Hattieville Prison. The Government's Ministry of Home Affairs retained oversight responsibility, but management was taken over by the nonprofit Kolbe Foundation, created by members of the Prison Advisory Board and the local Rotary Club. Kolbe streamlined finances and increased professionalism among the staff. In May, 37 prison officers completed a 5-week training course on topics including first aid, prison rules, and justifiable force. An additional 41 officers finished the training in July. Kolbe believed it could improve the prison by reducing endemic waste and corruption and by using prison labor on infrastructure projects.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government generally observed these provisions; however, there were occasional accusations of arbitrary arrest and detention.

The 870-member national police force had a hierarchical structure and was generally effective in responding to complaints; however, lack of resources and corruption were problems. Police sometimes succumbed to the lure of bribes in the face of their low salaries. In February, a donation of 100 vehicles contributed to greater police presence on the streets.

The Police Department's internal affairs and discipline (IAD) section, the Director of Public Prosecutions (DPP), and the Ombudsman's office investigated allegations of abuse by officials. According to IAD, there were a number of sanctions against police officers for infractions during the year. The vast majority of these were for petty offenses, such as being absent without leave, but a small number of the offenses were more serious. No detailed data were available.

Police were required to obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there was probable cause, or if the presence of a firearm was suspected. Customs officers could search a premise with a writ of assistance issued by the Comptroller of Customs. The law requires police to inform a detainee of the cause of detention and to bring the person before a court to be charged formally within 48 hours of arrest. In practice, authorities normally informed detainees immediately of the charges against them.

Police were required to follow "The Judges' Rules," a code of conduct governing police interaction with arrested persons. In rare instances, entire cases were dismissed when the Judges' Rules were violated. More commonly, a confession obtained through violation of these rules was deemed invalid. Detainees were usually granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or a phone call after arrest. Bail was avail-

able for all cases except murder and was granted in all but the most serious cases. In cases involving narcotics, police cannot grant bail, but a magistrate's court may do so after a full hearing. Detainees sometimes could not afford bail, and backlogs in the docket often caused considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged pretrial detention. At year's end, 19 percent of the prison population was on pretrial detention (see Sections 1.c. and 1.e.).

The Constitution prohibits exile, and it 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.

Judges hold lifetime appointments (until the mandatory retirement age of 65). Only one of the four Supreme Court justices was a citizen. There were 17 magistrates and 2 vacant positions; only 3 of the magistrates had a legal background. Every magistrate was a citizen. Most judges were members of the civil service and were routinely transferred between court and administrative postings. The Government appointed the Director of Public Prosecutions to the job for life. The DPP reported no attempt at political interference in his job. The judiciary was seen as relatively honest.

The judiciary consists of the *alcalde* courts (with jurisdiction over small civil claims and minor criminal infractions), the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. The family court is at the same level as the magistrate's courts; however, trials in cases that came before the family court generally were private. The convicted party in family court may appeal to the Supreme Court. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury is mandatory in capital cases.

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Defendants have the right to be present at their trial unless the opposing party feared for his or her safety. In such a case, the court granted interim provisions under which both parties were addressed individually during a 5-day period.

Legal counsel for indigent defendants was provided by the State only for capital crimes. Most defendants could not afford an attorney, and these were convicted at a much higher rate than those with legal representation. The Legal Aid Center's staff attorney handled up to 150 cases a year, leaving the majority of defendants unrepresented. The judicial system was constrained by a severe lack of trained personnel, and police officers often acted as prosecutors in the magistrate's courts. At year's end, the DPP started hiring professional, full-time prosecutors to replace the largely untrained and inexperienced police prosecutors.

There were lengthy trial backlogs in the judicial system. Routine cases without a defense attorney were disposed of within 1 month, but cases involving a serious crime or where there was a defense attorney took up to 1 year. Despite an increase in serious crimes, poor case management, lack of attorney discipline, unreliable witnesses, and several cases that had been ongoing for years, the backlog of cases was shrinking.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respected these prohibitions, and violators were subject to legal action. However, some disputes regarding the Government's exercise of eminent domain rights remained unresolved despite pending for years in the courts.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The Constitution also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or public health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questioned these statements orally or in writing outside a rigidly prescribed procedure was subject to a fine of up to \$2,500 (Bz\$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints was presented publicly, usually without government interference, in 10 privately owned weekly newspapers, 2 of which were owned by major political parties. There were no daily newspapers. All newspapers are subject to the constraints of libel laws, but these laws have not been invoked in several

years. Newspapers, especially the one owned by the opposition party, were routinely critical of the Government without fear of reprisal.

There were 10 privately owned commercial radio stations and 1 British military station that broadcast news directly from London and other Caribbean nations. Popular radio call-in programs were lively and featured open criticism of, and comments on, government and political matters.

There were two privately owned television stations that produced local news and feature programming. There were also several cable television providers throughout the country that rebroadcast foreign stations. The Belize Broadcasting Authority regulated broadcasting and retained the right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts. While this right exists, it has not been exercised in several years.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Political parties and other groups with political objectives freely held rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits were not denied for political reasons and were granted routinely in practice.

*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 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Until closing its Refugee Department in 1999, the Government cooperated directly with the office of the U.N. High Commissioner for Refugees (UNHCR). Since then, the UNHCR relied upon a local nongovernmental organization (NGO) to monitor the status of asylum seekers and to represent its interests. It was unclear how many outstanding refugee or asylum claims there were as of year's end. There were no new cases during the year. The Government has not recognized any individual as a refugee since 1997 and had no procedure in place to accept or resettle refugees.

Since 1999, the Government has not accepted asylum applications, and there was no legislation that formalized the asylum process.

On July 30, the Government refouled 15 Cubans who fled Cuba by boat and drifted into national waters in mid-July. Immigration authorities arrested all 15 persons and detained them at Hattieville prison for 2 weeks. The Government chartered two single-engine aircraft to fly the Cubans back to Havana under guard. The group resisted boarding the planes; once aboard, security personnel handcuffed them to their seats. In press interviews prior to their refoulement, the group expressed fear of returning to Cuba. However, they did not request asylum; the local NGO representative who works with UNHCR on asylum claims stated that was because they had heard of multiple cases in which the Government denied asylum requests to Cubans. Some of the detainees told the media they had hoped for the same fate as a group of 22 Cubans in December 2002. In that case, the Government sent the Cubans, whose asylum claim was denied, back to sea weeks after they washed ashore.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections every 5 years. In March, the PUP won re-election, maintaining 22 of 29 seats in the House of Representatives in generally free and fair elections.

All elections were held by secret ballot, and suffrage was universal for citizens 18 years of age and older. National political parties included the People's United Party and the United Democratic Party (UDP). Another political party, calling itself "We the People," was formed in 2001 and fielded several candidates in the election. The country's ethnic diversity was reflected in each party's membership.

No laws impede participation of women in politics, and 82 percent of both men and women were registered to vote. There were two women in the House of Representatives; one was an elected Representative and the other was appointed to serve as Speaker of the House. There were 3 women in the 12-member appointed Senate, and another woman served as president of the Senate. There was one woman in the Cabinet, and three women were chief executive officers of ministries.

There are no laws impeding participation by indigenous persons or minority groups in politics. There were Mestizo, Creole, Maya, and Garifuna representatives in the National Assembly. Voter registration and participation were not tracked by ethnicity; however, there were no complaints or reports of electoral discrimination on the basis of ethnicity.

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

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views. The main limitation on human rights monitoring was the limited number of NGOs in the country and their problems attracting funding.

The Human Rights Commission of Belize (HRCB), an NGO affiliated with regional human rights organizations and partly funded by the UNHCR, operated without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB published human rights complaints and urged police and other governmental bodies to act upon them.

On January 29, the HRCB criticized the police following the arrest of one of its members, Antoinette Moore, and her husband, Michael Flores, on drug trafficking charges. Moore and Flores lived in Hopkins but owned a farm several miles from their residence where the drugs were found. The HRCB stated the charges were intended solely to silence opponents of police brutality in Dangriga. Flores, a talk radio host, spoke repeatedly about worsening brutality on his radio program and had been warned by police to stop his commentary prior to the arrest. Moore was well known as an attorney and for her involvement with the HRCB. The case was scheduled for trial in March 2004.

In 1999, the Government created the position of Ombudsman to act as a check against governmental abuses. The Ombudsman stated in his fourth annual report that he received 307 formal complaints between April 2002 and March. While most complaints were against the Government, a number were against private entities. There were 120 complaints against the Police Department, 33 regarding the Lands Department, and 16 each against the Department of Corrections and the Family Court. The Ombudsman investigated the majority of these cases and published his findings on many of them in the annual reports.

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

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex. The country is multiracial and multiethnic, and discrimination was rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continued to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations included fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services. There was some societal discrimination against persons with HIV/AIDS, and the Government worked to combat it through the public education efforts of the National AIDS Commission, established in 2002.

*Women.*—Domestic violence against women was a worsening problem. The Family Violence Unit of the police recorded approximately 1,000 instances of domestic violence against women during the year. Two-thirds of the reported cases were from Belize City. A shelter for battered women offered short-term housing. The Belize Organization for Women and Development, an NGO, advised women on their rights and provided counseling.

Laws prohibit rape and sexual harassment. The police and courts treated rape more seriously than in previous years, but it was still not a priority. The Magistrate's Court reported five convictions for rape and one for attempted rape, with sentences ranging from 5 to 28 years. Arrests and convictions for rape were widely covered in the press. The police and courts more strongly enforced statutory rape laws, with 27 convictions. The Criminal Code prohibits marital rape.

Adult prostitution is legal; however, the law prohibits loitering for prostitution, operating a brothel, and soliciting for prostitution. The laws, which carry penalties

of fines up to \$500 (Bz\$1,000) or 1 year of imprisonment, were weakly enforced. Several prominent brothels openly operated.

Despite constitutional provisions for equality, women faced social and economic prejudice. It was harder for women to find employment, and most employed women were concentrated in female-dominated occupations with low status and wages. Although there was no statistical support for the claim, it was believed widely that women found it more difficult than men to obtain business and agricultural financing and other resources. In recent years, the proportion of women in higher education increased, and 64 percent of students at the University of Belize were women.

There were no legal impediments to women owning or managing land or other real property. Women were active in all spheres of national life, but relatively few held top managerial positions. However, women served as assistant police commissioner, chief elections officer, AIDS commissioner, and Minister of Defense. Women also headed the Belize Citrus Growers Association, the Government's trade promotion board, and several prominent environmental NGOs. The law mandates equal pay for equal work; however, women tended to earn less than men; in 1999 the median monthly income for a working woman was \$290 (Bz\$580) compared to \$317 (Bz\$634) for a man.

The Women's Department in the Ministry of Human Development, Women and Children, and Civil Society is charged with developing programs to improve the status of women. A number of officially registered women's groups worked closely with various government ministries to promote social awareness programs.

*Children.*—The Government was committed to children's rights and welfare. Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs had room for only one-half of the children finishing primary school; competition for spaces in secondary school was intense. Education was nominally free, but school, book, and uniform fees placed education out of reach for many poor children. There were also many truants and dropouts. A study published in April concluded that girls and female teachers were victims of discrimination in the schools. Religious organizations administered a number of educational institutions, including a majority of primary schools and the most prestigious girls' and boys' secondary schools.

The Family Services Division in the Ministry of Human Development, Women and Children, and Civil Society was devoted primarily to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children (see Section 6.f.), and worked with NGOs and UNICEF to promote children's welfare.

Child abuse was not considered to be widespread or a societal problem; the Family Violence Unit recorded around 100 cases of domestic violence against children a year, nationwide. Sexual abuse of minors, including incest, was a problem. The Families and Children Act allows authorities to remove a child legally from an abusive home environment and requires parents to maintain and support children until they reach the age of 18. In 2002, the Ministry of Human Development, Women and Children, and Civil Society enacted a statutory instrument to strengthen the Families and Children Act to help prevent child abuse and aid prosecution. The National Organization for the Prevention of Child Abuse and Neglect (NOPCAN) instituted a nationwide telephone help line to encourage discourse and reduce abuse.

A practice that occurred throughout the country was that of parents selling their female children to an older man, often a friend of the family (see Section 6.f.).

*Persons with Disabilities.*—The law neither provides specifically for accessibility for persons with disabilities nor prohibits job discrimination against them. The Government's Disability Services Unit, as well as a number of NGOs, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provided assistance to such persons. Children with disabilities had access to government special education facilities, although the requirements to enter such programs were strict.

*Indigenous People.*—Among the country's indigenous persons, the Mopan and Ke'kchi were grouped under the general term Maya, although their leaders stated that they should be identified as the Masenal, meaning "common people." The Maya sought official recognition of their communal claims to land, but the Government was reluctant to single out one ethnic group for special consideration. The Government designated 77,000 acres as 9 separate Mayan reserves; however, Mayan leaders claimed that the Maya have an ancestral claim to a total of 500,000 acres. The Maya formed cultural councils and other groups to advance their interests, some-



times with the collaboration of NGOs concerned with environmental and indigenous issues.

On October 24, the Inter-American Commission on Human Rights (IACHR) issued a report finding that the Government violated the rights of the Maya to land in the Toledo district. The report recommended that the Government recognize the Mayan right to traditionally occupied communal property and demarcate such property before taking any further actions on disputed land. At year's end, the Government had not responded to the IACHR report.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers generally were free to establish and join trade unions. Eight independent unions, whose members constituted approximately 11 percent of the labor force, represented a cross-section of workers, including most civil service employees. The Ministry of Labor recognizes unions after they file with the Registrar's Office. Unions may organize freely, and the law requires employers to recognize unions when a critical level of membership is reached. The law empowers members to draft the bylaws and the constitutions of their unions, and they were free to elect officers from among the membership at large. Unions that chose not to hold elections acted as representatives for their membership, but the National Trade Union Congress of Belize permitted only unions that held free, annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

Although no unions were affiliated officially with political parties, several were sympathetic to one or the other of the two main parties (the PUP and the UDP).

The Constitution prohibits anti-union discrimination. However, since 1989 the International Labor Organization (ILO) has been drawing the Government's attention to the need to ensure that workers benefit from adequate protection against anti-union discrimination, stating that the fine of \$125 (Bz\$250) does not sufficiently dissuade acts of anti-union discrimination. According to the Trade Unions and Employers Organizations Act, any worker who is a victim of anti-union discrimination can seek redress in the Supreme Court with allowable judgments of up to \$2,500 (Bz\$5,000). Some employers have been known to block union organization by firing key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress was extremely difficult to obtain in such situations. Technically, a worker could file a complaint with the Labor Department, but in practice it was difficult to prove that a termination was due to union activity.

Unions freely exercised the right to form federations and confederations and affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and unions practiced it freely. Employers and unions set wages in free negotiations, or, more commonly, employers simply established them. The Labor Commissioner or his representative acted as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Should either union or management choose not to accept the Commissioner's decision, both were entitled to a legal hearing of the case, provided that it was linked to some provision of civil or criminal law.

The law permits unions to strike and does not require them to give notice before going on strike. However, this right was limited for public sector workers in areas designated as "essential services." Both the ILO and the International Confederation of Free Trade Unions have found the Government's definition of essential services to be overly broad and an infringement on some workers' right to strike. The Essential Services Act also empowers the Government to refer a dispute to compulsory arbitration to prohibit or terminate a strike.

The Labor Code applies in the country's export processing zones (EPZs). There were no unions in the EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Act prohibits all employment of children under age 12 and prohibits employment of children between the ages of 12 and 14 before the end of school hours on official school days. However, there was a tradition of children's employment on family farms and in family run businesses, which the law allows. The minimum age for employment was 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education enforced this regulation.

A 2001 NOPCAN report stated that child labor existed in many forms in the Corozal district, with children working as shop assistants, gasoline attendants, and cane farmers. During the year, the ILO estimated that 11 percent of children between the ages of 5 and 17 were working. In the rural regions, children worked on family plots and businesses after school, on weekends, and during vacations and were involved in the citrus, banana, and sugar industries as field workers. In urban areas, children shined shoes, sold newspapers and other small items, and worked in markets. Teenage girls, many of whom were migrants from neighboring Central American countries, worked as domestic servants, and some were rumored to work as bar maids and prostitutes.

*e. Acceptable Conditions of Work.*—The minimum wage was \$1.12 (Bz\$2.25), except for domestic workers in private households, and shop assistants in stores where liquor was not consumed, and in export industries, where it was \$1.00 (Bz\$2.00) per hour. The minimum wage law did not cover workers paid on a piecework basis. The Ministry of Labor was charged with enforcing the legal minimum wage, which generally was respected in practice. The minimum wage did not provide a decent standard of living for a worker and family.

The law sets the workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay after being employed continuously for at least 5 years.

The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

A patchwork of health and safety regulations covered numerous industries, and the Ministry of Labor enforced these regulations to varying degrees. The ministries committed their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were registered. Workers had the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and within the country, mainly from neighboring Central American countries.

In June, the Government enacted comprehensive legislation that prohibited all forms of trafficking in persons and made offenses punishable by fines of up to \$5,000 (Bz \$10,000) and imprisonment of up to 8 years. The law also provides for limited victims' assistance, although in practice government resources were too limited to provide meaningful aid to victims. Under the law, noncitizen victims willing to assist in prosecuting traffickers are eligible for residency status.

In August, a nationwide raid on 42 brothels resulted in the arrest of several brothel proprietors on trafficking charges and the identification of numerous victims, including a 16-year-old girl. Those arrested had not yet gone to trial by year's end; a hearing was scheduled for January 2004.

In June, the Government formed a National Task Force to combat human trafficking, comprising multiple ministries, NGOs, diplomatic representatives, police, immigration, and prosecution personnel. The task force established a protocol for investigating and handling trafficking cases under the new law. The police, immigration, and human services shared investigation roles in the August raid.

The National Committee for Families and Children reported instances of minors engaged in prostitution with an older man, in some cases of their own volition, in others arranged by their family. These girls were typically of high-school age, but some as young as 13 were reported, and came from economically disadvantaged families. They provided sexual favors to an older man in return for clothing, jewelry, or school fees and books. In a limited number of cases where the Government attempted to prosecute the men for unlawful carnal knowledge, these efforts were often stymied by the unwillingness of the girls' families to press charges.

There were few confirmed cases of trafficking in children for the purpose of prostitution. On October 22, police charged two male foreigners with unlawful carnal knowledge and trafficking in minor girls in Toledo district. The girls reported sex acts with the accused, and police found nude photos of some of them on the men's personal computers. The two reportedly had paid parents for access to the children.

In the May 2002 arrest of John Majarrez for carnal knowledge of 10- and 13-year-old Salvadoran sisters, criminal charges were still pending. In the south, there were reports of traffickers paying parents to take pornographic photos and videos of their children.

There were reports of persons trafficked for labor purposes. There were instances of Chinese migrants being forced to work in local (Chinese-owned) sweatshops.

Members of the East Indian community also imported employees from India in effect as bonded labor, holding their passports and paying less than minimum wage.

## BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. On October 17, protesters forced President Gonzalo Sanchez de Lozada, who been elected in free and fair elections in August 2002, to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. Mesa appointed a non-political cabinet and promised to revise the Constitution through a constituent assembly. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption, inefficiency, and political manipulation.

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations. The Judicial Technical Police (PTJ) conduct investigations for common crimes (cases that do not involve narcotics); the police provide security for coca eradication work crews in the Chapare region; the Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintained effective control over the security forces; however, rebellious elements of the police forces mutinied against government authority during a February demonstration. Some members of the security forces committed serious human rights abuses.

The country has a market-oriented economy. Poverty was extensive, and approximately 65 percent of the population of 8.4 million lived below the poverty line. Many citizens lacked access to such basic services as potable water, sewage, electricity, and primary health care. The country is rich in minerals and hydrocarbons; however, most workers were engaged in traditional agriculture or self-employed in the informal sector, and many citizens were barely linked to the cash economy. During the year, the economy grew by approximately 2.5 percent. The Government remained heavily dependent on foreign assistance to finance development projects.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Security forces killed dozens and injured hundreds of protesters during episodes of violent social unrest. A total of 27 members of the security forces were also killed and dozens of others injured during demonstrations or while enforcing internationally supported coca eradication policies. There were unconfirmed allegations of torture by the police and security forces. There were credible reports of abuses by security forces, including use of excessive force, extortion, and improper arrests. There were reports that military conscripts were mistreated. Prison conditions were harsh, and violence in prisons was a problem. There were credible reports of arbitrary arrest and detention. Prolonged detention remained a serious problem. The Government continued to implement a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the Code of Criminal Procedures (CCP). Other problems included pervasive domestic violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, and discrimination against Afro-Bolivians. Child labor and brutal working conditions in the mining industry were serious problems. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings committed by government agents; however, there were serious problems in several areas. Security forces killed dozens of protesters during three major episodes of violent social unrest (see Section 2.b.).

Between January 12 and 28, at least five civilians were killed when major violence erupted in the Chapare region as illegal coca growers (“cocaleros”) blocked the major Cochabamba/Santa Cruz highway (see Section 2.b.).

On January 14, near Sinahota, Chapare, coca grower Willy Hinojosa, 22, was shot to death. The Ninth Division claimed that troops, in response to an attack by protesters on their lead vehicle, first fired live ammunition into the air and then at the ground, as required by the division’s crowd control protocol. Officers speculated that a ricochet might have struck Hinojosa. Coca growers offered a different version of events surrounding the death of Willy Hinojosa. They said he had been

arrested in Sinahota and was shot while trying to escape. The Public Ministry was investigating the incident at year's end.

On January 15, coca growers complained to human rights groups that Felix Colque died as a result of a December 2002 tear-gassing by the Joint Eradication Task Force (FTC); however, there was no information to show that Colque inhaled tear gas or that he did not die from some unrelated illness.

There were no significant developments in the January 2002 killing of Marcos Ortiz Llanos in Sinahota, Chapare, who was allegedly shot by soldiers from the now-disbanded Chapare Expedition Force (FEC) during a cocalero demonstration.

There were several deaths due to violence in the prisons during the year (see Section 1.c.).

An investigation remained open in the 2001 killing of Casimiro Huanca Coloque, a leader in the Chimore Coca Growers Federation, during a confrontation between the FEC and cocalero (coca grower) protesters (in Chapare, coca growing is always illegal). A military court and the Public Ministry had earlier concluded that there was insufficient evidence to charge the FEC soldier who had fired the shot.

In the case of Richard Cordoba, who died in 2001 while in police custody in Cochabamba, five police officers were tried and convicted in the death.

The Attorney General's office continued to investigate the 2001 killing near Los Amigos, Central Isarzama in the Chapare, of Nilda Escobar Aguilar, who was struck by a tear gas canister during a clash between demonstrators and security forces.

In the 2001 case of the deaths of 7 persons and injuries to 20 others in clashes between landless peasants and small landowners in Pananti near Yacuiba, a trial of 9 campesinos continued at year's end; in 2002, 8 convicted landowners received suspended 3-year sentences in the case, which was also pending with the Inter-American Commission on Human Rights.

Two former policemen, Juan Carlos Balderrama and Antonio Quispe, were convicted and sentenced to prison terms of 10 and 8 years, respectively, for the 1999 killing of Freddy Cano Lopez, who died of burns after his arrest.

The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. The Congressional Human Rights Committee, the Ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and nongovernmental organizations (NGOs) continued to press the Government to expedite action in the cases.

There were numerous reports of killings of government security forces by nongovernmental actors. On January 21, one soldier was killed by gunfire and four others were wounded in an ambush allegedly set by cocaleros at Siete Curvas. The attackers fled the area, and the case remained under investigation. Security forces were also killed and wounded by gunfire in La Paz, Warisata, Chasquipampa, and El Alto. Seven soldiers engaged in coca eradication in the Chapare were killed and 27 wounded by snipers or sophisticated explosive booby traps presumably planted by cocaleros. For example, on October 23, in the Isiboro Secure nature reserve, FTC soldier Julian Vila Flores, age 18, was killed by a command-detonated device presumably by militant cocaleros during coca eradication operations. On December 11, security forces arrested eight National Liberation Army-Bolivia (ELN-B) suspects connected to the booby-trap incidents, who were later released on bail. On December 16, authorities also arrested three ELN-B suspects in Viacha in possession of mortar bombs believed destined for the Chapare. Authorities believed that Colombian ELN suspect Francisco "Pacho" Cortes, who was arrested by police in El Alto on April 11 posing as a human rights worker, and two coca growers were responsible for planning the booby trap campaign.

There was progress in the investigation into the 2000 killings of Lieutenant Andrade, three other security officials, and Mrs. Andrade, who disappeared in the Chapare during violent disturbances and were later found tortured and killed. In July, Nancy Fernandez, the niece of one of the accused cocaleros (Chrisostomo Rodriguez), testified to police that the victims were abducted; then Mrs. Andrade was beaten by various women under orders of cocalero leader Margarita Teran and raped and mutilated by peasants in front of her husband; finally, all five persons were killed.

In 2002, at Sindicato Los Yukis, near Yapacani, approximately 30 armed and hooded men invaded a building of the Federation of Colonizers and killed campesino Luciano Jaldin Fermin. A week later, the bodies of three other men (Ricardo Rojas Caravallo, Martin Condori, and Wilber Nunez Flores) were found nearby in the jungle; autopsies revealed signs of torture and strangulation. The Attorney General's investigation continued at year's end.

There were several reported cases of alleged criminals beaten, lynched, or burned by civilians, sometimes resulting in death. For example, on November 6, in

Caramarca, Cochabamba, 4 alleged car thieves were beaten to death by a crowd of about 60 townspeople before police arrived on the scene.

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

In April, after a ruling from the Inter-American Court of Human Rights in the case of Juan Carlos Trujillo Oroza, who disappeared during the 1971–78 de facto regime of President Hugo Banzer, the Government awarded the Trujillo family \$400,000.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the Government generally respected these provisions; however, there were a number of allegations of torture, beatings, and abuse by members of the security forces.

On January 13, coca grower Esteban Garcia Mamani was wounded during the army Ninth Division's attempts to disperse protesters when he received a severe injury to his jaw requiring extensive treatment. Forensic evidence contradicted initial reports that Garcia was shot and indicated that a tear gas canister most likely caused the wound. Neither the military nor the Public Ministry has released an official report.

On January 14, two coca growers, Luis Antonio Lizarraga and Ariel Moya Flores, were shot and injured as Ninth Division troops attempted to disperse a protest at Cruce Vueltadero. Humberto Ledezma Garibaldi, a university student, received a cut to the head and bruises.

On January 17, the Human Rights Ombudsman in Villa Tunari formally complained that, on January 13, army Lieutenant Ruddy Torrico Montano and other soldiers from the Ninth Division's CIOS II base in Santa Rosa forced their way into the Rio Alto home of 52-year old Gabina Contreras and beat her, leaving serious bruises that were documented on January 14 by the Ministry of Justice Human Rights Center. On January 14, CIOS II troops reportedly beat and illegally detained Contreras' husband Cresencio Espinosa, who, according to the Human Rights Ombudsman's representative in Villa Tunari, was released after he complained to Ninth Division commanders. The case remained under investigation at year's end.

In June, at the army's First Division in Viacha, several individuals were reportedly beaten or tortured by officers and noncommissioned officers (NCOs) following the theft of an automatic rifle consigned to soldier Rudy Brusly Lucana. Among those abused were Brusly, Rolando Quispe Flores, Angel Antonio Zucuasos Averanga, David Conde Ramos, and an unnamed civilian mechanic. The NGO Permanent Assembly of Human Rights of Bolivia (APHDB) launched an investigation into the incident along with military authorities.

During the September-October violence, security forces forced peasants on the Altiplano to clear the highways of rocks and other debris. The security forces sometimes forced them to remove their pants and shoes in an attempt to humiliate them and dissuade them from blocking roads.

Security forces clashed with each other in February and with demonstrators on several occasions during the year, resulting in the deaths of 90 demonstrators and approximately 800 injuries (see Section 2.b.). At least some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by the security forces. Investigations into these incidents were pending at year's end.

The Public Ministry continued its investigation into allegations that security officials beat cocalero leaders whom they detained in Sacaba during the disturbances in January 2002 and that they beat other civilians to try to learn the names of those responsible for security officers' deaths.

Army major Luis Fernando Garcia, who in an apparently inebriated state reportedly shot and wounded Jose Luis Alvarez in November 2002, was tried in civilian court and acquitted.

There also were credible allegations that military commissioned officers and NCOs beat and otherwise mistreated military conscripts.

Minister of Defense Freddy Teodovich was removed from office in part for illegally forcing military conscripts to pick castor beans on his ex-wife's farm. Conscripts' daily budget for food is only \$0.20 (2.5 bolivianos), compared with \$0.25 (3.3 bolivianos) allotted to civilian prisoners for meals.

There were no further developments, and none were expected, in the investigation of the September 2002 case of Fructuoso Apaza who severely injured a police officer in a confrontation with the FTC in the Chapare.

Indigenous communities in areas with little or no central government presence imposed punishment that reportedly included the death penalty for members who violated traditional laws or rules, although the Constitution prohibits the death penalty (see Section 5).

Prison conditions were harsh. Prisons were overcrowded and in poor condition. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually were in control. Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. Detention centers, intended to hold persons prior to the completion of their trials and sentencing, also were overcrowded. Convicted criminals often were housed in detention centers on a judge's order because of overcrowding in the larger prisons.

According to the Director General of the Penal System in the Ministry of Government, as of October, there were 5,587 (4,925 men and 662 women) prisoners in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices reportedly ranged from \$17 to \$4,340 (132 to 33,850 bolivianos), paid to prior occupants or to prisoners who control cellblocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupied tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some sections obliged inmates to sleep sitting up. Although only children up to 6 years old were supposed to live with an incarcerated parent, children as old as age 12 lived with their fathers in San Pedro prison. According to the Director General, in October, there were approximately 800 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet could cause anemia. The Government's daily budget for a prisoner's food was \$0.25 (3.3 bolivianos), and prisoners who could afford to do so supplemented the standard prison diet by buying food. Food and conditions at the Chimore detention facility were better than elsewhere. There was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. In La Paz's San Pedro prison, three inmates tested positive for tuberculosis. Drugs and alcohol were readily available for those inmates who could pay.

In December, Mauricio "Chichuriru" Suarez, who recently had been transferred (along with other dangerous prisoners) to Chonchocoro maximum security prison, was found dead in his cell. An autopsy revealed strangulation marks and contusions indicating that the death was not a suicide. The case remained under investigation.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

Convicted juvenile prisoners were not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. The Government acknowledged these problems but did not budget sufficient resources to correct them.

The Government permitted prison visits by independent human rights observers and news media representatives, and such visits took place during the year.

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

Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The Constitution requires that a detainee must be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a prosecutor must obtain a judge's determination as to the appropriateness of continued pre-trial detention or release on bail, and the judge must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest; however, credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. Several police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the PTJ to investigate their own officers. In September, the National Police established with international assistance a National Directorate of Professional Responsibility, which investigates allegations against police officers of malfeasance, wrongdoing, and human rights abuses.

Approximately 1,047 FELCN members, PTJ members, lawyers, law students, prosecutors, judges, and NGO representatives received training on the new CCP.

During the year, policemen and military officers received crowd control training that emphasized respect for human rights and internationally accepted principles of crowd control. FELCN officers also received training on human rights issues incorporated in general counternarcotics training. Basic FELCN and UMOPAR training includes a 40-hour human rights module.

Denial of justice through prolonged detention remained a serious problem, although the CCP provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing (see Section 1.e.). If the process is not completed in 18 months, the detainee may request his release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners were released if a judge ruled detention illegal, but the process could take months. Prisoners may see a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (see Section 1.e.).

The Government continued to streamline the judicial system and took measures to correct other deficiencies. Most prisoners still awaited either trial or sentencing, but the courts began to provide release on bail for some prisoners. Judges have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge may order significant restrictions on the suspect's travel.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (see Section 5).

The Constitution prohibits forced exile of citizens, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: Trial Court, Superior Court, and the Supreme Court or Constitutional Tribunal. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

The CCP provides for a system of transparent oral trials in criminal trials; requires that no pretrial detention exceed 18 months; and provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor tries misdemeanor cases (with possible sentences of less than 4 years) before a judge of instruction and felony cases (with possible sentences of more than 4 years) before sentencing courts, each of which features a five-member panel that includes three citizen members and two professional judges.

Superior court review is restricted to a review of the application of the law. Supreme Court review, the third stage, is restricted to cases involving exceptional circumstances. During the superior court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences or provide alternatives not contemplated in lower courts.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to appeal judicial decisions. In practice, almost none of these rights were protected systematically, although the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The law provides for a defense attorney at public expense if needed; however, one was not always promptly available. There were approximately 64 public defenders and 26 legal assistants nationwide. The public defender program also provided information about human rights to citizens and sought to involve public defenders in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. Mobile public defenders who travelled to the more remote parts of the country had some positive effect; however, public defenders remained overburdened.

The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the Constitution.

The Judicial Council oversees the disciplinary aspects of the judicial process and provides an impartial body to review the actions of judges. Its powers include the

authority to conduct administrative investigations and to censure for malpractice judges at all levels found culpable of malfeasance; however, the dismissal of a superior court or higher level judge requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council may suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated.

The military justice system generally was susceptible to senior-level influence and avoided rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report of the findings. The results of the findings are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of either innocence or guilt. For major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. An inter-ministerial commission, headed by the Vice Ministry of Justice, was charged to prepare legislation to address these conflicts as well as to incorporate various international human rights agreements into domestic law. During the year, the armed forces, in conjunction with the Human Rights Ombudsman's office, began a major human rights educational campaign in the three service branches.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the sanctity of the home and the privacy of citizens; however, while the authorities generally respected these provisions, there were credible allegations of security forces involved in thefts of property. Residents in the coca-growing areas generally were reluctant to file and pursue formal complaints against security forces. They were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

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

*a. Freedom of Speech and Press.*—The Constitution provides for the right to express ideas and opinions freely by any means of dissemination; however, there were some limitations on freedom of speech. The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half.

Newspapers were privately owned and frequently adopted anti-government positions. State-owned and private radio and television stations generally operated freely. During the September 10–October 17 “gas war,” both the Government and the opposition engaged in disinformation through the media. For example, on October 12, the “People’s Television Station” incited the population to rebellion and falsely asserted that the security forces were using ambulances to transport troops and ammunition. On October 16, in Oruro, bombs placed by unknown assailants destroyed antennas belonging to the opposition radio network Erbol. Particularly during times of heightened national tension, journalists were threatened by individuals critical of their reports and were physically attacked and prevented from filming or doing on-the-spot-reporting.

The 40-person La Paz Press Tribunal, an independent body, is authorized to evaluate journalists’ practices that are alleged to violate either the Constitution or citizens’ rights. The Government prohibited the importation of pornographic books, magazines, and artwork.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom, and the law grants public universities autonomous status.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the right of peaceful assembly, and the authorities generally respected this right in practice; however, security forces killed dozens of persons and injured others during three episodes of violent social unrest and demonstrations.

From January 12 to 21, cocaleros in and around the Chapare violently resisted the security forces’ attempts to enforce the law and reduce the illegal coca crop that is mainly used to manufacture cocaine. The cocaleros demanded suspension of forced eradication and often blocked a strategic highway used to transport legal products to market. During the confrontations, 5 civilians and 1 soldier were killed, and 60 civilians and 12 soldiers and police were wounded. Public Ministry and army investigations into one of the civilian deaths and the military killing were pending at year’s end.

On February 12 and 13, violence broke out when palace guards defending against a group of high school students stoning the presidential palace were attacked by a group of rebellious police. Two days of rioting and looting ensued in which 31 per-



sons (17 civilians, 9 police, and 5 military) were killed and approximately 200 injured. During the violence, sniper bullets entered the President's office, and two military officers on that floor were killed. In May, the Organization of American States (OAS) delivered a comprehensive report on the events, which concluded that there was insubordination in police units, that the President's life was at risk, that the Armed Forces generally acted appropriately, but that some cases needed more thorough investigation. The report recommended that the Attorney General's office investigate all police and civilian cases of alleged misconduct and that the military should investigate cases of misconduct within its jurisdiction. In August, the Attorney General's office indicted 16 persons (11 police officers, 4 military officers, and 1 civilian) in connection with the events; however, in November, the Public Ministry announced its investigation had stalled for lack of funds.

From September 20 to October 17, the so-called gas war, which culminated in the resignation of the President and his Cabinet, resulted in an estimated 60 to 80 persons (59 confirmed) killed and 400 injured, the great majority by gunshots. The conflict began when a hunger strike by Aymara leader and congressional deputy Felipe "Mallku" Quispe led his followers to begin blocking roads near Lake Titicaca; about 800 tourists, including some foreigners, were trapped in the town of Sorata. On September 20, after more than a week of unfruitful negotiations, the Government undertook an operation to rescue the virtual hostages. Peasants ambushed the security forces at Warisata and Ilabaya: 5 civilians and 1 soldier were killed, and 17 civilians and 7 members of the security forces were injured. The Sorata incident helped unite a loose nationwide coalition of opposition unionists, cocaleros, students, NGOs, and indigenous peasants against the Government. When these groups blockaded El Alto and other access points to La Paz, violent confrontations again ensued, particularly when demonstrators attacked convoys bringing fuel and other supplies to La Paz and government forces returned fire. The Government did not declare a state of siege during the conflict. The Public Ministry, the Human Rights Ombudsman's Office, the congressional Human Rights Commission, and NGOs opened a series of investigations, which were pending at year's end.

The law provides for freedom of association, and the authorities generally respected this right in practice. The Government requires NGOs to register with the appropriate departmental government, and authorities granted such registration routinely and objectively.

On April 11, police in El Alto arrested Colombian ELN suspect Francisco "Pacho" Cortes, who was posing as a human rights worker along with two coca growers. The group was found in possession of narcotics, seditious material, weapons, and bomb-making equipment.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. The Roman Catholic Church received support from the Government (about 300 priests received small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The Ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or evangelical.

For a more detailed discussion, see the 2003 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, during the September 10–October 17 gas war, opposition protesters blocked major highways and for weeks created thousands of virtual hostages in La Paz and numerous other locations throughout the country (see Section 2.b.). The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political or other reasons.

The law provides for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government accepted 3 of the 10 persons who applied for refugee status during the year. The total number of registered refugees, according to UNHCR, was 532, including Peruvians, Russians, Iraqis, Iranians and Cubans.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties ranging from far left to moderate right functioned openly. Elections for national offices and municipal governments are held every 5 years; the next national election is scheduled for June 2007.

In August 2002, Gonzalo Sanchez de Lozada of the centrist Nationalist Revolutionary Movement assumed the presidency after he was elected in a joint session of the Congress following the June 2002 national election. Although there were some allegations of vote-counting irregularities, most observers, including a mission from the OAS, concluded that the elections were free and fair. On October 17, opposition protesters, including radical union and other dissidents and indigenous peasants (some of them coerced into protesting), forced President Sanchez de Lozada to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. President Mesa appointed a non-political cabinet and undertook to revise the Constitution under a constituent assembly, hold a binding referendum on exportation of natural gas, and revise the hydrocarbons law.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. The CNE selects departmental electoral court judges, and Congress chooses head departmental electoral judges.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership. The law requires that every third candidate on party candidate lists be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a requirement that increased female representation to approximately 30 percent of municipal council positions. There were 28 women among the 157 deputies and senators, 5 women among the 46 vice ministers, and 1 woman in the 16-member Cabinet. There were two indigenous members of the Cabinet, and the number of indigenous members of the Chamber of Deputies was estimated at 25 percent—a figure difficult to confirm, since designation as indigenous is self-declared.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views; however, NGOs and the Ombudsman complained that occasionally government security forces and ministries refused to cooperate when NGOs or the Ombudsman conducted investigations.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. Congress chooses the Ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government. The ombudsman's position was vacant for approximately 6 months, due to the resignations of two incumbents during the year. In December, Waldo Albarracin, the former president of the country's largest human rights NGO, the APDHB, was elected Human Rights Ombudsman. Indigenous persons filed approximately 60 percent of all complaints received by the Ombudsman. The congressional Human Rights Committee investigated alleged human rights abuses in the Chapare during the events of February 12–13 and the September–October gas war (see Section 2.b.).

The Chimore Center for Justice and Human Rights (CCJHR) continued to be active in the Chapare region. It reported its findings to the Vice Ministry of Justice in the Ministry of the Presidency, disseminated human rights information, accepted complaints of abuses committed, kept records, and referred complaints to the Public Ministry. The CCJHR also houses a medical forensic expert and an investigative staff to review complaints.

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

The Constitution prohibits discrimination based on race, sex, language, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

*Women.*—Violence against women was a pervasive problem, and many cases went unreported. From January to October, family violence units of the police received 2,308 complaints from women, including complaints of violence and sexual harassment. Complaints against taxi drivers headed the list (52 percent), followed by police (15 percent), bureaucrats and unionists (13 percent), public employees (12 percent), and other professionals (8 percent). The laws to protect women and children from family violence were enforced irregularly.

Rape was also a serious but underreported problem. The Law on Domestic and Family Violence makes the rape of an adult a public crime; however, the victim must press charges, and only 3 percent of complaints received by the Public Ministry were for rape. The Law Against Sexual Violation criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14, 2 to 6 years for the statutory rape of a person from 14 to 18 years of age, and 5 to 20 years for forcible rape of a child or an adult. The CCP provides that crimes against adults included in previous laws on sex crimes may be made public crimes; however, the victim must still testify. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (see Section 6.f.).

The CCP considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but the problem generally was acknowledged to exist widely in the male-oriented society.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women generally do not enjoy a social status equal to that of men. Many women do not know their legal rights. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The Labor Code restricts the proportion of female staff in business to 45 percent of the workforce unless large groups of women are required in a particular enterprise; however, this restriction was not enforced actively. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Women sometimes complained that their hiring was made more difficult because employers were reluctant to assume the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas in rural areas the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the economy. A 2000 U.N. Development Program study found that the literacy rate for women over the age of 15 was 79 percent compared with 92 percent for men. Although not effectively enforced, the national labor law limits women to a workday 1 hour shorter than that of men and prohibits them from working at night (see Section 6.e.).

*Children.*—The Government is aware of the need to provide legal and institutional infrastructure for the protection of children. The Code for Boys, Girls, and Adolescents establishes the rights of children and adolescents, regulates adoptions, and protects against exploitative child labor and violence against children; however, resource constraints impeded full implementation of this law. There are seven Defender of Children and Adolescents offices to protect children's rights and interests; however, the Government did not give the situation of children sufficient political priority to improve conditions quickly and effectively.

Although the law requires all children to complete at least 5 years of primary school, enforcement of this requirement was lax, particularly in rural areas, where more than half of the primary schools offer only three of eight grades. An estimated 26 percent of children graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children less than 3 years old were chronically undernourished. A UNICEF report estimated that in 2001, 77 of every 1,000 children died before the age of 5. Many children, particularly from rural areas, lacked birth certificates and the identity documents they needed to secure social benefits and protection. The Government developed, but had not funded, a plan to provide these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years

of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. According to UNICEF, approximately 12,000 children were in institutions where their basic rights were not respected. There were also many children living on the streets of major cities. For example, 3,400 children, primarily female, were reported abandoned in El Alto during the year.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (see Section 6.f.).

Child labor was a serious problem (see Section 6.d.).

Several NGOs had active programs to combat child prostitution. The Government's plan to combat child labor included a campaign against child prostitution (see Section 6.d.).

*Persons with Disabilities.*—Societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was mandated to oversee the law's enforcement, conduct studies, and to channel and supervise programs and donations for persons with disabilities; however, there was little information on its effectiveness. The electoral law requires accommodation for blind voters; however, in general, there were no special services or infrastructure to accommodate persons with disabilities. A lack of adequate resources and infrastructure impeded full implementation of the law.

*Indigenous People.*—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the October 17 resignation of President Sanchez de Lozada. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, was a continuing source of complaints and protests by indigenous people. Indigenous people complained that their territories were not defined legally or protected and that outsiders exploited their resources. In October and November, indigenous peasants illegally occupied several private properties belonging mostly to former government officials.

Indigenous groups availed of the Popular Participation Law to form municipalities that offered them greater opportunities for self-determination. The CCP recognizes the conflict resolution traditions of indigenous communities (see Section 1.e.). The September-October gas war began when radical Aymara leader and congressional deputy Felipe "Mallku" Quispe began a hunger strike to protest the arrest of his indigenous colleague Edwin Huampo, who had been arrested for the 8-day torture and subsequent killing of two suspected cattle-rustlers. Quispe and others maintained that his acts were legal under traditional tribal law and that Huampo was immune to the legal jurisdiction of the "q'aras" (whites and mestizos). Huampo was freed on personal recognizance during the protests.

*National/Racial/Ethnic Minorities.*—There was societal discrimination against the small Afro-Bolivian minority, who generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25,000 Afro-Bolivians live in the Yungas region of the Department of La Paz.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide that workers have the right to form trade unions; however, inefficient labor courts and inadequate government regulation at times limited the exercise of this right by workers. Approximately 25 percent of the workers in the formal economy belonged to unions, approximately 30 percent worked in the formal economy.

Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Moreover, labor leaders alleged that the private sector exploited a section of the 1985 Economic Liberalization Decree (which eliminated the Government's role in authorizing worker dismissals) to fire workers for organizing or to avoid paying severance benefits, although both actions remain illegal. Public sector workers also have the right to form a union. The Labor Code requires prior government authorization to establish a union and confirm its elected

leadership, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat. The Government was not known to abuse this authority for political or other reasons and generally did not penalize workers for union activities.

Because of the legal costs and time required to register new nongovernmental entities, almost all unions are affiliates of the Bolivian Labor Federation (COB). Several large groups of informal workers, including up to 50,000 "cooperative" miners, thousands of street vendors, and hundreds of thousands of poor indigenous farmers (campesinos) were loosely affiliated with the COB.

Unions were not free from influence by political parties, but many in organized labor increasingly rejected traditional political parties and supported movements seeking radical change in the economic and political system. Labor unions were major protagonists in the October 17 demonstrations leading to the resignation of the President (see Section 3). Most parties have labor committees that attempted to influence union activity and also had party activists inside the unions.

The law prohibits discrimination against union members and organizers; however, labor laws intended to protect workers' rights to freedom of association and to form and join trade unions are inadequate and failed to deter employers from retaliating against workers, and the laws do not protect workers against interference by employers. Complaints of anti-union discrimination go to the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders said that problems were often moot by the time the court ruled.

The law allows unions to join international labor organizations. The COB worked with mainstream international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the Labor Code provide workers with the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, was limited. Most collective bargaining agreements were restricted to wages and excluded other conditions. The Labor Code requires unions to revert to government mediation before beginning a strike and employers to do likewise before initiating a lockout. The practice of direct employee-management negotiations in individual enterprises expanded, as the private sector's economic role expanded.

During the year, major strike activity included strikes by the National Police and a general strike that contributed to the resignation of the President on October 17 (see Section 3).

The Labor Code bans strikes in public services, including banks and public markets; however, workers in the public sector frequently did strike, with strikes by teachers and health care workers the most common. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the Government neither prosecuted nor imposed penalties in such cases.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (see Sections 5 and 6.d.). The ILO Committee of Experts reported that the abuses and lack of payment of wages constituted forced labor in the agriculture sector. Trafficking of women and children was a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor was a serious problem. The law prohibits all work for payment by children under the age of 14; however, in practice the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year olds under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (see Section 6.c.).

Approximately one in every four children between the ages of 7 and 14 was employed in some way usually to help provide for family subsistence, usually in uncontrolled and sometimes unhealthy conditions. UNICEF estimated that some 800,000 children were engaged in some type of work, although the figure could be higher.

The extreme poverty of many families dictated the employment of their children to survive.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. In 2002, the Government reported that approximately 800,000 children and adolescents between the ages of 7 and 19 were engaged in some type of work. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Narcotics traffickers used children to transport drugs. Child prostitution was a growing problem (see Section 5).

The traditional practice of “criadito” service persisted in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there were no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

The new administration endorsed a 2001 plan to combat child labor and, at year’s end, was completing plans to eliminate child labor in its worst forms, including in mining, sugar cane harvesting, and prostitution. In particular, the Government worked with NGOs to discourage the use of child labor in the mining sector by participating in an internationally funded program to provide educational alternatives to children who otherwise would work in mines and by re-forming an interagency task force to eliminate child labor.

*e. Acceptable Conditions of Work.*—The Government established the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the COB, and the wage increased in January by almost 9 percent to approximately \$57 (430 bolivianos) per month plus bonuses and fringe benefits. The minimum wage did not provide a decent standard of living for a worker and family, and most formal sector workers earned more, although many informal sector workers earned less. Although the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover members of the informal sector, who constituted the majority of the urban work force, nor did it cover farmers, who accounted for 30 percent of the working population.

The law establishes an 8-hour workday and a maximum workweek of 48 hours, limits women to a workday 1 hour shorter than that of men, and prohibits women from working at night; however, it was not effectively enforced. The Labor Ministry’s Bureau of Occupational Safety has responsibility for protection of workers’ health and safety, but relevant standards were enforced poorly. Many workers died due to unsafe conditions. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards, and, according to a tripartite agreement signed during the year, some businesses took voluntary steps to improve workplace safety before the relevant enforcement provisions of the agreement came into effect. The Labor Ministry maintained a hotline for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector were particularly poor. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than \$3 (22 bolivianos) per 12-hour day. Miners in such cooperatives worked without respirators in areas where toxic gases and cancer-causing dusts abound; bought their own supplies, including dynamite; had no scheduled rest periods; and often worked underground for up to 24 hours continuously. The law does not specify when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refused to work based on the individual’s judgment of excessively dangerous conditions could face dismissal.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons for sexual exploitation; however, there were credible reports that persons were trafficked within, from, and through the country.

The Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the victims is less than 14 years of age. There were some arrests under this statute; however, there was no information available on convictions of traffickers.

A draft law on the sale, traffic and prostitution of children, which was passed by committees in both houses of Congress, remained pending.

The Ministry of Government, including the National Police and Immigration, as well as the Ministries of Foreign Affairs, Labor, Defense, and the Vice Ministry for Youth, the Child and the Elderly, were responsible for anti-trafficking efforts.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to neighboring countries such as Argentina, Chile, and Brazil, as well as to Spain; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, especially from indigenous ethnic groups in the altiplano region, appeared to be at greater risk of being victimized. Children were trafficked within the country, often exploited in slave-like labor conditions in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane. Because of its weak controls along its extensive five borders, the country is also a transit point for illegal migrants, some of whom may be trafficked. Commercial sexual exploitation of children was a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims were initially willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Officials throughout the Government were known to take bribes to facilitate smuggling and the illegal movement of people; however, the Government did not condone or facilitate trafficking and removed approximately 50 immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The Government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials who authorize unaccompanied travel abroad of those under age 18.

The Government did not promote educational measures to address trafficking, but the ombudsman conducted informational campaigns on the rights of children and women. The Government's interagency committee to address the trafficking of adolescents has yet to produce a plan of action. The Government, in conjunction with UNICEF, began to provide free birth and identity documents to thousands of undocumented citizens, to reduce their vulnerability to being trafficked.

There were no programs of assistance to victims, except at the shelter in a sugar-growing area of Santa Cruz. Programs designed by the Government and international donors to empower women economically, keep children in school, and thus address vulnerability to trafficking abuses, remained unfunded.

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## BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In October 2002, voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term. The elections marked the fourth time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties competed on the basis of fair and equal procedures. The Constitution provides for an independent judiciary; however, it was often inefficient and, especially at the state level, subject to political and economic influences.

The military is responsible for national defense and generally played no role in internal security. The federal police force is very small and primarily investigative; police forces fall primarily under the control of the states. The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order, with a separate judicial system. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The country had a market-based and diversified economy and a population of approximately 177 million. Successive governments have pursued a policy of reducing the traditionally dominant role of government in the economy. They encouraged greater private sector participation through deregulation, privatization, and removal of certain impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounted for 39 percent of gross domestic product (GDP), agriculture contributed 9 percent, and services the remainder. Exports consisted of both manufactured and

primary goods, ranging from regional airliners to soybeans. High government debt (approximately 58 percent of GDP) was primarily domestically held and complicated fiscal and monetary policymaking. Per capita GDP was approximately \$2,857 during the year and real average wages continued to fall, reflecting low GDP growth (0.3 percent) and unexpected inflationary pressures early in the year. Income distribution remained highly skewed.

The Federal Government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of several state governments was poor. State police forces (both civil and military) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in a variety of criminal activities, including killings for hire, death squad executions, extortion, kidnappings for ransom, and narcotics trafficking. Despite new powers to intervene in certain types of human rights cases granted in 2001, the federal police failed to act in the numerous human rights violations by state authorities.

Prison conditions ranged from poor to extremely harsh. Prison officials often tortured and beat inmates. The judiciary had a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice remained slow and often unreliable, especially in regions where powerful economic interests influenced the local judiciary. Victims, particularly suspected criminals, had difficulty in being heard by oversight bodies. Investigations of human rights abuses by police officials were often limited to internal police reviews and were not referred to the Office of the Public Prosecutor or independent bodies for review. The separate system of military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and contributed to a climate of impunity for military and civil police officers involved in extrajudicial killings or abuse of prisoners.

Rural violence, including the killings of land reform and rural labor activists, persisted. Police used excessive force to disperse demonstrators on several occasions, causing serious injuries. Human rights monitors, on occasion, faced threats and harassment. Violence and discrimination against women, and child prostitution and abuse, remained chronic problems. Government authorities often failed adequately to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians and violence against homosexuals were serious problems. Forced labor for adults and children continued. Trafficking in persons, particularly women and children for the purpose of prostitution, persisted.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, extrajudicial killings by state police (military and civil) remained a serious problem throughout the country. Uniformed police summarily executed suspected criminals and then filed false reports that the deceased were resisting arrest.

Statistics released by the Sao Paulo State Secretary for Public Security indicated that Sao Paulo police (civil and military) killed 678 persons during the first 9 months of the year. The actual number was likely higher, because the Public Security Secretariat numbers did not include killings by off-duty police officers. The Security Secretary's figures correspond to an average of 75 civilians killed by police per month in that state, a rate 32 percent higher than in 2002, and the highest figure since statistics on police killings began to be collected in 1995.

In September, the U.N. Special Rapporteur on Summary Executions, Asma Jahangir, visited the country on a 22-day fact-finding mission at the invitation of several human rights groups and the Federal Government. During the visit, government officials (including President Lula) and members of civil society acknowledged the continued problem of extrajudicial executions by law enforcement officials. Moreover, threats to witnesses, human rights defenders, and family members of victims by police were routine. "Death squads" with links to law enforcement officials carried out many of the extrajudicial killings, in some cases with police participation. Jahangir also was concerned that the police investigated themselves in cases of police killing civilians. A government report submitted to Jahangir by National Human Rights Secretary Nilmario Miranda stated that death squads operated in 15 states. Two witnesses who met with Jahangir, Flavio Manoel da Silva and Gerson de Jesus Bispo, were killed after separate meetings with the rapporteur. Da Silva reportedly had information that could identify members of a death squad that terrorized the border region between Paraiba and Pernambuco. Authorities arrested two people for his murder. Bispo, who was killed in Santo Anonio de Jesus in Bahia,



was believed to have similar information about death squads in the northeastern region of the country. Authorities arrested two military police officers for his murder. At year's end, neither case had gone to trial.

In September, the nongovernmental organization (NGO) Global Justice delivered a report to the U.N. stating that summary executions by police and death squad activity were still practiced in the country. According to the report, authorities summarily killed 335 people in 24 states since 1997, and no criminal action was sought in 202 of these cases.

According to the police ombudsman in the state of Rio de Janeiro, citizens registered 26 complaints of homicides by police in 2002. Citizen reports of police homicides fell by 30 percent in 2002, but the official statistics were believed to be only a small fraction of the actual police homicides. Amnesty International (AI) reported that police forces killed 917 civilians during the first 9 months of the year, a 36 percent increase over the previous year. The Rio-based Center for Security and Citizenship Studies estimated that Rio state police killed a total of 900 persons in 2002. A 2001 study by the Center showed that Rio de Janeiro state police killed an average of 3.5 civilians per 100,000 persons per year. AI documented evidence that the city's poorest communities were the victims of a violent and discriminatory public policing policy.

According to the Human Rights Commission of the Bahia Legislative Assembly, death squads killed 66 persons in Bahia State from January to August, compared with 302 persons in all of 2002. Many state officials continued to deny the existence of death squads in Bahia. Community leaders and judges claimed that some human rights abusers in Bahia, including state police, continued to enjoy impunity because of an inefficient justice system or official connivance.

According to public security officials, death squads involving the police continued to operate. Human rights groups reported the existence of organized death squads linked to the police forces that targeted suspected criminals and persons considered "undesirable"—such as street children—in almost every state.

The National Secretary for Human Rights established a commission to investigate alleged death squad activity in Guarulhos and Riberao Preto, both large cities in Sao Paulo.

In March, the military police internal affairs department in Guarulhos, Sao Paulo, opened an investigation into the existence of a police death squad that allegedly targeted troublemaking youths. The group was suspected of killing at least 12 adolescents and attempting to kill 8 others. There were allegations that the group was financed by business persons in Guarulhos, and families of the victims reported home invasions by the police and frequent night patrols of their neighborhoods with the intent to scare them into silence. In September, military policeman Claudio Honorio de Moraes and private security guards Sergio da Silva and Claudio Rodrigues dos Santos were formally accused in the April killing of three adolescents. Authorities held the accused in jail at year's end, and investigators considered the accused to have been active in death squad activities.

In March, in Riberao Preto, a judge denied a state prosecutor's request for a civil action against the state, the city, and the youth detention facility (FEBEM) for culpability in the alleged death squad killings of 88 adolescents between 1995 and 1998.

In the first 9 months of the year, the Sao Paulo ombudsman received 664 complaints of police killings, a 31 percent increase over the previous year. In May, authorities arrested 13 military police in Campinas, Sao Paulo, and accused them of killing William Douglas Santos and Fabricio Francisco da Conceicao. Witnesses reported seeing the two victims forced into police cars after a shootout. The two men were not seen again until their bodies were anonymously delivered to a hospital. An investigation into the case was completed and submitted to the state prosecutor; however, by year's end, no formal criminal charges were brought against the accused. A police internal affairs investigation was underway at year's end.

The Porto Alegre press reported that in the first 6 months of the year, police in Rio Grande do Sul State killed 22 civilians, compared with 13 during the same period in 2002.

According to a domestic NGO, international human rights observers, and diplomats, killing by police was a national problem, not limited to the largest cities or states.

In March, Judge Alexandre Martins de Castro Filho was shot and killed in Vitoria, Espirito Santo State. Martins was a member of a group investigating alleged police involvement in organized crime and had been threatened since January. Investigators suspected 10 persons of involvement in the killing, including 5 military policemen.

In July, in Porto Alegre, a military police officer shot Gustavo Fernando Burchardt during a high-speed car chase, after Burchardt allegedly cut the cord of a credit card reader in a convenience store. The police originally filed a report that said Burchardt died as a result of a traffic accident during the chase, but one policeman admitted to shooting at Burchardt only after the bullet was found in his body. Police investigators treated the case as a homicide, but no further information was available at year's end.

In August, Chan Kim Chang, a naturalized citizen, was arrested at Rio de Janeiro's international airport for failing to declare the \$30,550 in his possession. While in police custody, Chang was beaten severely and later died. Rio de Janeiro State Secretary for Human Rights, Joao Luiz Duboc Pinaud, confirmed that police tortured Chang. The case was being investigated as a killing, but no arrests had been made by year's end.

In June, the U.N. Special Rapporteur on Torture noted that torture by jail and prison officials often resulted in death. Harsh prison conditions and prison riots continued to lead to the death of inmates (see Section 1.c.).

Police also killed street children, indigenous people, and labor activists (see Sections 5 and 6.a.). Numerous credible reports indicated the involvement of state police officials in crime, including revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see Section 1.e.). The authorities' failure to investigate, prosecute, and punish police who committed such acts perpetuated a climate of impunity that encouraged human rights abuses.

No further information was available on the trial of military policeman Guaracy Arede, accused of the 2002 molesting and killing of Alessandra Luisa de Carvalho Marques in Campo Grande, Mato Grosso do Sul.

No further information was available in the arrest of highway patrolman Jose Vargas de Oliveira, accused of killing a truck driver who would not pay a bribe in Campos, Sao Paulo, in February 2002.

In Sao Paulo, an internal police and state prosecutor investigation continued into the March 2002 highway deaths of 12 members of the criminal faction and prison gang "First Command of the Capital" (known as the PCC) by the military police organization called "Group for Repression of Crimes of Intolerance" (GRADI).

GRADI officers were accused of other killings, but no homicide charges were brought against them by year's end. All of the officers continued on active duty, with the exception of the former GRADI coordinator, who retired. GRADI was officially dissolved in April, but human rights groups believed that police from this group still operated in a similar, but less official, manner.

There were no new developments in the investigation of Sao Paulo military policemen who allegedly burst into a bar in 2002 in Baixada Santista and killed five adolescents and the bar owner while searching for a youth who stole a sergeant's weapon.

The trial of the anti-kidnapping police investigator accused of killing Jorge Jose Martins in his Campinas, Sao Paulo home in May 2002 was under way at year's end.

There was no new information in the case of Rio de Janeiro taxi driver Sergio Luiz Couto who was killed in February 2002, the day before he was to give a deposition accusing a group of military policemen of kidnapping him and demanding a ransom.

Two mayors in Sergipe State who were indicted in 2002 for ordering the September 2001 killing of labor leader and city councilman Carlos "Gato" Alberto Santos de Oliveira remained free, despite reportedly strong evidence against them.

In Espirito Santo State, the special federal-state task force continued its investigation of the organized crime group involving public officials known as the "Scuderie Le Cocq," for killings and death threats against judges, politicians, and ordinary citizens dating back to the 1960s.

All crimes less serious than intentional homicide committed by uniformed police officers against civilians remained in the military justice system. Long delays allowed many cases to expire due to statutes of limitations (see Section 1.e.).

Sao Paulo civil police internal affairs and the public prosecutor's office reopened the 2001 case in which five civil police killed four individuals suspected of involvement in the killing of the mayor of Caraguatatuba, Sao Paulo. Based on the recommendation of the police ombudsman, a prosecutor investigated the case, which previously had been closed by the police as a case of "resistance followed by death." The investigation continued at year's end.

There were no developments in the case of 85 police officers awaiting trial for their participation in the 1992 Carandiru prison massacre in which 111 prisoners were killed. The murder conviction of retired Colonel Ubiratan Guimaraes for his

part in the massacre was still under appeal, and he remained free and continued to serve as an elected state deputy.

There were no additional developments regarding the trials of military policemen Mauricio Miranda and Silvio Ricardo Monteiro Batista. Authorities arrested and detained the two in Guarujá, São Paulo, for the October 2002 killings of 17-year-old Anderson do Carmo and 20-year-old Celso Giolelli Malgahaes Junior.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

Harsh and life-threatening prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to deaths in prisons. Prison homicides, due to both prisoner violence and action by guards during rebellions, continued during the year, but official statistics were unavailable.

In June, in Manaus, Amazonas State, a prison rebellion resulted in the deaths of 12 inmates. According to inmates' testimony, the rebellion began after prison guards killed an inmate. No charges had been filed for the killings by year's end.

In December, in Puraquequara, Amazonas State, a prison rebellion resulted in the deaths of seven inmates. Authorities charged several prison guards with torture.

The criminal trial of Carlos Alberto Xavier do Nascimento, former director of security and discipline of the Andradina Penitentiary in São Paulo State, continued. He was charged with triple homicide in the 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

Police killings of street children continued (see Section 5).

There were numerous killings of indigenous people, mostly related to land disputes (see Section 5).

Several labor activists were killed during the year (see Section 6.a.).

Many persons were killed in recent years in conflicts involving disputes over land ownership and usage. The land rights organization known as the "Movement of the Landless" (MST) continued its campaign of invasion and occupation of private and public lands that it wanted the federal and state governments to expropriate for land reform. The MST also continued its occupation of public buildings. MST activists often used confrontational and violent tactics and destroyed private property during some occupations. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, reported that at least 53 rural laborers, landless peasants and indigenous people were killed and 4 threatened with death in land conflicts during the year.

In March, the president of the Rural Workers from Mascatinho Settlement Association, José Candido da Silva, also an MST member, was killed in Tamandare, Pernambuco. The crime was still being investigated by the civil police at year's end.

In August, the CPT reported that the courts tried only 6 cases in conjunction with 278 killings of landless, rural workers and rural labor leaders from 1995 to 2002.

In September, security guards shot and killed MST leader Paulo Sérgio Brasil and 3 other MST members as they were moving with 100 others to invade the Coquerio Ranch in Foz do Jordão, Paraná State. Authorities accused eight guards of homicide and one MST member with attempted homicide.

A police inquiry was concluded in the 2001 police killing of José Rafael do Nascimento, founder and leader of the Movement of Rural Workers in Mato Grosso do Sul State. Based on the conclusions of the police inquiry, the State Prosecutor's Office did not charge the policemen.

Also in Mato Grosso do Sul, a police investigation produced neither suspects nor arrests in the 2001 killing of MST leader Valdecir Padilha.

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

Police were implicated in kidnappings for ransom. Most observers believed that uniformed and civil police involvement in criminal activity, including kidnapping and extortion, was widespread (see Sections 1.a. and 1.c.).

In May, authorities arrested São Paulo civil police narcotics investigators Arnaldo Barbosa Filho and Ricardo Kochi and charged them with kidnapping Jonathan Wink Soligo and Jefferson Santana de Souza. Additionally, the two investigators were charged with extorting \$150,000 (420,000 reais) from Jonathan's father, Erineu Domingo Soligo, an alleged drug trafficker linked to drug kingpin Luiz Fernando da Costa, also known as "Fernandinho Beira-Mar." After Jonathan and Jefferson were freed from the kidnappers, they were immediately arrested for trafficking 50 kilos of cocaine. The public prosecutor filed charges against the two civil policemen, who remained in preventive detention at year's end. An internal investigation resulted in a recommendation that the policemen be fired; however, a final determination had not been made by year's end.

In June, two São Paulo civil policemen from the Anti-Kidnapping Division and a military policeman kidnapped a man for cash and a car. One of the civil policemen

was fired from the police; there was no information available on any disciplinary action taken against the other two involved.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, torture by police and prison guards remained a serious and widespread problem.

In June, the Foreign Ministry's Human Rights and Social Issues Department warned that the country risked U.N. sanctions if it did not take action to stop police torture.

In a 2001 report on torture in jails and prisons, then-U.N. Special Rapporteur on Torture Sir Nigel Rodley concluded that torture was still widespread, systematic, and often deadly (see Section 1.a.). Torture was reportedly practiced during every phase of detention: Initial questioning, temporary detention, and long-term detention. Rodley noted that the most common forms of torture were electric shocks, beatings, and threats. Usually the torture victims were poor and uneducated. In June, the U.N. Special Rapporteur on Torture, Theo van Boven, stated that the country still had much work to do to combat torture and corruption. He noted the federal campaign against torture and the torture hot line initiated after Rodley's visit in 2000.

The Government continued its nationwide anti-torture campaign through the National Human Rights Secretariat. The Secretary acknowledged that torture remained a common practice among police to obtain confessions, and among prison guards to exact discipline. The Secretary also stated that police academies administered human rights courses and taught investigative techniques as alternatives to torture.

The NGO National Movement for Human Rights reported during the year that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that the majority of victims were low-income black men. It reported an average of 150 cases per month from October 2001 to June, mostly in remote cities in the interior where low-ranking police were in charge. Using figures provided to Global Justice, AI reported that the Sao Paulo State Public Prosecutor's Office had initiated only 30 prosecutions under the torture law since 1997.

The NGOs Prison Ministries and Christian Association for the Abolition of Torture released information about their research into torture cases in Sao Paulo prisons. Through prison visits between June 2000 and June 2002, the groups recorded 1,631 cases of torture in Sao Paulo prisons, although most prisoners did not report their torturers for fear of reprisals. The groups brought 3,000 cases of torture to the attention of authorities in Sao Paulo's police jails and penitentiaries from 1999 to 2002, and an additional 300 cases during the first half of the year.

In September, the National Human Rights Secretariat published the second "National Report on Human Rights in Brazil," which reported that regulations regarding complaints of torture in Sao Paulo prisons dictated that complaints were to be delivered to the state prison administration and the civil police for investigation. The report noted that authorities usually denied that their officials tortured prisoners or delayed medical evaluations. The report also highlighted regulations requiring victims to report abuses in the presence of the accused, which discouraged complaints.

In February, the internal affairs department of the Sao Paulo civil police concluded its investigation into an alleged "Torture Center" for troublemaking prisoners at the Itaquaquecetuba jail. The internal affairs department did not release its conclusions, but a Sao Paulo newspaper reported that a preliminary report had found that in 2001, at least 13 police departments transferred troublesome prisoners to Itaquaquecetuba, without the requisite judicial orders. According to the press report, prison officials encouraged prisoners at Itaquaquecetuba to beat and torture the transferees.

In March, military police injured at least 5 persons with gunshots, and authorities arrested 2 others when the police forcibly removed approximately 300 land rights activists from a farm in Nova Crixas, Goias State.

In March, police officers seeking a confession allegedly tortured Adenilson Felinto dos Santos, a truck driver suspected of transporting stolen goods, in his home. The National Movement for Human Rights was still investigating the case at year's end.

In April, a court sentenced civil police chief Juarez Francisco Mendonca to 16 years in prison for torturing suspected burglars and car thieves. The court sentenced two of his superiors, Sergio Pedrosa Martinera and Valdecir Versa, to 10 years each for their parts in the torture sessions.

In July, a Sao Paulo court began to hear the case against 13 military police accused in the torture of 2 prisoners recruited by GRADI to infiltrate the PCC crimi-

nal organization. The State Attorney General asked for an inquiry into the roles of two judges and the State Secretary of Public Security.

In August, the police ombudsman in Parana investigated a case in which mechanic Carlos Ribeiro Morais was tortured for 5 hours by civil police and ordered to confess to a series of robberies. Morais never confessed and was released. He filed a complaint with the police internal affairs department and the Brazilian Bar Association. Morais reportedly received an apologetic phone call from the governor of Parana; however, no information was available on whether disciplinary action was taken against the police involved.

The police appeared to benefit from a high level of impunity in cases of torture. Often the police themselves were responsible for investigating cases of torture carried out by fellow police officers. The problem remained most pervasive at the state level.

The National Movement for Human Rights, which administers the Ministry of Justice's torture hot line, reported receiving 3,064 calls alleging torture or inhuman or degrading treatment from November 2001 to July. Among metropolitan capitals, Sao Paulo had the highest percentage of complaints. In 78 percent of the calls, the alleged perpetrators were public agents. Actual incidents of torture may have been significantly higher than use of the hot line indicated because ombudsmen, police stations, and state commissions also received complaints.

While agreeing that the hot line was a positive step, human rights activists cautioned that it did not address the core of the mistreatment problem. The activists urged that attorneys, prosecutors, and judges receive training on how to investigate allegations of torture and bring offenders to justice.

Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see Section 1.e.).

No new information was available on police investigation in the 2001 torture case of Wander Cosme Carneiro, whom Sao Paulo civil police were accused of torturing while trying to obtain a murder confession.

No new information was available in the case of two alleged cigarette smugglers in Foz do Iguaçu, Parana State, reportedly beaten by two police officers.

Two years after the U.N. Committee on Torture's report was issued, Rio de Janeiro state authorities failed to investigate the 33 cases of alleged human rights violations by Rio de Janeiro police officers contained in the report.

The investigation of the police accused of the July 2002 torturing of Osmarilton Meneses dos Santos in Bahia continued.

Police violence against homosexuals continued. Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. Police routinely extorted money from transvestites and often beat or killed those who failed to cooperate. Several NGOs documented the existence of skinhead, neo-Nazi, and "machista" (homophobic) gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Porto Alegre, Salvador, Belo Horizonte, and Brasilia (see Section 5). In some cases, these gangs allegedly included police officers.

Prison conditions throughout the country ranged from poor to extremely harsh and life threatening. Penal authorities in those states with the largest prison populations often did not separate young offenders from adults and petty offenders from violent criminals. Prison riots were frequent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see Section 1.a.). The poor working conditions and low pay for prison guards also encouraged corruption.

During the year, Sao Paulo State prison officials replaced 4,500 military police used as guards in state prisons with full-time prison guards responsible only to the Secretary for Prison Administration. All of the new guards reportedly have finished secondary school. Officials also took steps to improve the quality of the new guard force, including instruction in human rights, infectious diseases, drug addiction, and ethics.

Sao Paulo also attempted to improve conditions by building more prisons and creating committees of community leaders to monitor prison conditions. Since December 2002, prison administration officials from four facilities teamed with a group of specialists from the International Centre for Prison Studies to learn about and implement international accords regarding prison standards. The Centre made periodic training and evaluation visits to Sao Paulo. Sao Paulo, like Parana and Rio Grande do Sul, had a prison ombudsman program.

Severe overcrowding in prisons and police detention centers was prevalent and was most critical in the states with the largest prison populations. According to the

Ministry of Justice, there were 285,000 prisoners in a system designed to hold 181,000. Construction of penitentiaries continued but was inadequate to alleviate overcrowding.

Overcrowding was an even greater problem in police jails than in penitentiaries. The jails are intended to be temporary holding facilities; however, due to pretrial delays and overcrowding in state penitentiaries, some 72,301 of the 285,000 prisoners resided in local lockups, awaiting either trial or transfer to state penitentiaries. According to the Ministry of Justice, approximately 12,833 persons awaiting trial were incarcerated in Sao Paulo's local police stations. Another 15,350 who had been tried and convicted were awaiting transfer to permanent facilities.

Prisoners also were subjected to extremely unhealthy conditions. Scabies and tuberculosis—diseases uncommon in the general population—were widespread in Sao Paulo prisons, as were HIV/AIDS and even leprosy. In December 2001, the Ministry of Justice estimated that 10 to 20 percent of the national prison population was HIV positive. Denial of first aid and other medical care sometimes was used as a form of punishment. According to the U.N. Committee on Torture's report, prison authorities discriminated against homosexuals and patients with AIDS in prisons and often confined them to separate cells.

In the state of Rio de Janeiro, there were 8,000 persons incarcerated in local police stations and 26,200 incarcerated in state prisons. Both jails and prisons suffered from extreme overcrowding. In September, a jail built for 150 inmates in Niteroi, Rio de Janeiro, held 522. In an attempt to alleviate the overcrowding, state officials temporarily transferred 200 local jail inmates to a state prison. The prison, with a capacity of 350, already held 955 inmates.

In September, the Sao Paulo State judiciary sent a report warning the Governor and the Secretaries of Prison Administration and Public Security about the fragility of the police jail situation. The report noted that some police district and city lockups had surpassed their capacities by 700 percent. It cited numerous cases in which prisoners lacked potable water, slept standing up, breathed polluted air, and encountered blocked sewage lines. For example, the police jail in the Campo Belo neighborhood of Sao Paulo held 192 prisoners in a facility built for 30. In Peruipe, the local jail, which had only 4 cells with an intended capacity for 24 prisoners, held 122 men and 5 adolescents.

Sao Paulo's prison system, both penitentiary and local police jails, held 120,000 prisoners, or 45 percent of the national prison population. In September, the Secretary for Prison Administration told the state assembly that during the year the state prison population had increased at a rate of 1,500 per month.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture pervaded Sao Paulo's juvenile detention centers, known as FEBEM.

In April, the NGO Human Rights Watch delivered a report to the Sao Paulo State Assembly that stated that the FEBEM system abused adolescents and had not taken steps to improve. In June, a state prosecutor for youth reported that there were 7 active cases in the justice system accusing 98 current and former employees of torture. By September, 8 inmates and 1 employee were killed in FEBEM facilities, and 400 people had been injured.

In September, FEBEM fired eight employees for abusing inmates at the Raposo Tavares complex in 2000. The Director of the facility was suspended for 29 days for negligence in the case.

The number of FEBEM inmate rebellions increased during the year, reaching more than 30 by September. Also by September, the Public Prosecutor for Children and Youth had submitted to the state prosecutor's office, police, and FEBEM administration 156 cases of credible incidents of torture in FEBEM units in the city of Sao Paulo, some involving multiple victims.

From January to August, the Franco da Rocha unit of FEBEM experienced 17 riots. A state judge ordered the closure of the facility by the end of the year.

In April, following 3 successive riots and the escape of 121 inmates, FEBEM transferred 247 inmates without judicial orders from the juvenile facility Franco da Rocha to adult provisional detention centers (jails) in the interior of the state. In May, after authorities transferred the inmates back to FEBEM, there was a torture session at Franco da Rocha called the Polish Corridor. Inmates reportedly had to walk a corridor of broken glass barefoot while being beaten by guards. A state attorney for youth reported that 15 families of inmates reported the occurrence separately.

In June, members of the Human Rights Commission of the Brazilian Bar Association and AI found lesions indicating beatings on 30 percent of the FEBEM inmates. Inmates told the visitors that guards changed their torture methods to avoid leaving marks on bodies, such as blows to the abdomen and mock drowning.

There was no further information about a planned Inter-American Commission on Human Rights (IACHR) investigation into systematic human rights abuses in FEBEM. The IACHR acted in response to eight specific cases in which the Sao Paulo State Justice Tribunal had halted investigations into mistreatment of inmates on the grounds that the investigations prejudiced "public security." FEBEM responded that such an investigation would be irrelevant since the facilities in question had been closed.

The states of Rio de Janeiro and Sao Paulo provided separate prison facilities for women. Elsewhere women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors were common. In Rio de Janeiro State, there were only two police districts in which women were held in gender-segregated, short-term jail facilities.

The Ministry of Justice reported that penitentiaries and police jails in Sao Paulo held 6,157 female prisoners in facilities designed to accommodate 2,373 women. In addition, a significantly higher percentage of women than men were held in the severely overcrowded police jails.

Authorities attempted to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often were also used to hold convicted criminals.

In September, in a Porto Alegre police jail, Luis Carlos Martins Rodrigues was fatally burned in a fire in his cell. The civil police chief in charge of the station was transferred immediately, but there was no further information on the investigation at year's end.

There was no new information in the January 2002 death of convicted kidnapper Fernando Dutra Pinto in the Belem Provisionary Detention Center in Sao Paulo. Reportedly, four guards suspected of torturing Pinto, who subsequently died, were relieved of duty but subsequently transferred to other prisons.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Although there was no official count, numerous prison riots and rebellions occurred during the year. The Sao Paulo Secretary of Prison Administration reported that there were 16 deaths in his system from January to September, compared with 97 during the same period in 2002.

There was no additional information concerning the case of three decapitated inmates at the Praia Grande Jail in Santos, Sao Paulo in 2002.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. However, Global Justice reported that the level of access to prison facilities varied from state to state. In the case of Sao Paulo, Global Justice found it difficult to gain access.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention and the Government generally observed these prohibitions; however, police continued, at times, to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. Police forces fall primarily under the control of the states and are divided into two forces: The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order. Although the individual state governments control the military police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system.

In early 2002, a special commission responsible for curbing excessive use of police force in Sao Paulo was dissolved. The commission's requirement that police file a detailed lethal-force report after killing a suspect was not always enforced. The Sao Paulo Military Police Department requires police involved in killing a suspect undergo psychological evaluation before returning to normal patrol duties; however, the requirement was not always followed. Also, the police did not always comply with the procedure for assigning a police officer to administrative duties during an investigation into the death of a civilian.

In general, warrants were based on sufficient evidence and issued by a judge. They were not issued in secret; however, the National Movement for Human Rights and Global Justice reported that warrants at times were issued arbitrarily depending on the judge and the region of the country. Global Justice also reported that in Rio de Janeiro and Sao Paulo, many judges issued "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

Human rights observers alleged that civil and uniformed police regularly detained persons illegally to extort money or other favors.

The authorities generally respected the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates were detained beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. In general, prison authorities allowed detainees prompt access to family members or a lawyer, but there were cases when detainees—typically poor and uneducated—were held longer than the provisional period. Groups that assisted street children claimed that the police sometimes detained youths without judicial orders or held them incommunicado.

In criminal cases, defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice, the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants, for all but the most serious crimes, had the right to a bail hearing.

The Constitution prohibits 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, the judiciary was inefficient, often subject to political and economic influences—especially at the state level—and lacked adequate resources. Judicial officials were often poorly trained. In many instances, poorer, less educated citizens made limited use of the appeals process that might ensure their right to a fair trial.

The judicial system, with the federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organized their own judicial systems but have to adhere to the basic principles in the Constitution. Specialized courts dealt with police, labor, elections, juveniles, and family matters.

Based on the police investigation that led to the formal charges, prosecutors prepare an indictment for the review of a judge who determines if the indictment met the legal requirements to bring the accused to trial. A jury process tries those accused of capital crimes, including attempted homicide. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They have the further right to appeal state court decisions to both the federal Supreme Court on constitutional grounds and to the federal Superior Court to contest whether a decision was consistent with the decision of a court in another state or infringing on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial.

Special police courts composed of four ranking state uniformed police officials and one civilian judge have jurisdiction over state uniformed police (except those charged with homicide). Most police accused of crimes appeared before these courts (which are separate from the courts-martial of the armed forces, except for the final appeals court). Within these courts, conviction was the exception rather than the rule. With too few judges, there were severe backlogs, and human rights groups noted a lack of willingness by police to investigate fellow officers. Long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations.

The law provides civilian courts with jurisdiction over cases in which uniformed police officers were accused of homicide (see Section 1.a.). However, except for the most egregious cases, the internal police investigation determined whether the homicide was intentional, while the police tribunal decided whether to forward the case to a civilian court for trial. As a result, the civilian courts received very few case referrals. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the courts' ability to ensure fair and expeditious trials.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (see Section 1.a.).

Defendants are entitled to counsel and must be made fully aware of the charges against them. There is no presumption of innocence. According to the Ministry of Justice, approximately 85 percent of prisoners could not afford an attorney. In such cases, the court must provide one at public expense; the law requires courts to appoint private attorneys to represent poor defendants when public defenders are unavailable; however, often no effective defense was provided.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions—particularly in rural areas—the judiciary generally was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill squatters or rural union



activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (see Section 1.a.).

Low pay and exacting competitive examinations that could eliminate as many as 90 percent of the applicants made it difficult to fill vacancies on the bench. The law requires that trials be held within a set period of time from the date of the crime; however, due to the backlog, courts frequently dismissed old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases purposely so that they could eventually be dismissed. Defense counsel often delayed cases in the hope that an appeals court might render a favorable opinion, and because they were paid according to the amount of time that they spend on a case.

According to the National Movement for Human Rights, courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (see Section 5).

The July conviction of MST leader Jose Rainha Junior, for the repeat offense of illegally carrying a weapon, was controversial. There were claims that the MST was targeted politically in the sentencing. The presiding judge in the Rainha case received death threats. Rainha was released by year's end.

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were in effect political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; however, there were reports that the police conducted searches without a warrant (see Section 1.c.). Wiretaps authorized by judicial authority were permitted.

In February, it was revealed that in past years, Senator Antonio Carlos Magalhaes allegedly ordered the illegal wiretapping of hundreds of individuals and political opponents in his home state of Bahia. As a result, the federal police launched an investigation, and the Bahia state assembly launched an inquiry. Senator Magalhaes had not been charged with wrongdoing at year's end.

The inviolability of private correspondence generally was respected.

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

*a. Freedom of Speech and Press.*—The Constitution prohibits all forms of censorship and provides for freedom of speech and of the press, and the authorities generally respected these rights in practice; however, there were several attacks against journalists during the year.

Privately owned newspapers, magazines, and a growing number of on-line electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Most radio and television stations were owned privately; however, the Government has licensing authority, and politicians frequently obtained licenses. The Liberal Party controlled a national network of radio and television stations. Current or former congressional representatives, some of whom were members of the committee that oversees communications, owned many television and radio stations, as well as local newspapers. The number of media outlets controlled indirectly by politicians was unknown, since concessions often were registered in the names of family members or friends.

Penalties for libel under the 1967 Press Law include imprisonment; however, there were no reports that this penalty was imposed during the year. The National Newspaper Association (ANJ) pressed for an updated press law, noting that the existing law does not establish criteria for calculating maximum fines for libel. The ANJ and newspaper owners throughout the country complained about huge fines and jail terms imposed against newspapers for "moral damage" that appeared aimed at crippling news organizations. The Constitution permits compensation for moral damage but does not specify what constitutes such damages, nor does it specify any limits on fines or penalties.

Electoral campaign laws regulate the broadcast media and apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and nonappeal provisions of the regulations are designed to enforce discipline and ensure that remedies are applied in a timely manner. Media and free speech advocates generally accepted the manner in which the campaign laws were enforced.

Foreign publications were distributed widely; prior review of films, plays, and radio and television programming was used only to determine a suitable viewing age.

The annual ANJ report covering the period August 2002 to August cited numerous attempts to block or impede access to information and to intimidate free publication. The ANJ registered five cases of aggression against journalists in the exercise of their profession, five cases of censorship, and three killings of journalists for motives related to their profession.

In July, photographer Luis Antonio da Costa was shot and killed while covering a land invasion by the homeless movement “Sem Teto” at a Volkswagen plant in Sao Bernardo, Sao Paulo. The police arrested the alleged shooter, and an investigation was opened to determine if the shooting was related to the land invasion. Allegedly, the suspect robbed a convenience store just minutes before shooting da Costa and may have thought da Costa was trying to document the crime.

The trial of seven people accused of killing prominent Rio de Janeiro television journalist Tim Lopes in June 2002 was scheduled to begin at year’s end.

In September, the trials of two men charged with the 1998 killing of journalist Manoel Leal in Itabuna, Bahia, began.

There were no new developments in the pending trial of police officers Hercules Araujo Agostinho and Celio de Souza for the 2002 killing of Savio Brandao, owner of the *Folha do Estado* newspaper.

The Government did not impose restrictions on the use of the Internet; however, federal and state police began to monitor the Internet to detect on-line recruitment by sex traffickers (see Section 6.f.) and the activities of hate groups.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occurred frequently.

In August, an attorney from the Brazilian Bar Association’s Human Rights Commission alleged that at least 31 homeless activists were beaten by military policemen as the activists disbanded from a land invasion by the “Sem Teto” homeless workers movement in Sao Bernardo, Sao Paulo. The attorney reported that police stopped seven trucks carrying activists away from the invasion and assaulted the activists.

A federal judge barred a protest march by the MST and a counter-march by rural landowners in Rio Grande do Sul. The MST called the action unconstitutional, citing a right granted by the constitution to free movement within the country and the right to assemble peacefully in public. The judge stated that his obligation to preserve societal peace overcame individual constitutional rights.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. In the 2000 census, approximately 74 percent of the population identified themselves as Roman Catholic, and the Government maintained a Concordat with the Vatican; however, there was no official state religion. There were no registration requirements for religions or religious groups, and all faiths were free to establish places of worship, train clergy, and proselytize. The Government controlled entry into indigenous lands and required missionary groups to seek permission from the National Indian Foundation (FUNAI).

Leaders in the Jewish community continued to express concern over the appearance of anti-Semitic material on Internet websites compiled by neo-Nazi and skin-head groups. In September, the Supreme Court upheld a 1996 Rio Grande do Sul State court conviction of editor Siegfried Ellwanger for racism. Ellwanger edited and wrote books considered to be anti-Semitic. The lower court’s ruling sentenced Ellwanger to prison for 2 years, but his sentence was converted to community service.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice, although there are restrictions on entry into protected indigenous areas, and a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent.

A 1997 law provides for the granting of asylum and refugee status to persons who meet the definition in 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government provided temporary protection and cooperated with the U.N. High Commission for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts who may not vote. It is voluntary for minors from 16 to 18 years of age, for the illiterate, and for those aged 70 and over.

In the October 2002 national elections, PT candidate Lula won a 4-year term with over 61 percent of the vote in the second-round runoff.

The Chamber of Deputies has 513 seats; the Senate has 81 seats. In the 2002 elections, the PT won 91 Chamber seats, but had 90 members in the Chamber by year's end. In the Senate, the PT won 14 seats, but had 13 senators by year's end. The coalition formed by the PT and other parties that support Lula's government numbered approximately 385 deputies in the Chamber.

Women have full political rights under the Constitution and were increasingly active in politics and government. Cultural, institutional, and financial barriers continued to limit women's participation in political life. There were 9 women in the Senate and 45 in the Chamber of Deputies. There were four women in the cabinet and one woman on the Supreme Court. President Lula created a cabinet-level special secretariat for women's issues and another for the promotion of racial equality.

There were six members of minorities in the cabinet and one on the Supreme Court. There were 27 Afro-Brazilians in Congress.

Diverse ethnic and racial groups, including indigenous people, were free to participate politically.

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

Local and national human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Federal and state officials in many cases actively solicited the aid and cooperation of NGOs in addressing human rights problems; however, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, especially members of the state police forces.

The Sao Paulo State Secretary for Prison Administration instructed all prison directors to allow more inspection visits by human rights NGOs.

In April, the U.N. High Commissioner for Human Rights criticized the Government for not answering 10 separate requests for information made in 2002 regarding the killings of and threats against human rights activists in the country. The Federal Government stated that individual states were responsible for answering each case.

In July, the Federal Government established a national coordinator to protect human rights advocates. The first regional offices were planned for Sao Paulo, Para, Tocantins, Pernambuco, Paraiba, and Espirito Santo, and the Federal Police were to provide the protection. The Sao Paulo police ombudsman stated that a Sao Paulo attorney was the first human rights defender to be considered for the protection program. The press reported that the attorney, a member of the Center for the Defense of Human Rights, received threats from the police after she began investigations into illegal arrests, home invasions, torture, and extortion.

In September, the press reported that the IACHR sent an official letter in August, calling on the Government to provide police protection for three human rights activists in Parana who reported on torture in the state's prisons. The three received numerous death threats, but still had not received protection by year's end.

In September, FEBEM initially denied the request of the visiting U.N. Special Rapporteur on Summary Executions, Asma Jahangir, to visit the facility in Bras stating that her visit would be disruptive of daily routine. After press scrutiny, Sao Paulo's Vice Governor authorized the visit. Jahangir noted that FEBEM conditions were horrible but withheld immediate statements on individual inmates for fear that they would suffer reprisals.

The Justice Ministry's National Secretariat of Human Rights administered and sponsored programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous peoples, the elderly, and persons with disabilities.

A number of states have police ombudsmen (see Sections 1.a. and 1.c.). However, some NGOs and human rights observers questioned the independence of some of the ombudsmen. All ombudsmen offices suffered from insufficient resources.

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

The law prohibits discrimination on the basis of sex, race, religion, or nationality; however, discrimination against women, blacks, and indigenous people continued unabated, and there was widespread violence against homosexuals. The law provides prison penalties and fines for racist acts, including use of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin, but there were no known convictions under this law.

A new law to protect the rights of the elderly was adopted during the year. The law makes it a crime to discriminate against, abandon, or to fail to provide emergency assistance to the elderly, and carries a penalty of up to 6 months in jail. The law also makes it illegal for health care providers to base their fees on age and provides welfare payments equivalent to the national minimum wage for people aged 65 or older who do not have the means to support themselves and who are not supported by their families. The statute also requires priority treatment of cases involving the elderly by the judiciary and public housing.

The cities of Sao Paulo and Porto Alegre had police stations that specifically attended to the rights of the elderly. During 2002, the Sao Paulo station counted 300 cases of discrimination against the elderly per month. In 2002, the Sao Paulo State government, in conjunction with NGO and university entities, created the Permanent Forum Against Violence and Abuse of the Elderly.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia, the country's best known homosexual rights organization, and AI documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Porto Alegre, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers (see Section 1.c.). In June, the gay rights group "Nuances" in Porto Alegre accused neo-Nazi groups of displaying posters in the city that encouraged people to "do away with" homosexuals. Federal prosecutors and the Rio Grande do Sul Commission for Human Rights received the complaint, and police identified eight suspects, but no information on arrests was available at year's end.

In August, the trial of military policemen accused of the 2000 beating death of transvestite Henrique de Souza Lima began in Curitiba, Parana.

In December, Mayor Elcio Berti of Bocaiuva do Sul, Parana State, issued a decree prohibiting homosexuals from living in the town. State prosecutors filed charges against the mayor for violation of state and federal antidiscrimination laws and abuse of administrative power. The charges carry a penalty of 2 to 4 years in prison, but the case had not been tried by year's end.

In the case of the 2000 beating death in Sao Paulo of Edson Neris da Silva—seen holding hands with another man—a court sentenced two alleged gang members to 21 years in prison in 2002. During the year, two others were sentenced to 19 years, one to 3 years, and another to 2 years for various degrees of participation in the crime. Two of the gang members were absolved of the crime, and another 10 await trial.

The Secretariat of State Security in Rio de Janeiro, in partnership with NGOs, continued to operate a hot line and professional counseling services for victims of crimes against homosexuals, as well as for complaints of discrimination or other crimes based on race, ethnicity, color, religion, or national origin.

*Women.*—The most pervasive violations of women's rights involved sexual and domestic violence, which were both widespread and underreported. Most major cities and towns had special police offices to deal with such crimes against women; however, reporting crimes and receiving help continued to be a problem for women living in remote areas, sometimes great distances from the nearest special office. For example, the sparsely populated states of Acre and Roraima each had only one such office.

Each state secretariat for public security operated women's stations ("delegacias da mulher"). However, the quality of services provided varied widely, and the availability was especially limited in isolated areas. The stations were intended to provide the following services for victims of domestic violence: Psychological counseling; a shelter for victims of serious abuses who had no place to go; hospital treatment for rape victims, including treatment for HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts. However, according to the Ministry of Justice, many of the women's stations fell far short of standards. There were approximately 307 stations for more than 6,000 municipalities; 40 percent were in Sao Paulo State and 13 percent in Minas Gerais State. There was only one station in the states of Acre, Alagoas, Ceara, and the Federal District of Brasilia. In Rio de Janeiro State, the women's

police stations registered 1,364 cases of sexual violence against women during 2002, a 2.4 percent increase over the 1,332 cases in 2001. According to police officials, the statistics for the year were likely to be similar to 2002.

The sentence for rape varied from 8 to 10 years. An offender accused of domestic violence in a case that did not involve a serious offense and carried penalties of less than 1 year's imprisonment could receive alternative sentencing with no jail term. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes.

Spousal rape is illegal; however, men who committed crimes against women, including sexual assault and murder, were unlikely to be brought to trial. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended without a conclusion. The Penal Code allows a convicted rapist to escape punishment if he offers to marry his victim. In May, the World Organization Against Torture reported that only 2 percent of criminal complaints of violence against women led to convictions and that penalties were very light.

Adult prostitution is legal; however, various associated activities, such as operating an establishment of prostitution, are illegal. Women's groups reported that prostitutes encountered discrimination when seeking free medical care.

Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.).

Sexual harassment is a criminal offense, punishable by 1 to 2 years in jail. In addition to its application in the workplace, the law encompasses sexual advances between family members, individuals in educational institutions, and service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim.

The Constitution prohibits discrimination based on gender in employment or wages and provides for 120 days of paid maternity leave (men are entitled to 1 week). However, the provision against wage discrimination rarely was enforced. The International Labor Organization (ILO) published findings in May that noted that significant differences in wages affected women and blacks, particularly in rural areas.

The Maternity Leave Law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates; however, some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Employers found violating the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest-paid employee. At year's end, there was no information on enforcement of this law.

In Rio de Janeiro State, an integrated center for support of female victims of violence or discrimination provided psychological and legal assistance to approximately 190 women per month. Demand for space in municipal women's shelters exceeded capacity.

*Children.*—The Government was committed to children's rights and welfare, but millions of children continued to suffer from the poverty afflicting their families, worked to survive, and failed to get an education. Schooling was free and compulsory between the ages of 7 and 14 and was available in all parts of the country, although not every school had space for every child that wanted to attend. Even in schools that had sufficient resources and space, not all children attended school regularly. The rate of school enrollment of children aged 7 to 14 increased from 89 percent in 1994 to 95 percent in 1999, but there were still 1.1 million children in this age group who did not attend school. Repetition rates and the poor quality of public schools continued to be a problem. Throughout the country, 40 percent of first-graders repeated the year, and in a number of states first-graders were more likely to fail than to pass. Girls and boys attended school in roughly comparable numbers.

Child abuse was widespread. A study conducted during the year by the Federal University of Rio Grande do Sul Center for Studies and Research in Administration found that 87 percent of respondents from the Porto Alegre metropolitan area did not report known child abuse. At the same time, 76 percent of respondents said that they would report abuse if they knew of it. Nearly half of the respondents knew of ongoing cases of child labor.

According to the Reference Center on Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the northern Amazonian region, sexual exploitation of children centered on brothels that catered to mining settlements. In the large urban centers, children, principally girls, who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast,

sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and even trafficked them outside the country (see Section 6.f.). Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. The report noted that although trafficking developed in part to cater to foreigners, the local population sustained it. In 2000, the ILO reported that observers had cited more than 3,000 girls who were subjected to debt servitude and forced into prostitution in Rondonia State.

In August, authorities arrested five city council members, three businessmen, and one city employee in the Sao Paulo town of Porto Ferreira and charged them with rape, corruption of minors, and conspiracy. Prosecutors also investigated their participation in group sexual activities with girls between the ages of 11 and 16. Allegedly, the girls attended barbecues to obtain food, drugs, and payments of approximately \$11 to \$18 (30 to 50 reais) to perform sexual acts. One councilman admitted involvement, but the others denied the charges. In December, one additional councilman was arrested and charged in the case. The city council closed without action a petition to abrogate the political rights of the five council members initially charged in the case; abrogation of political rights would have removed the five from office and prevented their running for political office for 8 years, but is not a criminal action. The trial was underway at year's end.

The city of Rio de Janeiro, in cooperation with NGOs, operated 57 shelters and group homes for street children, but the shelters reportedly were overcrowded and the staff inadequately trained. Drug use, particularly glue sniffing and crack, was increasingly prevalent among street children. NGOs reported that extreme poverty and sexual abuse were the principal reasons children left home.

Trafficking in children for the purpose of prostitution was a serious problem (see Section 6.f.).

Child labor was a serious problem (see Section 6.d.).

Police killings of street children continued. In 2001, U.N. High Commissioner for Human Rights Mary Robinson stated that police violence against street children was a major concern. She specifically expressed concern about the kidnapping of street children for adoption and sexual abuse.

Youth were both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent were due to causes such as homicide, suicide, and traffic accidents; approximately 85 percent of the victims had been sexually exploited. These violent deaths reduced the average life expectancy of men by at least 3 years. Homicide was the leading cause of death for children aged 10 to 14, and only 1.9 percent of their murderers served prison sentences.

*Persons with Disabilities.*—The Constitution contains several provisions for persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that worked with persons with disabilities reported that state governments failed to meet the legally mandated targets for educational opportunities and work placement. The law stipulates percentages of vacancies that businesses must reserve for persons with disabilities: 2 percent in firms over 100 employees; 3 percent in firms over 300 employees; and 5 percent in firms over 500 employees. Firms that aggressively pursued these percentages could gain an advantage in competing for government contracts.

There was little progress nationwide on eliminating architectural barriers. A 2001 city of Rio de Janeiro law requires multifamily condominiums to make alterations ensuring access to handicapped residents.

In Rio de Janeiro and Sao Paulo, bus companies were required to provide free passes to persons with disabilities. According to a Rio de Janeiro NGO, there was little progress with regard to access to public transportation for persons with disabilities. Of the 32 subway stations in the city of Rio de Janeiro, only 9 accommodated persons in wheelchairs. In September, the Sao Paulo media reported that a young man was forced to abandon his place at a prestigious university because the university was not equipped to handle wheelchairs.

A large public hospital in Sao Paulo was equipped with appropriate machinery to accept telephone appointment requests from the deaf.

*Indigenous People.*—The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the Government did not secure these rights. The Government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts.

In September, FUNAI reported that the indigenous population was approximately 400,000 persons, belonging to 215 "nations." The report noted many problems faced

by indigenous people, including disease and poor health care, loss of native culture, and recurring trespasses and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. Illegal mining, logging, and ranching were endemic on indigenous land.

FUNAI was responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI, who in turn appoints the directors of the 52 regions within the organization.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. Reportedly, the Government had completed demarcation of almost all of the total area recognized as indigenous territory. At least 407 of the 600 recognized indigenous areas had reached the final registration stage, 24 were in the process of demarcation, and 169 had yet to be processed. Identified indigenous territory constituted 12 percent of the national territory. A congressional committee was established specifically to handle Indian Affairs.

The Constitution provides indigenous persons with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands; the Government administers the lands but is obliged to consider the views of the affected communities regarding development or use of the land, and the communities have the right to "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands pending before the Congress since 1995 has never been passed.

Nonindigenous persons illegally exploited many indigenous lands for mining, logging, and agriculture. Nonindigenous persons destroyed the environment and wildlife, spread disease and provoked violent confrontations. FUNAI acknowledged that it did not have the resources to protect indigenous lands from encroachment and depended on the Federal Police—an understaffed and poorly equipped agency—for law enforcement on indigenous lands.

The Indigenous Missionary Council reported that 27 indigenous persons were killed during the year, three times the number killed in all of 2002. The Council alleged that 12 of the killings were motivated by land disputes. FUNAI reported that 23 indigenous persons were killed during the year. Pernambuco was the state with the most killings of indigenous persons. According to FUNAI, land disputes and drug trafficking were the primary reasons for the killings.

The state of Roraima had the largest number of land disputes between indigenous peoples and other state residents. In March, Aldo da Sliva, an indigenous person, was killed in Roraima allegedly because of a land dispute.

In January, an unidentified gunman killed Marcus Veron, a prominent leader of a Guarani-Kaiowa Indian nation in Mato Grosso do Sul. His nephew also was killed and many others were beaten in the same incident. Veron had led approximately 350 Guarani in attempts to reclaim land they claimed was stolen from them by ranchers more than 50 years ago. Authorities indicted 27 persons and arrested 14 in connection with the killing.

In June, in Tenente Portela, Rio Grande do Sul, a court convicted Almiro Borges Souza and Roberto Carlos Moraski of the January killing of Leopoldo Crespo, a member of the Caingangue nation. The court sentenced Souza to 14 years in prison and Moraski to 11 years.

In June, in Faxinalzinho, Rio Grande do Sul, Caingangue leader Adilso Cardoso was stabbed and killed. Cardoso led a movement of indigenous people to demand that 15,000 hectares in the area be declared indigenous territory. Following a search of the area, police found 15 knives and had 1 suspect in custody by year's end.

In Mato Grosso and Mato Grosso do Sul, between August and September, members of the Parecis, Caiabis, and Terenas nations took a total of 22 hostages in separate actions to protest the Government's delay in identifying indigenous lands and expelling ranchers. The members also demanded the right to lease large tracts of indigenous lands to nonindigenous ranchers, an act prohibited by law. Among the hostages were employees of FUNAI and employees of ranches that the members claimed were on land already declared indigenous in 2002.

*National/Racial/Ethnic Minorities.*—Although the law prohibits racial discrimination, darker-skinned citizens frequently encountered discrimination.

The U.N. Special Rapporteur on Torture noted that the majority of the victims of torture were of Afro-Brazilian descent (see Section 1.c.). Research by the Institute of Applied Economic Research (IPEA) noted a disproportionately high rate of police killings of Afro-Brazilians. Persons of color were five times more likely to be shot or killed in the course of a law enforcement action than were persons perceived to

be white. During the year, the Sao Paulo police ombudsman repeated his 2002 claim that the majority of victims in police killings were young black men from impoverished areas on the periphery of major cities.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported arrests of several persons charged with using racial slurs during the year.

In March, President Lula created a National Secretariat for the Promotion of Racial Equality. Despite a limited budget, the Secretariat was created to defend, among other issues, the racial quota system in public universities and institutions.

A federal government quota system that went into effect in June 2002 requires that at least 20 percent of new federal government hires be Afro-Brazilian, 20 percent women, and 5 percent persons with disabilities. Three state universities instituted race quotas during the year.

During the year, the city of Porto Alegre, Rio Grande do Sul mandated that 12 percent of the positions available in competitive exams for public jobs be reserved for Afro-Brazilians.

IPEA reported that citizens of African descent—constituting approximately 45 percent of the population—represented 60 percent of the poorest segment of society and received 7 percent of the national income. Studies also showed that rates of police torture, court convictions, child labor, illiteracy, and infant mortality were higher among citizens of African descent than among whites.

A hot line operated by the Rio de Janeiro State government to combat racism received 300 accusations of race-based discrimination during 2002, of which 44 were still being investigated at year's end. Sao Paulo's Instituto Geledes maintained a service called SOS Racismo that, between July 2001 and September 2002, received complaints resulting in 19 criminal actions and 7 civil actions for acts of racism.

Education played a role in perpetuating racial disparities. Approximately 60 percent of Afro-Brazilians in the lowest social class had less than 3 years of education, compared with 37 percent of whites.

Some educational institutions and official entities instituted programs to narrow the educational gap between blacks and whites. The Steve Biko Institute, in the city of Salvador, provided extra classes to help 200 Afro-Brazilian students gain admission to universities in Bahia State; approximately 180 students were enrolled in the classes paying tuition of approximately \$38 dollars (105 Reais) per month. At least three nongovernmental projects helped Afro-Brazilians pass university entrance exams in Rio de Janeiro.

In August, the press reported that six skinheads were charged with assault, racism, and spreading nazi propaganda in Porto Alegre. Allegedly, the group assaulted a student with baseball bats and yelled obscenities and racial epithets against Jews, blacks, and homosexuals.

Afro-Brazilian women continued to be particularly disadvantaged by discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and fire fighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed by other unions. Registration may be contested by other unions that represent workers in the same geographical area and professional category. In the case of such an objection, the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union and union organizers may challenge this decision in the labor courts.

The 1988 Constitution stipulates certain restrictions, such as unicidade (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticized the retention of unicidade.

In practice, a number of competing unions were allowed to exist among the thousands of local unions; however, the MLE and the courts actively enforced the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized, but nearly twice this percentage was charged a mandatory union tax and also was covered by collective bargaining agreements (see Section 6.b.). Most informal sector workers, including



self-employed workers and those not formally registered with the Ministry of Labor, fell outside the official union structure. As a result, they did not enjoy union representation and were usually unable to exercise fully their labor rights. The informal sector grew rapidly over the previous decade and accounted for approximately half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

The Ministry of Labor estimated that there were approximately 11,000 unions across the country. Local unions legally may affiliate with state federations and national confederations in their professional category. Although the law makes no provision for central labor organizations that include multiple categories of workers, there were four major centrals: The Workers' Unitary Central (CUT), the Força Sindical (Union Force or FS), the Workers' General Confederation (CGT), and the Social Democratic Union. Labor centrals channeled much of the political activity of the labor movement, organized strikes involving multiple categories, and represented workers in governmental and tripartite councils. Centrals did not have legal standing to represent professional categories of workers in collective bargaining.

The Constitution prohibits government interference in labor unions. Unions and their leadership generally were independent of the Government and of the political parties; however, there were some exceptions. A number of labor leaders also held prominent positions in political parties. Labor organizations often formed alliances with political parties and social movements to advocate for specific issues. The major union federations (centrals) had close relationships with left-of-center political parties and often coordinated actions with party leaders.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem.

The CPT reported that labor leaders were victimized by a campaign of violence in rural areas, with the perpetrators enjoying relative impunity (see Section 1.a.). The CPT reported that five rural labor leaders were killed through the first 8 months of the year.

Para continued to be the state with the most violence directed toward labor leaders. According to leaders of the National Confederation of Agricultural Workers, there was an organized campaign in Para State to kill rural labor leaders. Catholic Church sources reported that 20 activists and rural workers were killed in Para State in 2002, including MST leader Ivo Lindo do Carmo and union official Bartolomeu Morais de Silva. During the first 8 months of the year, 13 more activists were killed, including union leader Osvaldo Pereira Santos. CPT leaders in Para State continued to claim that gunmen hired by estate owners committed most of these killings. They noted that those who hire gunmen had become more adept at hiding their participation and increasingly targeted labor leaders with significant experience in organizing and leading land appropriations.

In May 2002, a local judge in Rio Maria, Para State, ordered that a trial of two men (including the former mayor) charged with the 1985 killing of Joao Canuto, the first president of the local rural workers' union, should proceed. The trial took place in May, and the men were convicted of ordering the killing and sentenced to 20 years' imprisonment.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. However, the authorities did not effectively enforce laws that protect union members from discrimination. Those who were dismissed often resorted to a lengthy court process for relief. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. It was estimated that more than 2 million complaints were tied up in the labor court system at year's end. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. According to the Supreme Labor Court, more than 2 million complaints were registered annually in labor courts.

The Government sought to reduce this backlog and increase the efficiency of the courts. A 2000 law permits cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing; another law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. Approximately 1,400 such commissions operated, and approximately half of the complaints reaching labor courts could be handled with the expedited procedure. Nonetheless, lengthy delays remained frequent. When ultimately resolved, most parties agreed that cases were decided fairly and on their merits.

Unions and centrals freely affiliated with international trade union organizations; the CUT, FS, and CGT were affiliated with the ICFTU.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right of workers to organize and to engage in collective bargaining. Businesses and unions worked to improve collective bargaining by training negotiators, but many local representatives had not received this training and remained unprepared to represent members effectively in negotiations. The labor justice system, which may set wages and working conditions when negotiations break down and either party appeals to labor courts, continued to weaken collective bargaining. Although such appeals occurred less frequently than a decade ago, the possibility of a better result in labor courts still led to a lack of bargaining in good faith by parties in numerous negotiations.

Collective bargaining was widespread in the formal sector. In the first 10 months of 2002, 17,741 agreements were registered with the Ministry of Labor, compared with 21,963 agreements in all of 2001. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union. Unions typically negotiated with employer associations (also called unions) that represent companies with employees in the same area and occupational category.

A 1995 regulation that ended inflation indexing of wages also allows for mediation of wage settlements with consent of the parties involved and provides greater latitude for collective bargaining. The Ministry of Labor and the federal Labor Prosecutor's Office (MPT) provided free mediation services, and unions and employers also may choose a private mediator from a registry kept by the Ministry of Labor. According to the MLE, in the first 10 months of 2002, more than 8,000 collective bargaining agreements used mediation services, compared with more than 10,000 in all of 2001.

The Constitution provides workers with the right to strike, except for the military, police, and fire fighters. The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. The Government generally did not interfere with the right to strike, provided that all laws were obeyed. Employers are prohibited from hiring substitute workers during a legal strike and from firing workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process.

The number of strikes diminished in the past several years. During the year, teachers, health workers, port officials, transport workers, stevedores, health-care providers, and metalworkers all engaged in strikes.

The Congress has not passed enabling legislation for labor code provisions permitting strikes in the public sector; however, in practice, the Government seldom interfered with the right of government workers to strike. Numerous public sector unions at the federal, state, and local levels held strikes during the year to demand salary increases, and to protest reform of their pension system. According to the Interunion Department of Socioeconomic Studies and Statistics (DIEESE), the Federal Government had not given a general salary increase to federal employees in 8 years, resulting in a significant erosion of real earnings. Public sector unions that struck during the year included social security workers, professors, judicial workers, and customs agents.

While civil police are allowed to form unions and conduct strikes, uniformed police are prohibited from organizing.

Labor law applies equally in the country's four free trade zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, forced labor and trafficking of workers were reported in the majority of states (see Section 6.f.). The practice occurred most commonly in the rural north and central west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involved young men drawn from the impoverished northeast, but women and children also were engaged in activities such as charcoal production. Children involved in forced labor typically worked alongside their parents. Although indigenous people constituted a small percentage of the overall population, they were especially vulnerable to forced labor schemes when separated from their communities (see Section 5). Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

The CPT estimated that approximately 25,000 workers were trapped in forced labor schemes throughout the country, although it acknowledged that the hidden nature of the practice made estimates inexact. Labor intermediaries (“gatos”) trafficked most forced laborers to the remote estates where they worked (see Section 6.f.). At the worksite, laborers were forced to work in brutal conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing. The CPT reported that fleeing workers were killed or beaten to set an example to others at the worksite. Workers were vulnerable to forced labor schemes largely due to existing conditions of dire poverty, low levels of education, and a lack of awareness about their rights. The MLE reported that nearly 80 percent of forced laborers had no official documentation and that most were illiterate.

The Penal Code provides that violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting, transporting, or obliging workers to incur debt as part of a forced labor scheme (see Section 6.f.). However, the ILO expressed concern that the abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies. The law allows the Government to expropriate lands on which forced labor has been found and to distribute the property in the Government’s land reform program; however, these provisions rarely were applied, in part because the Government must compensate landowners for seized lands, sometimes at values that were criticized for being overly generous. Enabling legislation for the constitutional provision allowing confiscation of land on which forced labor is discovered remained under consideration.

Violators of forced labor laws enjoyed virtual impunity. There were only 33 arrests and 3 convictions in 5,000 instances of forced labor uncovered by inspection teams since 1995. Those convicted were freed on appeal or sentenced to do community service. Factors contributing to this record included: Disputes over legal jurisdiction; a lack of a clear definition of forced labor in the Penal Code; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses’ fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids. The ILO, ICFTU, Anti-Slavery International, and the Pastoral Land Commission found that the current system did not effectively penalize those who exact forced labor. A complaint was lodged with the Organization of American States against the Government for negligence in investigating forced labor in the Brazil Verde estate. A number of ranchowners and employers, although cited repeatedly for using forced labor schemes, received only token sentences.

The Executive Group to Combat Forced Labor coordinated the Government’s efforts to eliminate forced labor; its enforcement arm—the Special Group for Mobile Inspection—had responsibility for locating and liberating workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who accompanied labor inspectors on raids to provide protection. When mobile teams found workers in conditions of forced labor, they levied fines on estate owners and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

During the year, the mobile group located 4,315 forced laborers, nearly double the figure from the previous year. Forced laborers were found during the year in activities including deforestation, logging, mining, raising livestock, and harvesting sugarcane, coffee, cotton, papayas, pepper, and soybeans. In March 2002, the mobile unit found 53 workers toiling in conditions of forced labor on a ranch owned by a leading member of the federal Chamber of Deputies. The MPT forwarded the case to the Attorney General and also filed a civil suit against the politician for damages equaling approximately \$7,143 (20,000 reais) per worker. The case was still pending resolution at year’s end.

Despite its efforts, the mobile unit had only a limited impact on the incidence of forced labor. The CPT, whose network of local churches was responsible for the vast majority of complaints reaching the mobile unit, reported that forced labor may actually have grown during the year. In Para State, where the most cases were reported, the CPT received complaints of 4,227 cases of forced labor on 116 ranches, more than 3 times the total for all of 2002. The mobile unit reportedly was unable to keep up with the increase in complaints due to insufficient resources and the cost and time required to mount an operation. The mobile unit encountered resistance

from local authorities, including from the local bureaus of the Ministry of Labor, in a number of states.

Poverty and a lack of viable alternatives led many workers repeatedly to fall prey to trafficking and forced labor schemes. In October, the Government moved to end this cycle by instituting a measure that allows workers freed from forced labor schemes to receive three installments of unemployment insurance equal to the minimum wage—approximately \$71 (200 reais) per month—and to be eligible for job training. To educate rural workers about the dangers of forced labor, the CPT ran an informational campaign in which it distributed pamphlets to rural workers in areas targeted by traffickers (see Section 6.f). In some states, local unions registered and tracked workers who left the municipality to work on remote ranches. The National Confederation of Agricultural Workers' radio programs also educated rural workers about forced labor.

In March 2002, the ILO officially established a program to support governmental efforts to fight forced labor through improved interagency cooperation, strengthened enforcement, heightened public awareness, training for relevant government agencies, and the provision of additional resources to the Government. The ILO program contributed to increased discussion of forced labor through a number of seminars and workshops. It also contributed to improvements in data gathering.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law restricts work that may be performed by children; however, despite government efforts, child labor continued to be a widespread problem. The minimum working age is 16 years, and apprenticeships may begin at 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions. However, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18.

The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Because the legal working age is 16, the Government sought to increase the number of apprenticeships to provide more opportunities to 14- and 15-year-olds. A 2000 law expands apprenticeship programs by allowing a wider range of enterprises to participate.

According to government figures, the number of working children age 14 and under decreased from 2.97 million in 1999 to 2.22 million in 2002. In addition, the number of working children in this age group decreased from 12 percent 10 years ago to 6.5 percent in 2002. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. The highest incidence of child labor was found in the northeast, where half of all child workers in the country were employed. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

The Ministry of Labor reported that children worked in approximately 100 rural and urban activities. Common rural activities included fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children worked in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking and prostitution (see Section 5). The ILO estimated that approximately 500,000 children and adolescents worked as domestic servants and that 20 percent of 10- to 14-year-old girls worked as domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws. Special Groups for the Eradication of Child Labor guided regional efforts to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Still, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. During 2002, approximately 3,250 inspectors conducted more than 25,000 inspections that reached workers under 18 years of age. Labor inspectors continued to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were actually fined for employing children.

Ministry of Labor inspectors often worked closely with labor prosecutors from the MPT, who have broader powers and are able to impose larger fines. The MPT—an independent government agency responsible for prosecuting labor infractions—has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting. The commission allowed the Ministry of Labor to be more responsive to complaints regarding child labor and to encourage public commitments from officials to address child labor.

The Ministry of Social Security and Assistance coordinated the Government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. This program was the Government's primary effort to end the worst forms of child labor. Because the public school day lasts only 4 hours, PETI emphasized complementary educational activities for children during nonschool hours as an alternative to working. PETI assisted approximately 900,000 children in all 26 states and the federal capital during the year, focusing on removing children from work activities considered to be among the most hazardous by the Government. Although the program concentrated on rural areas, it also grew rapidly in urban areas.

To prevent child labor and promote education, the Federal Government also continued to expand its Bolsa Escola (School Stipend) program. The program provided mothers of low-income families with stipends of approximately \$5 (15 reais) per child between the ages of 6 and 15, up to a total of 3 children per family. To receive the stipend, the child's monthly school attendance rate must be 85 percent. The Ministry of Education coordinated the Bolsa program, but responsibility for day-to-day management fell largely on municipal governments. At year's end, the program provided stipends to the mothers of approximately 10 million children in more than 5,000 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs, including Belem, Campinas, Belo Horizonte, Manaus, Olinda, and Recife.

In September 2002, in order fully to comply with ILO conventions on the minimum age for work and on the eradication of the worst forms of child labor, the Minister of Labor created the National Commission to Eradicate Child Labor. The commission developed a comprehensive national child labor plan to strengthen child labor eradication efforts, emphasizing partnerships with states and municipalities.

Civil society supported the Government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor—with chapters in every state and more than 40 institutional members from the Government and the private sector—promoted debate and broad analysis of national child labor prevention efforts. The Centers for the Defense of Children and Adolescents also were active in many parts of the country and reported violations of children's rights and implemented eradication programs (see Section 5).

The private sector and unions also played a major role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The Foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to help reduce instances of child labor in the footwear industry. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research promotion, and the incorporation of income generating schemes and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see Section 5). UNICEF supported more than 200 programs to improve the lives of children and, since 1999, helped to remove more than 13,000 children from work in garbage dumps and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

*e. Acceptable Conditions of Work.*—The Government adjusts the minimum wage annually; in April, it was raised from approximately \$71 to \$85 (from 200 to 240 reais) a month, which was not sufficient to provide a decent standard of living for a worker and family. A 2000 study by the DIEESE concluded that the minimum wage was approximately one-fifth of the salary necessary to support a family of four in the Sao Paulo metropolitan area. The Brazilian Institute of Geography and Statistics estimated that approximately one in three workers earned the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector. The law allows employers to compensate workers with time off rather than with overtime pay, provided that the local union agrees.

Unsafe working conditions were prevalent throughout the country. During 2002, workplace accidents rose from nearly 340,000, in 2001, to 387,000. The number of workplace deaths due to accidents also rose from 2,753 in 2001 to 2,898 in 2002. The Ministry of Labor sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry devoted insufficient resources for adequate inspection and enforcement of these standards. Employees or their unions may file claims related to worker safety with regional labor courts, although in practice this was frequently a protracted process. According to the Ministry of Labor, the most dangerous industries in the country were logging, mining (including oil drilling), construction, and oil refining.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings did occur, and legal recourse usually required years before resolution. The MPT reported during the year that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers could express such concerns to an internal committee for an immediate investigation.

*f. Trafficking in Persons.*—The law prohibits the transport of persons for illicit reasons within and outside the country; however, trafficking in persons, primarily from and within the country, was a problem.

The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of prostitution, but it does not directly address the substantial internal trafficking of women. The Statute on Children and Adolescents requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. However, local activists claimed that laws on trafficking for exploitation were open to interpretation and difficult to enforce, especially in relation to domestic trafficking. They called for comprehensive legislation to aid in the prosecution of traffickers.

Laws regarding trafficking for forced labor present similar shortcomings, and activists advocated legislation to define more clearly modern forms of slave labor, such as the use of fraud and debt servitude. A 1998 Penal Code Amendment provides that traffickers may receive a fine and prison sentences of 1 to 3 years, which may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. Nevertheless, disputes regarding legal jurisdiction contributed to the Government's failure to prosecute labor traffickers effectively.

Laws on forced labor and domestic trafficking were not enforced effectively. Although labor inspectors had identified 5,000 instances of forced labor since 1995—nearly all of which involved traffickers—only 3 persons had been convicted for related crimes. Factors impeding such arrests included: The mobility of labor contractors, lack of training for police officers, and the potential witnesses' fear of reprisal and inability to remain in the area to testify. In most cases, police officers accompanying mobile inspection teams did not conduct investigations, thus hampering prosecutors' efforts to build strong cases. Federal prosecutors and NGOs also reported that corruption among state police often impeded the apprehension of traffickers.

The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads. In a limited number of cases, they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers, and at least one prosecution for such an offense occurred due to a complaint from an NGO (see Section 2.a.).

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. In addition, most women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions. CECRIA reported that only 10 of the 36 trafficking cases dealt with by federal courts in Rio de Janeiro and Sao Paulo in recent years went to trial, resulting in only 2 convictions. Internal traf-

ficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. Labor inspectors also found a small number of persons from other countries trafficked to work in urban sweatshops.

CECRIA's June 2002 report on trafficking in persons for commercial sexual exploitation—drawing on police, media, and other sources—identified more than 130 sex trafficking routes, including 109 domestic routes. Domestic routes included: From Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the north and northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region where itinerant workers often transit. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. The report also called attention to sex trafficking in areas with major development projects. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7).

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that most women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases, women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

In October, the state of Sao Paulo sponsored an international conference on Trafficking in Women to focus attention on the problem. The conference drew attendees from throughout the country, as well as the United States, Mexico, Chile, and numerous countries in Europe. The conference provided an opportunity for government and NGO representatives to exchange ideas on additional efforts to combat this problem.

In addition to sex trafficking, the internal trafficking of workers into forced labor schemes was a problem. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Union leaders claimed that nearly all of the 15,000 persons estimated to be working as forced laborers had been trafficked by labor recruiters. The ILO cooperated with the Government, unions, and the CPT to construct a database for use in recording and combating trafficking.

The Government coordinated several anti-trafficking programs, including public information campaigns, a Ministry of Justice initiative against sexual exploitation, and the inclusion of trafficking as a priority area in the National Plan to Combat Sexual Exploitation of Children (see Section 5).

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## CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. Jean Chretien began his third consecutive term as Prime Minister in November 2000; his Liberal Party had 169 of 301 seats in Parliament. On December 12, Paul Martin replaced Chretien as Prime Minister. The judiciary is independent.

Federal, provincial, and municipal police forces have responsibility for law enforcement and maintenance of order. Elected civilian officials maintained effective control of these security forces. There were no reports that security forces committed human rights abuses.

The country has a highly developed, market-based economy and a population of approximately 31.6 million. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems included discrimination against women, persons with disabilities, and aboriginal people. There was an increase in the number of reported incidents of anti-Semitic and anti-Muslim harassment. The Government continued to take serious steps to address private acts of violence against women. Trafficking of persons into the country, including trafficking for purposes of prostitution, 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 political killings.

In June, six Montreal police officers arrested and allegedly beat a man fleeing a crime scene. He died approximately 1 hour after the incident. Although *Mouvement Action Justice*, a police watchdog group, called for a public inquiry into the man's arrest and death, no action was taken.

In December 2002, a Royal Canadian Mounted Police (RCMP) officer convicted in a 2001 off-duty killing was sentenced to life in prison.

In November, four Toronto policemen were found not guilty of manslaughter for the death of a suspect whom they allegedly beat while taking him into custody in 2000.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally observed these prohibitions in practice; however, there were isolated incidents of police mistreating suspects.

In June, Saskatoon police admitted culpability in the death of an aboriginal woman who froze to death in 1976. In September, an inquiry began into the death of an aboriginal teenager who was found frozen on the outskirts of Saskatoon in 1990. The public hearings were scheduled to conclude at the end of March 2004.

The military continued to receive complaints from women serving in the armed forces who charged that they were subject to sexual abuse, harassment, and discrimination. An armed forces grievance board that is independent of the military chain of command and other mechanisms established by the Government, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, addressed such complaints. During the year, the Ombudsman received eight sexual assault complaints, compared with seven in 2002.

A May Human Rights Watch report alleged that, in an anti-narcotics operation in Vancouver, police officers violated the due process rights of injection drug users through excessive use of force, illegal search and seizure, and harassment through petty offenses. In June, the mayor of Vancouver responded by issuing a 29-page rebuttal to the report.

In November, six Vancouver police officers plead guilty to common assault after an incident in January. At year's end, the officers were in sentencing hearings and also faced an internal disciplinary hearing.

Prison conditions generally met international standards; however, there were several riots at the Kent maximum security facility in British Columbia, one of which resulted in the death of an inmate in June. There were also reports of deprivation of food and water being used to control inmates at the Kent facility.

Prisons, both at the federal and local level, generally held men and women separately. In addition, juveniles were not incarcerated with adults, and pre-trial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights observers.

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

The RCMP, an agency of the Ministry of the Solicitor General, is a national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), and approximately 198 municipalities.



A Judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, and to engage a lawyer. Bail was generally available.

The law prohibits forced exile.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and enforced the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally prohibits such practices, and the Government generally respected these prohibitions in practice.

A 2001 antiterrorism act that expanded police investigative and wiretapping powers has received several court challenges, including a case before the Supreme Court that involved a witness forced to testify at a secret investigative hearing, who challenged the provision that forces a person to give evidence in an anti-terrorism case.

*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; however, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven to be willful and public. The Broadcasting Act, which prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts.

The Human Rights Act also prohibits repeated telephone communications that expose a person or group to hatred or contempt. The Canadian Human Rights Tribunal found that the Internet falls under this act and, in June, ordered the shut-down of an anti-Semitic website and awarded \$30,000 (\$Cdn 41,800) to a man who was the target of the website.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Charter of Rights and Freedoms provides for these rights, and the Government generally respected them in practice.

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

Religious groups are not required to register with the Government.

Public funding for Roman Catholic schools is constitutionally protected in the country's original four provinces; however, a 2001 Ontario Province law, to be phased-in over 5 years, expands the credit to parents of children attending private schools.

There were a number of reports of harassment of religious minorities.

The League for Human Rights of B'nai Brith estimated that 450 incidents of anti-Semitism were reported during the year.

Some fundamentalist Christian groups' child disciplinary practices came under close scrutiny by the Government.

In September, a private school in Quebec expelled a 16-year-old Muslim student after she refused to remove her hijab. The Charter of Rights and Freedoms prohibits banning the hijab in public schools but is unclear regarding private schools. The Quebec Human Rights Commission launched an investigation into the matter.

The number of reported incidents of harassment of Muslims increased. The Government strongly and publicly urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

For a more detailed discussion, see the 2003 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 refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extending asylum. The country offers resettlement and, as of June 1, had approved 17,548 refugees for resettlement. There is no appeal process for applicants who are refused resettlement, and several non-governmental organizations (NGOs) urged the Government to establish an appeal division to address such cases.

In 2002, the Supreme Court ruled that refugees facing torture in their home countries generally cannot be deported there, unless evidence shows that their continued presence poses a serious threat to national security. The case of a Sri Lankan suspected of being a fundraiser for the Tamil Tigers, who claimed that he would be tortured upon return to Sri Lanka, remained pending after being remanded by the Supreme Court back to the Minister of Immigration. A safe country of transit agreement to return aliens previously resident in the United States to that country for adjudication of asylum was signed in 2002; the agreement was due to enter into force during the year but had not been implemented pending the issuance of regulations by the United States. Human rights and immigrant groups criticized the agreement.

### *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 November 2000, the last general election, the Liberal Party won a majority with 172 of 301 seats in the national parliamentary elections. The Canadian Alliance (conservative) won 66 seats, thereby earning status and rights as the official Opposition in Parliament. Former Liberal Party leader Jean Chretien stepped down as Prime Minister on December 12, and Paul Martin took over as the country's new Prime Minister.

In April, the victory of federalist Quebec Liberals ended 9 years of rule by the Parti Quebecois, which advocated Quebec's withdrawal from the Confederation.

There are no laws limiting the participation of women or minorities in political life. In the Parliament, 63 of 301 members in the House of Commons were women, and 4 members were of aboriginal (Inuit, North American Indian, or Metis) origin; 36 of 105 senators were women, and 4 were of aboriginal origin. Women held 10 seats in the 36-person Cabinet. The Governor General and three of the nine members of the Supreme Court, including the Chief Justice, were women.

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

A wide variety of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

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

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, sex, age, or mental or physical disability. These rights generally were respected in practice.

*Women.*—The law prohibits violence against women, including spousal abuse; however, it remained a problem. The economic costs of violence against women were

estimated at \$3.0 billion (Cdn \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades, and there were 524 shelters for abused women across the country in 2002.

A total of 27,100 cases of sexual assault were reported to police in 2002, a per capita rate virtually unchanged over the past 5 years. The courts consider such cases seriously, and those convicted of sexual assault face up to 10 years in prison. Cases involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

Prostitution is legal, but pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel are not. Communicating in public for the purpose of prostitution (solicitation or "streetwalking") is also illegal but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of sexual exploitation (see Section 6.f.).

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government generally enforced this provision. Women continued to complain of harassment in the armed forces, and the Government established mechanisms to resolve complaints (see Section 1.c.).

Women were well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men.

*Children.*—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There was no societal pattern of abuse of children. Past institutional abuses of children (mostly orphans and aboriginal children) in residential homes continued to come to light, and the Government and churches that operated the homes sought to close, through class action settlements, thousands of abuse cases filed by former residents. Approximately 1,000 cases have been settled; however, an estimated 12,000 remained outstanding.

Children were trafficked for purposes of sexual exploitation (see Section 6.f.).

*Persons with Disabilities.*—There is no legal discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, disability-related complaints filed with the Canadian Human Rights Commission rose by 85 percent in 2002. Persons with disabilities were underrepresented in the work force; they constituted 2.7 percent of the federally regulated private sector work force, while those capable of working totalled 6.5 percent of the population. The Government instituted programs to help persons with disabilities join the work force.

The law provides a variety of protections and rights for persons with disabilities and specifically prohibits discrimination against persons with disabilities in employment, education, or in the provision of public services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law requires employers and service providers to accommodate special needs of persons with disabilities, unless it constitutes an undue hardship, and mandates access to buildings for persons with disabilities.

*Indigenous People.*—The Constitution recognizes three different groups of aboriginals: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). A September Supreme Court decision gave the Metis the same hunting rights as other aboriginal groups and marked the first time that Metis rights had been constitutionally defined. Aboriginals make up approximately 2.8 percent of the national population and higher percentages in the country's three territories: Yukon, 20 percent; Northwest Territories, 62 percent; and Nunavut, 84 percent. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on some reserves. Aboriginal persons remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Charter of Rights and Freedoms specifically protects aboriginal rights, including those established by historical land claims settlements; aboriginal rights also are recognized in the Constitution and by the courts. Historical treaties with ab-

original groups in the eastern part of the country form the basis for the Government's policies there, but some language with uncertain intent resulted in extensive legal challenges to the Government's interpretation of treaty rights. Aboriginal groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

According to Indian and Northern Affairs Canada, in 2002–03, the Government budgeted \$5.66 billion (Cdn \$7.9 billion) for programs to provide aboriginal persons access to basic services (education, housing, water, sewage, health, and social) comparable to those provided to other citizens through provincial, municipal, and territorial governments.

The Government settled two massive land claims with aboriginal groups: In August, following 25 years of negotiations, the Labrador Inuit Land Claims Agreement was signed, which provided for a \$71.7 million (Cdn \$100 million) payment to the Inuit as well as the transfer to Inuit control of approximately 6,100 square miles in Labrador. A second agreement, the Tlicho agreement, was also signed in August. This agreement will transfer approximately 24,000 square miles of land in the Northwest Territories to the Tlicho government. This land has significant diamond deposits, and the Tlicho government will have full control over all resources.

During fiscal year 2002–03, the Government spent \$460 million (Cdn \$642 million) on claim settlements. First Nation leaders, however, stated that at the current rate of claim settlement, it will take the Government 150 years to settle all outstanding aboriginal claims. The Government also continued self-government negotiations with over 350 First Nations. In addition, professional development and fiscal accountability projects further supported indigenous self-governance. In November, the House of Commons passed an aboriginals' land claims bill that was meant to expedite the settlement of more than 700 backlogged claims; however, many aboriginal groups opposed the bill saying it granted too much power to the central Government.

The Government continued working to resolve a variety of other issues, including fishing rights in the Atlantic region. Disputes over aboriginal fishing rights in the Atlantic region continued after a 1999 Supreme Court ruling interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Government negotiated interim fishing agreements with all 34 aboriginal communities in the Atlantic region, and negotiations on longer-term agreements were pending. In August, New Brunswick's highest court ruled that aboriginal groups have the right to harvest and sell trees from Crown land. The right of aboriginal groups in Nova Scotia to harvest Crown land timber remained under litigation in the courts.

A case brought by the Gitanyow, an indigenous group located near the Nisga'a people in northwestern British Columbia, who contended that a 2000 treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a, remained pending in the courts at year's end. The Gitanyow, however, were negotiating their own treaty settlement and signed an agreement not to pursue litigation while negotiations were taking place.

*National/Racial/Ethnic Minorities.*—The 1982 Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and established English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of the country generally lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. Only New Brunswick has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continued to protest restrictions placed on English-language use. English speakers also expressed concern over health services and public schooling in their language.

The Charter of the French Language restricts access to publicly funded English education only to those students who did most of their elementary or secondary studies in English in the country. The law also limits English language education to those students with a brother or a sister who did most of their elementary or secondary studies in English in the country or in cases in which the father or the mother did most of his or her studies in English in the country. During the year,

the Quebec National Assembly amended the Charter of the French Language to limit access to English language schooling by no longer recognizing 1 year of private English language schooling in Quebec as fulfilling the eligibility criteria to attend a publicly funded English school in Quebec.

Provinces other than Quebec often lacked adequate French-language schooling and health services, which was of concern to local francophones, although French-language schools and French immersion programs were reported to be thriving in all three prairie provinces.

In December, Nova Scotia's Human Rights Commission ruled that the Halifax Regional Police Service discriminated against a man because of his race when they towed his vehicle after a 1998 traffic stop. The man was awarded \$10,755 (Cdn \$15,000).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Except for members of the armed forces and some police, workers in both the public and private sectors have the right to associate freely, and they exercised this right. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations, which vary from province to province, for some public sector workers.

The law prohibits anti-union discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent was unionized.

All labor unions have full access to mediation, arbitration, and the judicial system.

Unions are free to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—All workers have the right to strike, except for those in the public sector who provide essential services. The law prohibits employer retribution against strikers and union leaders, and the Government generally enforced this provision in practice.

Labor action, including strikes, occurred throughout the country during the year. The Quebec cable distributor Vidiotron came to agreement with 2,200 of its workers in May after an almost year-long strike, and 3,300 steelworkers for Inco Ltd. returned to work in August after a 3-month strike.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and it generally did not occur; however, persons smuggled into the country were sometimes indentured to their smugglers in order to pay down their debts, and women and children were trafficked for the purpose of sexual exploitation (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor legislation varies from province to province. The Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions were enforced effectively through inspections conducted by the federal and provincial labor ministries.

*e. Acceptable Conditions of Work.*—Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 per week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and ranged from \$4.23 to \$5.74 (Cdn \$5.90 to Cdn \$8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family, and a family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and to remove themselves from hazardous work conditions.

*f. Trafficking in Persons.*—The law outlaws trafficking in persons; however, trafficking remained a problem. The law establishes criminal penalties of up to life in prison and fines of up to \$717,000 (Cdn \$1 million) for convicted traffickers; however, no prosecutions have yet resulted from the legislation.

The country was a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. There were no reliable data on the extent of the problem.

Vancouver and Toronto served as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups targeted the country, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Thousands of persons, including at least 15,000 Chinese, entered the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, worked at lower than minimum wage, and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Preliminary hearings were scheduled for February 2004 for 11 defendants charged in December 2002 of being part of a prostitution ring that involved girls as young as 14.

Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act; however, some victims of trafficking were arrested and deported. In prostitution cases, often the prostitute instead of the customer was arrested. A prostitute in the country illegally may face deportation, particularly after committing a crime. Local authorities often lacked awareness about the victims of trafficking, which was compounded by many victims' fear of telling authorities about the crime committed against them.

The Government reconvened an Interdepartmental Working Group on Trafficking in Women, which held information and training sessions for government officials to increase awareness about trafficking. In addition, the Government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.

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## CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and retains certain institutional limits on popular rule. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos' governing coalition known as the Concertacion held a 63–57 majority in the lower house. The Senate was divided 24–24 between pro-Concertacion legislators and the opposition. The judiciary was independent.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. Most notably, the President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) and the civilian Investigations Police are under operational control of the Ministry of Interior. While civilian authorities maintained effective control of the security forces, some members of security forces committed human rights abuses.

In 1999, the export-led free-market economy experienced its first recession after 15 consecutive years of expansion, and the economy has yet to regain its pre-1999 dynamism. According to the 2002 census, the population was 15.1 million. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Economic growth for the year was 3.2 percent with inflation of 1.1 percent. Unemployment averaged 8.5 percent during the year. The percentage of the population living below the poverty line was 20.6 percent in 2001.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees sometimes were not advised promptly of charges against them nor granted a timely hearing before a judge. Anti-defamation laws adversely affected journalists and authors. The authorities occasionally used force against protesters. Discrimination and violence against women and children continued to be problems. Indigenous people remained marginalized. Child labor was a problem in the informal economy.

During the year, the Government, primarily the judiciary, continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. Military authorities continued to be unwilling or unable to provide a full accounting for the fate of many of the 3,000 persons who disappeared or were killed. As of mid-June, there were 179 former officials (mostly military but some civilians) charged and under investigation for human rights violations and another 14 that had already been sentenced. In July 2002, the Supreme Court ruled that former President Pinochet was mentally unfit to stand trial, and ended all legal proceedings against him in the case known as the "Caravan of Death." Subsequent rulings in other cases during the year indicated that the same criteria would apply in all criminal cases brought against the former President.

#### 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.

A number of cases from previous years, in which the police were accused of extrajudicial killings due to excessive use of force or mistreatment of prisoners while in custody, remained under investigation or pending resolution of appeals.

Although the case remained open, there continued to be no progress in the investigation of the death of Carlos Millaman, detained in 2000 on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), persons who visited him at the headquarters of the Investigative Police in the Santiago suburb of La Florida reported that he was in bad physical condition and feared for his life; he was subsequently transferred to the El Salvador hospital where he died later that day.

On May 28, after 14 years of investigation by various magistrates, Judge Hugo Dolmestch indicted three members of the Army for the murder of leftist leader Jecar Nehgme, detained in 1989. His investigation continued into the case involving the 1986 detention and death of journalist Jose Carrasco and three other persons.

Throughout the year, the Supreme Court reaffirmed its position that the Amnesty Law (covering human rights violations from 1973 to 1978) and the statute of limitations should be applied only after the circumstances of the crime had been clarified and the guilty party identified. The Foundation for Social Help of Christian Churches (FASIC), the CODEPU, and other human rights organizations have several denial of justice cases pending before the Inter-American Commission on Human Rights (IACHR) regarding previously closed disappearance and execution cases. Denial of justice cases based on application of the Amnesty Law also have been filed with the U.N. Commission on Human Rights (UNCHR).

The case of Spanish citizen Carmelo Soria, killed in Santiago in 1976, remained under investigation by a judge in the Sixth Criminal Court of Santiago. Four retired generals and a civilian accused of the 1974 car bombing in Buenos Aires of former Chilean Army commander Carlos Prats were indicted and were being investigated by Judge Alejandro Solis at year's end. On December 10, the authorities arrested Rafael Gonzales, a retired security officer, in the first indictment in the death of Charles Horman, a U.S. citizen killed after being detained by security forces following the 1973 coup d'etat. The case remained under investigation at year's end.

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

In 2002, the Ministry of Justice authorized 20 judges to dedicate their time exclusively to historic cases of disappearances and another 51 judges to give preference to the investigation of such cases. Largely as a result of their work, in the first half of the year, indictments were brought in 38 cases, according to the foundation maintaining the archives of the Catholic Church's former Vicariate of Solidarity. Indictments were brought against 120 retired members of the armed forces and, for the first time, some civilians.

There were no further developments in the investigations of military-era detentions and disappearances of persons at Colonia Dignidad (renamed "Villa Baviera"),

a secretive German-speaking settlement 240 miles south of Santiago during the year. Paul Schaefer, founder of the 34,000-acre enclave, remained a fugitive, wanted on charges including the 1994 kidnapping and disappearance of Alvaro Vallejos, at year's end. In 2000, the authorities arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke, but first he must stand trial in connection with Vallejos' disappearance and two other charges that remained under investigation. Muecke remained in custody at year's end.

In 1985, Boris Weisfeiler disappeared near Colonia Dignidad under circumstances that have yet to be clarified. The case was reopened in 2000 and remained under investigation at year's end.

Of the 1,156 persons who disappeared under the military regime, the remains of more than 900 have yet to be found. In January 2001, the Armed Forces stated that, of the only 200 cases of disappeared persons for which they claimed to be able to account for, 151 were thrown into the sea, a statement that subsequently proved to be inaccurate as some of the remains of those reportedly thrown into the sea were found buried on land. The government agency in charge of the compensation program for the families of those executed or who disappeared under the military regime recognizes 3,197 victims of the Pinochet era. These include 2,095 victims in which circumstances of death have been established and 1,102 cases in which the persons disappeared. Survivors of the victims received pensions, educational benefits, and other assistance. Since 1992, the program distributed approximately \$140 million (90 billion pesos) in pensions alone.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the use of excessive pressure on detainees and the law provides that if a member of the police force uses “torture or unlawful coercion,” either physical or mental, orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the “necessary power and authority” to prevent or stop it also would be considered accessories to the crime if they fail to do so. The CODEPU, nevertheless, still received reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards. Few of these reports led to hearings in court and even fewer led to convictions. The CODEPU was unaware of any case in which a member of the Investigative Police had been convicted.

No new information has become available regarding the mistreatment of military conscripts during the year.

During the year, there were instances of violent confrontations between radical Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country (see Section 5). The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. In November 2002, a Mapuche activist was shot and killed in a confrontation with the police. Several Mapuches were arrested in connection with acts of violence.

Police occasionally used force against protesters (see Sections 2.b. and 5).

Prison conditions were generally poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. In March 2002, overcrowding led to a prison riot in Valdivia, in which part of the prison was destroyed by fire. Several guards and prisoners were injured although there were no fatalities. The prison, built for 200 inmates, housed more than 600. The Ministry of Justice announced a \$5 million (3 billion pesos) program in all prisons to develop contingency planning for emergencies and to prevent such incidents from occurring in the future.

The Government recognized that overcrowding in prisons continued to be a problem. According to the Ministry of Justice, in 2001 there were 34,335 prisoners in prisons designed to lodge 23,025 inmates, a situation that remained unchanged in subsequent years. In 2001, the Ministry of Justice opened bids on 3 new prisons, to be completed in December 2004 and designed initially to house 4,800 prisoners. These prisons are part of a plan to construct 10 new prisons in the next several years, to house an initial population of 16,000 prisoners. Even with this construction program, the growing prison population is projected to continue to exceed the space available. Food met minimal nutritional needs, and prisoners were able to supplement the diet by buying food. Those with sufficient funds often can “rent” space in a better wing of the prison.

Although most analysts stated that guards generally behaved responsibly and did not mistreat prisoners, prisoners have complained to the CODEPU about beatings, and the courts received numerous complaints of mistreatment of prisoners. Prison guards were accused of using excessive force to stop attempted prison breaks. The Supreme Court expressed particular concern over the sanitary conditions and treatment of prisoners in the Colina II prison's Alfa high security unit. In March, an in-



vestigation was begun into the nature and origin of reportedly “self-inflicted” wounds suffered by prisoners in the Alfa unit. The wounds occurred during protests over the prisoners’ inability to receive time off for good behavior. The prisoners claimed that the prison lacked the schools and workshops necessary for them to meet the law’s requirements. In 2002, an investigation by the Supreme Court found evidence of physical mistreatment of the prisoners.

The Minister of Interior asked the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often did not result in arrests due in part to the reluctance of judges to pursue the issue vigorously. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

When requested by other human rights organizations or family members, the CODEPU lawyers visited detainees during the interrogation and represented some persons suspected of terrorist acts in court. The CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental deficiencies who allegedly failed to receive adequate medical attention.

Pretrial detainees generally were not held with convicted prisoners. Women generally were housed in separate facilities, which tended to be less crowded and with comparatively better conditions than men’s prisons.

By law, juvenile offenders (those under the age of 18) were segregated from adult prisoners. In September 2002, the Supreme Court admonished police officials for failing to keep minors sufficiently separated from adult offenders and ordered prison officials to correct this deficiency. Separation of minors was a concern, especially when a minor initially was detained before being brought to court. A study by Diego Portales University determined that in 2001, of the 10,748 minors detained, 37.3 percent were initially held in adult facilities. The National Minors Service completed construction of two juvenile detention centers started in 2001, and continued the construction of two additional centers.

The Government permits prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions. Only public official expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge’s disposition. No one can be arrested or detained except in their house or a public facility designed for that purpose.

The Carabineros, who number approximately 27,000 men and women, have primary responsibility for public order, safety, traffic control, and border security. The civilian Investigations Police, made up of approximately 3,600 detectives, are responsible for criminal investigations and immigration control. The Investigations Police, while under the operational jurisdiction of the Ministry of Interior, take their guidance from the prosecutor or judge responsible in a criminal investigation. The police force had an extremely low incidence of corruption. Police, prison guards, and officials take courses in human rights, which are part of the core curriculum in the police academies.

Provisional liberty must be granted unless a judge decides that detention is necessary to the investigation or for the protection of the prisoner or the public. The accused cannot be obliged to testify against himself. The authorities generally respected constitutional provisions for arrest and detention; however, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access.

The most recent statistics available showed that at the end of 1999, 8 percent of the general prison population of 24,791 were under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting the investigating judge’s verdict or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

The law requires police to inform detainees of their rights, to expedite notification of the detention to family members, and eliminates the ability of police to demand identification from or stop persons based solely on suspicion. The law also prohibits physical abuse by police against detained persons (see Section 1.c.). The Constitution allows judges to set bail.

There were no cases of forced exile; however, a number of people convicted of terrorism have had the remainder of their sentences commuted to exile.

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

The judiciary has civil, criminal, juvenile, and labor courts of first instance throughout the country but mostly concentrated in and around Santiago. There are 16 courts of appeal with at least 1 in every region. The Santiago and Valparaiso courts of appeal have several chambers that tend to specialize in one or another area of the law. The Supreme Court, with 25 members, is the last instance of appeal. A constitutional tribunal decides whether new laws or treaties present conflicts with the Constitution (but does not look at specific court cases). There is also a Court Martial and Naval Court Martial.

Most sitting judges come from the career judiciary. All judges are appointed for life. A 1997 Constitutional reform set 75 as the age limit for Supreme Court justices, gave the Senate the right to veto presidential nominations to the Court, and increased court membership from 16 to 21. It also mandated that five members of the Supreme Court must be civilians from outside the career judiciary. The Supreme Court prepares lists of nominees for all members of the Supreme Court and appeals courts, from which the President makes nominations.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial reform law created the post of Attorney General, with a 10-year term, and a supporting administrative infrastructure. An office of Public Defender also was established to provide professional legal counsel to anyone who should seek such assistance. The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges the narrower function of weighing the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in 2000, with oral trials in 2 of the 13 political regions. At year's end, only the Santiago greater metropolitan region had yet to implement the reform. Initial reports indicated that the reform resulted in a more transparent process, greater respect for defendants' rights, and speedier trials.

In the Santiago metropolitan region, criminal proceedings were inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases in the Santiago region, have not always received effective legal representation. They were usually represented by someone from the Government's legal assistance corporation, who was sometimes a law student finishing studies under the supervision of one of the corporation's lawyers. On occasion, the court may appoint a lawyer.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros, the military prosecutor asks for jurisdiction, which the Supreme Court sometimes has granted. This is of particular consequence in human rights cases from the period covered by the Amnesty Law. Military courts were much more inclined to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer were also brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and appeals ultimately may be heard by the Supreme Court. The primary difference in the military court system is that the initial investigation and charges are brought by a military prosecutor, and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

There were no reports of political prisoners, although 57 inmates in Santiago's maximum-security prison, all charged with terrorist acts following the return to democracy, routinely claimed to be 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. A privacy law bars obtaining information by undisclosed tapping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

#### *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 press maintained its independence, criticized the Government, and covered issues sensitive to the military, including human rights cases.

Human rights groups and press associations criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them; the Government revoked one such law and was seeking to revoke others. Military courts still have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see Section 1.e.).

Despite a new press law, the Penal Code still prohibits insulting state institutions such as the presidency, as well as legislative and judicial bodies. In April, a Santiago appeals court absolved a talk show participant who was imprisoned briefly and released on bail after the president of the Supreme Court brought charges against him in December 2002. The participant had commented on the case of a woman who spent 3 years in prison for a crime she did not commit and accused the justice system of being immoral, cowardly, and corrupt. The Government continued to support legislation in the Congress that would remove provisions from the criminal code protecting government officials.

The 2001 case of the president of the State Defense Council's private libel charges against El Mercurio newspaper for criticism of her performance of official duties and the suggestion that she resign, was still pending at year's end.

A 1995 modification of the penal code prohibits the surreptitious taping or recording of private conversations. During the year, a judge applied this law for the first time, charging a television network with violating a judge's privacy by using a hidden camera. The court had yet to determine guilt; however, it detained the entire news department's chain of command to the level of the station manager, who ultimately lost his job as a result of the story.

Two major media groups controlled most of the print media, which largely were independent of the Government. The Government is the majority owner of La Nacion newspaper, but its editorial content is not under direct government control. Investigative journalism made significant strides in 2002 when La Nacion reported on the alleged withholding of information by the Air Force on human rights violations under the military regime. Also, that same year, several leading private newspapers reported stories on alleged bribery within Congress and the Ministry of Transportation and Public Works.

The broadcast media generally were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It received no government subsidy and was self-financing through commercial advertising. It was editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflected various political viewpoints, and the board encouraged the expression of varied opinions over the network.

The National Television Council (CNT), supported by government funding, is responsible for assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming made the CNT's job difficult. The CNT occasionally levied fines. Debate continued over the CNT's role, especially after it levied fines in December on one television channel for broadcasting a compromising tape of a judge taken with a hidden camera, and on another channel for filming the arrest of an individual in the bedroom of his home.

In January, a new film classification system began that ended film censorship. The change was symbolically highlighted by the commercial exhibition of the previously banned film "The Last Temptation of Christ."

In December 2002, a Santiago court ordered police to seize immediately all existing copies of journalist Cristobal Pena's book "Cecilia, La Vida en Llamas," an unauthorized biography of singer Cecilia Pantoja. The removal order came after the singer filed a libel suit against the author. The author's appeal was successful, and the book was available for sale again a few months later.

The courts may prohibit media coverage of investigations in progress but did so rarely. The press used foreign Internet web sites to publish articles when gag orders were issued.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble peacefully, and the Government generally respected this right in practice; however, police occasionally used force against demonstrators.

In July, Carabineros entered the University of the Frontier and beat two students in the process of detaining them. In August, 312 persons were detained during a general strike called by the main labor federation. Carabineros responded to acts of violence by protesters, injuring 72 civilians. Fifteen police officers were also injured.

September 11 marked the 30th anniversary of the coup d'etat that overthrew President Salvador Allende. Although commemorative events during the day took place peacefully, disturbances during the evening in the poorer neighborhoods led to 394 people being detained. There was no tally of civilian casualties other than one who was seriously injured by a bullet. Two police also suffered serious bullet wounds, and 22 others required medical attention.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Church and State officially are separate; however, the Roman Catholic Church continued to receive some preferential treatment. All denominations practiced their faiths without restriction.

In 2000, a law went into effect that bestows upon all faiths the same legal status previously enjoyed only by the Catholic Church and removes the ability of the Government to dissolve religious entities by decree.

The new law grants other religions the right to have chaplains in public hospitals, prisons, and military units, and the presence of Protestant ministers in these institutions continued to rise. Still, some leaders of the country's Protestant churches (which account for just over 15 percent of the population) continued to note instances of discrimination. They cited the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools. Military recruits, whatever their religion, were required at times to attend Catholic events involving their unit.

Schools were required to offer religious education twice a week through middle school; however, enrollment in religious classes was optional. The creed requested by parents is supposed to be taught, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith; however, more schools offered non-Catholic alternatives for religious education. The two most prestigious public schools in Santiago offered an evangelical alternative.

For a more detailed discussion, see the 2003 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 order for minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from the nonaccompanying parent(s).

The law includes provisions for granting asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and over. In 2000, voters elected Ricardo Lagos, of the Socialist Party, as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The legislative branch, with the exception of 10 nonelected senators among the 48 members of the upper house, is elected freely and is independent from the executive branch. In 2001, free and fair congressional elections were held for all 120 seats in the lower house and 18 of the 38 elected seats in the Senate. The elections resulted in a 24–24 split between pro-Lagos senators and those of the opposition and narrowed the Concertacion coalition's lead in the lower house from 70–50 to 63–57.

The Government still operates under some political restraints that the military regime imposed. Under the 1980 Constitution, various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—appoint an additional nine Senators

(beyond those elected) to 8-year terms. In addition, former President Frei exercised his option to become a senator-for-life. Former President Pinochet resigned his senator-for-life position in July 2002.

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should remain in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and places limits on majority rule. These provisions include limitations on the President's right to remove the commanders in chief of the three armed services and the Carabineros, certain legislation requiring super-majorities, and the provision for nonelected senators. At year's end, Congress had not passed legislation in response to constitutional reform proposals.

In January, Army Commander in Chief Juan Emilio Cheyre disassociated himself from the Pinochet regime and put an end to any future speculation that the Army sought a role in politics. Cheyre stated that the Army belonged to all citizens and "never again" would it lend itself to political purposes.

Women have the right to vote and were active in all levels of political life, including grassroots movements. There were no legal impediments to women's participation in government and politics. There were 15 women among the 120 deputies, 2 women in the 48-seat Senate, and 3 women among the 16 cabinet ministers.

The 692,000 people who declared themselves to be of indigenous origin in the 2002 census have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledged indigenous descent. There was one minister in the cabinet of indigenous origin.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Several human rights nongovernmental organizations (NGOs) faced difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC continued to be active on a range of human rights issues and tracked the status of many human rights cases, especially those involving the military. The CODEPU continued to operate at greatly reduced levels of activity during the year due to a lack of resources. The Government cooperated with domestic NGOs' efforts to investigate accusations of human rights violations. Many international NGOs also followed human rights issues closely.

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

The Constitution provides for equality before the law, and the Government generally respected these provisions. The new Labor Code prohibits discrimination based on race, color, sex, age, marriage status, union membership, religion, political opinion, nationality, national origin, or social status (see Section 6.a.); however, such discrimination occurred in practice.

*Women.*—Serious problems affecting women included sexual and domestic violence. During the year, the National Women's Service (SERNAM), which combats discrimination against women, continued to conduct courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. A study done in 2001 by the University of Chile indicated that more than half the women in the country had experienced violence in their relationship with their partner. The study calculated that 34 percent of women have been subject to physical violence (of which 14.9 percent was sexual violence) and another 16.3 percent have suffered psychological violence. Since the law on intrafamily violence went into effect in 1994, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999.

The courts may order counseling for those involved in intrafamily violence. At year's end, there were 17 government and 8 private centers to attend to victims of intrafamily violence. The Investigative Police had a special office that provided counseling for rape victims. The Ministry of Justice also had several offices located throughout the country specifically for assistance in rape cases. There were a number of NGOs, such as La Morada Corporation for Women, that provided counseling.

In 2002, a law took effect increasing the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The Citizens' Peace Foundation indicated

that there were 1,373 cases of rape reported to the police in 2001, and 1,250 in 2000. Experts believed that a majority of rape cases went unreported.

Adult prostitution is not expressly illegal. Police habitually detained prostitutes (usually as a result of complaints by residents of the neighborhood) and accused them of "offenses against morality," which can lead to a \$70 (50,000 pesos) fine or 5 days in prison.

There were no laws against sexual harassment, although it generally was recognized as a problem.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. If the couple has children, provisions are made for child support. A 1994 law created conjugal property as an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives men no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A 2001 SERNAM study found that the average earnings of women were 68.2 percent of those of male heads of household. Women with no schooling averaged a salary that was 81.3 percent that of their male counterparts. The minimum wage for domestic helpers (who are thought to number 300,000 in what is probably the largest single category of working women) was only 75 percent of the standard minimum wage (see Section 6.e.). Women with university training averaged 53.4 percent as much earnings as their male counterparts. The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these also apply to domestic workers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them, although La Morada has received reports that the practice continued in some companies.

*Children.*—The Government is committed to children's rights and welfare. Education is compulsory and free from first through twelfth grade.

Violence against children was a serious problem, although it appeared to be declining. A survey of 8th grade students by UNICEF comparing the incidence of mistreatment from 1994 to 2000 showed that in 1994, 63 percent of children had been subject to some sort of physical violence compared with 54 percent at the end of the period. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 34 percent to 25 percent.

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 mistreated children for the first 6 months of that year; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that 9,723 cases of abuse were brought to its attention in 1998. From mid-1998 to December 1999, the SENAME brought to the courts 713 cases of child abuse, 314 of rape, 292 of sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. SENAME lawyers received specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the director of the organization. A report from La Morada Corporation for Women released in 1999 estimated that there were 20,000 cases of sexual abuse of children every year.

Child prostitution was a problem (see Section 6.f.).

Police and social workers attempted to identify and place child prostitutes found on the streets in juvenile homes.

*Persons with Disabilities.*—The law promotes the integration of persons with disabilities into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 2002 census found that 354,053 citizens claimed to have some form of disability. Persons with disabilities still suffered some forms of legal discrimination. Although the law requires that public buildings provide access for persons with disabilities, by year's end, 74 percent of the buildings in the country failed to meet that requirement (79 percent in the Santiago metropolitan area). The public transportation system did not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provided facilitated access for persons with disabilities only in some areas.

*Indigenous People.*—According to the 2002 census, people who declared themselves to be of indigenous origin made up 4.6 percent of the population, approximately 692,000. The Mapuches, from the south, account for approximately 85 percent of this number. There are also small Aymara, Atacamenos, Rapa Nui, and Kawaskhar populations in other parts of the country. The 2002 total represented a drop of 306,000 (30.7 percent) from the 1992 census figures. Santiago saw a par-

ticularly sharp decrease in its official number of indigenous residents. Indigenous leaders disputed these figures, arguing that the numbers were underreported.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. Of the population that identifies itself as indigenous, approximately one-half remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice, the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources was marginal. Indigenous people also experienced some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people were elected directly as representatives to this body in 1995 and 1999. It advises and directs government programs that assist the economic development of indigenous people. In 2000, the Lagos administration appointed the Commission for Truth and New Treatment, which proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, the commission became permanent, with a mandate to find ways to facilitate the participation of Mapuche and other indigenous populations in the formulation of national policies affecting them. In October, the commission issued a four-volume report that, among many recommendations, suggested explicit recognition of indigenous peoples in the Constitution and mandatory representation in the Congress and local governing bodies.

Over 40 land occupations and an equal number of other isolated acts of violence by Mapuche Indian groups occurred throughout the year (see Section 1.c.). The authorities tried many of those charged with the attacks under anti-terrorist law.

On April 18, police reportedly responded with tear gas and rubber bullets to an incursion onto private timberland by approximately 15 Mapuches. Eight were detained and several wounded. On June 10, police arrested 29 Mapuche students, and injured several of them, as police dislodged them from a building belonging to CONADI. Water cannons and rubber bullets were reportedly used. The students were seeking the removal of the Deputy Director of CONADI. In August, a group of Mapuches occupied the offices of the provincial governor to protest the retrial ordered by the Supreme Court of two indigenous leaders accused of setting fire to a farm owned by a member of the Constitutional Tribunal. On October 21, seven Mapuches were arrested and five injured when they were dislodged from a farm.

In November 2002, police shot and killed a Mapuche activist in a confrontation. On September 2, a Carabinero major was charged with unnecessary violence resulting in death. The investigation was still underway at year's end.

Five Mapuche families that had objected to exchanging traditional lands for other property as part of the Ralco hydroelectric project agreed to terms of a settlement allowing the project to go forward. Previously, 68 families had accepted economic inducements to move to other land.

*National/Racial/Ethnic Minorities.*—The country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. There are also smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans, who experienced some societal intolerance.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to form unions without prior authorization and to join existing unions. The work force was estimated at 5.87 million persons, of whom 3.7 million were salaried. Union membership was approximately 580,000, or roughly 10 percent of the work force. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

The Labor Code permits nationwide labor centrals; the Unified Workers Central (CUT) was the largest and most representative of these. Labor unions were effectively independent of the Government, but union leaders usually were elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials were not restricted, although currently serving union officials are not allowed to hold elective office. Registering a union was a simple process.

In 2001, a major reform of the Labor Code went into effect. Among various other provisions aimed at facilitating the formation of unions and promoting collective bargaining, the reform freed unions from government regulation of their internal organization, permitted unions to be structured along geographic as well as functional lines, and lowered the minimum number of workers necessary to form a union.

Amendments to the Labor Code resulting from the 2001 reform placed additional limits on the causes for dismissal and significantly increased the penalties for unjustified dismissals. Employees who believe they have been dismissed unfairly or dismissed owing to their trade union activities file complaints with the Ministry of Labor and ultimately, the labor tribunals. According to the revised Labor Code, if the dismissal is found to be related to trade union activity on the part of the employee, he or she may choose between reinstatement with back wages or an additional compensatory payment. The burden of proof rests with the employer in cases where alleged illegal anti-union activity is supported in a report by a labor inspector.

A Labor Directorate study showed 739 complaints presented to the Labor Directorate in 2002 compared to 457 in 2001. Complaints included failure to deduct union dues, discrimination, and impeding union organizing. The Directorate attributed the increase to greater confidence by workers under the new Labor Code that they would not face reprisals from their employers. The Labor Directorate took 280 cases to court in 2002 while dismissing 349 complaints as unfounded.

The CUT and many other labor confederations and federations maintained ties to international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—Employees in the private sector have the right to strike; however, the Government regulates this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a penalty that is distributed among the strikers. Public employees in theory do not enjoy the right to strike, although government teachers, municipal, and health workers have gone on strike in the past. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the public sector. Strikes by agricultural workers during the harvest season were prohibited.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers.

There were a number of strikes during the year, although the trend of strikes carried out as a percentage of those authorized appears to be on the decline. In 2002, 282 strikes were authorized and 87 took place, as compared to 205 authorized strikes and 89 actual strikes in 2000. This can in part be attributed to more successful mediation efforts. From February to September 2002, there were 191 requests for mediation, of which 70 percent were successfully mediated, thereby avoiding a strike.

On August 14, the CUT called for a 1-day general strike, asking for improved wages and labor conditions. This was the country's first national strike since the return to democracy in 1990.

Union officials and the Ministry of Labor indicated that the modifications of the Labor Code made union organizing easier, and preliminary data on new union formation after December 2001 appeared to confirm those expectations. An analysis by the Labor Directorate in 2002 showed 1,042 new unions were formed with 36,992 new members, compared to 518 and 20,951 the year before. Many of the new unions were in smaller companies that had never had a union. Also, of 1,577 labor agreements signed between companies and workers in 2002, 80 percent were the result of collective bargaining; the others were company imposed agreements.

Workers engaged in the formation of a union may not be discharged during the period from 10 days before to 30 days after the vote to unionize. Likewise, the workers engaged in collective bargaining are immune for 10 days before the presentation of a contract proposal until 30 days after it is signed. They are also entitled to all pertinent financial information from the company for the last 2 years. The modifications also greatly increase fines for violating immunities enjoyed by union leaders or artificially dividing up a company for the purpose of avoiding provisions in the code or resisting unionization. To enforce the new provisions, the Labor Directorate under the Ministry of Labor began to hire some of the 443 new employees mandated under the new legislation, including 300 labor inspectors, almost doubling the number of field inspectors.

Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. The recent modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it is still dependent on employers agreeing to negotiate. Inter-company unions were permitted to bargain collectively only if the individual employers agree to negotiate under such terms.

Labor laws apply in the duty free zones; there were no export processing zones.



*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the Labor Code prohibit forced or bonded labor, and there were no reports that such practices occurred. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law restricts child labor; however, it was a problem in the informal economy. The law allows children between the ages of 15 and 18 to work with the express permission of their parents or guardians, they must attend school, and 15-year-olds may only perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforced these regulations, and compliance was good in the formal economy; however, many children were employed in the informal economy. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 worked. A 2002 International Labor Organization study put the number of working children aged 12–14 in 2000 at 14,914, or 2 percent of the children of that age. Children sold chewing gum on the street, washed windshields, worked as street performers, begged, or helped their parents to harvest crops. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor.

*e. Acceptable Conditions of Work.*—The minimum wage is set by law, and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$175 (111,500 pesos) net of deductions per month. This wage was designed to serve as the starting wage for an unskilled single worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see Section 5). The Government estimated that the proportion of the workforce at or below minimum wage rose from 9.1 percent in 1998 to 14.4 percent in 1999. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19.

The law sets hours of work and occupational safety and health standards. The legal workweek is 6 days and 48 hours. It is scheduled to be reduced to 45 hours on January 1, 2005. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety were protected under the law and administered by both the Ministries of Health and of Labor. The Government increased resources for inspections by more than 60 percent since 1990 and plans almost to double the current number over the next 3 years, while targeting industries guilty of the worst abuses. As a result, enforcement was improving, and voluntary compliance was fairly good. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists.

*f. Trafficking in Persons.*—There were no laws that specifically prohibit all forms of trafficking in persons; however, the law makes it a crime for anyone to promote or facilitate the entry to or exit from the country of persons for the purpose of facilitating prostitution. Sanctions are increased in cases in which the victim is a minor; in which violence or intimidation is used; if deception or abuse of authority is involved; if the victim is related or under the tutelage of the perpetrator; if advantage is taken of a victim's circumstances or handicap; or if the action is of a recurring nature. There were a few reports that small numbers of persons may have been trafficked to or from the country.

Child prostitution was a problem. The Constitution and the Labor Code prohibit forced labor, and the prostitution of children and corruption of minors are prohibited under the Penal Code. However, the law does not prohibit prostitution, and the age of consent for sexual relations is 14 years (raised by Congress in December from 12 years).

There are legal sanctions for adults who are found to have induced children under the age of 18 to engage in commercial sex or engage them for the purposes of pornography. UNICEF estimated in 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18. A study conducted by SENAME and Arcis University in the first half of the year put the number at 3,719, but many of those familiar with the problem believe that number to be too low. The age of consent is 12 years; the law is vague regarding child prostitution above this age unless force, fraud, or abuse of authority can be proven.

The Government employs various measures to help educate the general population on trafficking. Other organizations such as Mother's Centers and the National Service for Minors also offered support programs to prevent trafficking.

## COLOMBIA

Colombia is a constitutional, multiparty democracy. In 2002, voters elected independent candidate Alvaro Uribe president and selected a bicameral legislature with a mix of Liberal, Conservative, and independent members. On October 25, voters narrowly rejected a major economic and political reform referendum, and on October 26 gave center-left candidates a number of victories in local and regional elections. The referendum and elections were generally free and fair, in spite of concerted efforts by terrorist organizations such as the United Self-Defense Forces of Colombia (AUC) and Revolutionary Armed Forces of Colombia (FARC) to manipulate or disrupt them. Internal armed conflict continued between the Government and terrorist groups, particularly the FARC, the National Liberation Army (ELN), and the AUC. The conflict caused the deaths of between 3,000 and 4,000 civilians during the year, including combat casualties, political murders, and forced disappearances. The civilian judiciary is largely independent of the executive and legislative branches; however, it is overburdened, inefficient, and subject to intimidation and corruption by terrorist groups and common criminals.

The civilian-led Ministry of Defense (MOD) is responsible for internal and external security and oversees both the police and the armed forces, including the army, air force, and navy. The National Police shared law enforcement duties with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The police are responsible for maintaining internal order and security in urban areas, and reestablished a permanent presence in all but 18 of the country's 1,098 municipalities by the end of the year. The armed forces are responsible for maintaining order and security in rural areas and support the police in urban areas when called upon. Although civilian authorities generally maintained effective control of the security forces, there were instances in which members of the security forces acted contrary to the dictates of civilian and military authorities. Over the years, police and military forces have taken steps to improve their human rights record; however, some members of the security forces continued to commit serious violations of human rights.

The country's population is approximately 44 million. Despite decades of violence precipitated by internal armed conflict and the drug trade, the market-based economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the country's principal legal exports, although drug trafficking has created a large illicit economy. Economic growth for the year was estimated at 2.5 percent, while inflation measured 6.5 percent. Income distribution was highly skewed, with 55 percent of the population living in poverty. Unemployment fell to 14.5 percent; however, per capita GDP also fell to \$1,704 (4.7 million pesos).

The Government's human rights record remained poor; however, there were significant improvements in some areas. An increasingly small percentage of total human rights abuses reported were attributed to security forces; however, some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with the AUC terrorist group that committed serious abuses. Allegations of forced disappearances and kidnappings remained. Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions and prolonged pretrial detention remained a fundamental problem. Impunity remained at the core of the country's human rights problems. The civilian judiciary was inefficient, severely overburdened by a large case backlog and undermined by corruption and intimidation. Despite some prosecutions and convictions, the authorities rarely brought high-ranking officers of the security forces charged with human rights offenses to trial.

The authorities sometimes infringed on citizens' privacy rights. A number of journalists were killed, and journalists continued to work in an atmosphere of threats and intimidation, in some instances from local officials in alliance with terrorist groups, but primarily from terrorist groups. Journalists practiced self-censorship to avoid reprisals from terrorist organizations. There were some restrictions on freedom of movement, generally because of security concerns, and confined to narrowly defined geographic areas.

Violence and instability displaced approximately 100,000 civilians from their homes in the first half of the year. The total number of internally displaced persons may have exceeded 2.0 million, including 800,000 children. There were reports that members of the security forces, harassed members of human rights groups. AUC, FARC, and ELN terrorists threatened and attacked human rights activists. Violence and extensive societal discrimination against women, child abuse, and child prostitution remain serious problems. Extensive societal discrimination against indigenous persons and minorities continued. Child labor was a widespread problem. Trafficking in women and girls for the purpose of sexual exploitation was a problem.

The FARC and ELN terrorists were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. Early in the year, during terrorist bombing campaigns, the number of abuses committed by FARC and ELN terrorists rose significantly; however, the rate of abuses declined over the year due to increased military pressure. The FARC and ELN announced that henceforth they would work together strategically and neither group would negotiate a peace agreement with the Uribe Government. Both terrorist forces engaged in a concerted campaign to destabilize municipal governments by killing urban officials and threatening to execute others. As a result, many mayors felt compelled either to submit their resignations or to govern from safer locales; however, the majority of the city government officials forced to flee in 2002 returned to their cities as security forces reentered previously abandoned cities under the Democratic Security Initiative. In addition to politicians, FARC and ELN terrorists killed journalists, labor union members, and numerous religious leaders. The FARC also continued to kidnap, torture, and murder off-duty members of the public security forces. The FARC and the ELN, kidnapped thousands of civilians and at least 25 members of the security forces to help finance subversion and put political pressure on the Government. Victims were held in deplorable conditions and were often tortured both physically and psychologically. The FARC and ELN terrorists caused massive displacements both intentionally and as byproducts of military offensives and caused hundreds of civilian deaths and injuries through random terrorist bombings throughout the country. They also engaged in widespread recruitment of minors and used female conscripts as sex slaves.

Despite cease-fires declared in the context of demobilization negotiations conducted by the AUC—an umbrella organization of different paramilitary terrorist groups—with the Government, these terrorists continued to commit numerous unlawful and political killings, including of labor leaders, often kidnapping and torturing suspected guerrilla sympathizers prior to executing them. They also conducted kidnappings for ransom and committed “social cleansing” killings of homosexuals and other supposedly “undesirable” elements. The AUC terrorists often interfered with personal privacy in areas where they exercised de facto control, and regularly engaged in military operations in which they endangered civilian lives by fighting in urban areas and using civilian dwellings as combat shelter. AUC terrorists displaced thousands through both terror-induced forced displacements of suspect populations and military operations that drove peasants from their homes. AUC terrorists regularly threatened and attacked human rights workers and journalists who criticized their illegal activities. They also recruited child soldiers. Important strategic and financial areas continued to be heavily contested, especially as the Government eradicated coca crops, and created anti-kidnapping task forces.

The Government's emphasis during the year on improving security resulted in significant improvements in many human rights indicators. Murders fell by 20 percent, kidnappings declined 39 percent, and forced displacements of persons were cut by 49 percent. The number of newly displaced persons appeared to decline for the first time since 1999. The overall number of large-scale massacres and other killings committed by AUC terrorists appeared to decline during the year. Labor leaders and activists continued to be victims of high levels of violence; however, the number of union leaders killed during the year declined significantly.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings. The National Police registered 23,013 homicides during the year, a 20 percent decrease from 2002. The Colombian Commission of Jurists (CCJ), a prominent local human rights nongovernmental organization (NGO) (see Section 4), claimed there were at least 1,781 political murders and extrajudicial killings during the first 9 months of the year. The CCJ also asserted that at least 730 persons died in politically motivated massacres between July 2002 and June 2003. The Government's Presidential Program for Human Rights, however, reported that 430 persons died in massacres during the year, a 38 percent decrease from the Program's 2002 figure.

According to the CCJ, state security forces were responsible for at least 101 politically-motivated extrajudicial killings and 1 social cleansing killing during the first 9 months of the year. For example, according to Amnesty International (AI), on January 30, army troops removed 15-year-old Jose Amancio Niasa from a bus near Bagado, Choco department, and murdered him. Most of the incidents cited by the CCJ were under investigation by military and/or civilian authorities at year's end. Civilian courts tried an increasing number of cases of military personnel accused of human rights violations (see Section 1.e.). Investigations of past killings proceeded slowly.

The Office of the Inspector General (Procuraduria) and the military penal justice system continued separate investigations into the deaths of Florentino Castellanos and his 9-year-old son during a military operation near the town of Cantagallo, Bolivar department, in September 2002.

The Office of the Prosecutor General continued to gather evidence against eight members of the Army's Ninth Brigade, including a colonel and a captain, who were indicted in December 2002 for the extrajudicial killing of a FARC deserter in 2002.

From August 2002 through November 2003, the Inspector General's Office charged 68 members of the Armed Forces with human rights offenses. Of these individuals, 18 were soldiers, 13 were non-commissioned officers (NCOs), 11 were lieutenants, 15 were captains, 2 were majors, 6 were colonels, 2 were Brigadier Generals, and one was a Rear Admiral. As in the previous year, the Office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation.

As of December, the Human Rights Unit of the Prosecutor General's Office (Fiscalia) had issued preventive detention orders for 14 members of the Armed Forces for human rights violations and/or paramilitary collaboration. However, for various reasons, including lack of resources for investigation, lack of protection for witnesses and investigators, lack of coordination between government organs, and in some cases, obstruction of justice by individuals, impunity continued to be widespread. (On April 8, the Office of the Prosecutor General suspended three soldiers for their connection to the deaths of six children who were mistaken for insurgents in Pueblo Rico, Antioquia department in 2000. The military courts are still considering the case)

Investigations continue into the 2001 paramilitary massacre in San Carlos, Antioquia department, which resulted in the deaths of 13 persons.

Prosecutors were awaiting a verdict following the trial of 8 members of the army accused of the January 2002 murders of Uberney Giraldo and Jose Evelio Gallo, demobilized ELN guerrillas associated with the Socialist Renewal Current (CRS) political movement.

There was no progress in the investigation of a 2001 paramilitary massacre in San Carlos, Antioquia department, during which 13 persons died.

On July 23, retired army Lieutenant Colonel Jorge Plazas, who was serving a 40-year prison sentence for his role in the 1998 kidnapping and murder of Jewish businessman Benjamin Khoudari, escaped from his prison cell at the military's artillery school in Bogota. The army offered a \$5,350 (15 million pesos) reward for information leading to his arrest and announced penal and disciplinary investigations into his escape.

There was no progress during the year, none seemed likely, in the Prosecutor General's and the Inspector General's investigations of involvement of state security forces in the 1998 Barrancabermeja massacre and the 2000 murder of eyewitness Elizabeth Canas.

On March 26, a Bogota civilian court acquitted army intelligence officers Omar Berrio and Henry Berrio of masterminding the 1995 murder of Conservative Party

leader Alvaro Gomez. On May 22, a civilian court in Bogota acquitted retired army Colonel Bernardo Ruiz of involvement in the crime.

On December 18, the Government agreed to pay \$570,000 (1.6 billion pesos) to victims of the 1993 Riofrio massacre in Valle del Cauca department, during which paramilitaries murdered 13 peasants. Members of the army subsequently attempted to cover up the massacre by staging a mock combat at the scene and dressing the victims in guerrilla uniforms. The Government made its compensation decision following conciliation discussions between representatives of the Ministry of Defense and victims' families.

The Supreme Court had by year's end not ruled on appeals by 5 army officers and 4 suspected paramilitaries of their 1998 convictions for facilitating the 1988 Nuevo Segovia paramilitary massacre, in which 43 persons died.

There was no ruling on the Office of the Inspector General's appeal of a decision by the Council of State to overturn the Inspector General's order that the military dismiss Brigadier General Alvaro Velandia for involvement in the 1987 murder of M-19 guerrilla Nydia Erika Bautista. However, in November, the Human Rights Unit of the Prosecutor general's Office announced that it had enough evidence to continue its investigation of Velandia and three other NCOs.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from civilian leaders, including the President, and the military high command (see Section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities. For example, AI alleged that between May 1 and May 7, army soldiers wearing AUC armbands entered five indigenous communities in Arauca department and raped three teenage girls and killed one.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem. However, there was progress in several prominent cases related to military collusion with paramilitaries. For example, on December 16, the Inspector General's Office administratively sanctioned three military officers—retired Rear Admiral Rodrigo Alfonso Quinonez, Captain Oscar Eduardo Saavedra, and Captain Camilo Martinez—for failing to prevent the 2001 paramilitary massacre of 27 people in the village of Chengue, Sucre department. The Inspector General also ordered the dismissal of two NCOs, Rafael Euclides Bossa and Ruben Dario Rojas, for providing weapons to the paramilitaries that committed the massacre. There was no progress, however, in the investigation of the August 2001 murder of Yolanda Paternina, then-lead prosecutor in the case, or the disappearance in 2001 of three criminal investigators sent to Sucre to gather evidence in the case.

The Prosecutor General's Office closed its investigation into the military's alleged involvement in a 2001 paramilitary massacre near Buga, Valle del Cauca department, after finding no evidence of wrongdoing.

There was no progress in investigations of the 2000 and 2001 paramilitary murders of members of the "peace community" of San Jose de Apartado, Antioquia department. Peace community leaders accused the military of complicity in the crimes, and were highly suspicious of government investigators and prosecutors handling the cases. Members of the peace community were generally uncooperative and avoided speaking with authorities, severely limiting the Government's ability to make progress in the investigations.

In December, an army officer was convicted of collaborating with paramilitaries in the unsuccessful attempt on the life of labor leader Wilson Borja in 2000 (see Section 6.a).

There was no progress in the investigation of the 2000 paramilitary massacre of 42 persons in Las Ovejas, Bolivar department.

There was no progress in the investigations of army Colonel Victor Matamoros and army Captain Juan Carlos Fernandez for their alleged role in the 1999 paramilitary massacre in La Gabarra, Norte de Santander.

The Office of the Inspector General made no progress in its investigation of Colonel Rafael Alfonso Hani's alleged collaboration with paramilitaries during his tenure as commander of the Army's Palace Battalion in Buga, Valle del Cauca department, between 1999 and 2000.

There was no progress in investigations into the 1999 Tibu and Los Cuervos massacres in Norte de Santander department.

There was no progress in the investigation of the 1998 paramilitary massacre at Puerto Alvira, Meta department.

The Offices of the Prosecutor General and Inspector General continued to investigate whether members of the public security forces were involved in any of approximately 160 social cleansing killings that took place in northeastern Antioquia department between 1995 and 1998.

On June 20, former army colonel Lino Hernando Sanchez was convicted and sentenced to 40 years in prison for his role in the 1997 paramilitary massacre at Mapiripan, Meta department; the court also sentenced two non-commissioned officers to 32 and 22 years in prison, respectively. The Prosecutor General's Office had indicted former Brigadier General Jaime Uscategui in March for his alleged role in the massacre. Former army major Hernan Orozco, who petitioned for political asylum in a foreign country after testifying against Uscategui in an earlier military trial, was also indicted for allegedly helping Uscategui falsify official reports.

In May, the Prosecutor General's Office acquitted former General Rito Alejo del Rio of collusion with paramilitaries during his tenure as commander of the army's 17th Brigade in the Uraba region of Antioquia department from 1995 to 1997.

The trial continued of retired army Colonel Jose Ancizar Hincapie for alleged collaboration with paramilitaries who murdered 11 persons between 1993 and 1994.

The Inter-American Commission on Human Rights (IACHR) continued to broker a settlement of the Patriotic Union (UP) party's 1996 complaint that charged the Government with "action or omission" in the murders of nearly 3,000 UP and Communist Party members in the 1980s and 1990s. Negotiations between the Government and UP representatives continued, but little progress was achieved.

On March 28, two former officials from the city of Apartado, Antioquia department, were sentenced to 9 years in prison for organizing paramilitary groups that murdered several UP members between 1990 and 1996. On September 22, a judge ordered that an investigation into the 1990 murder of UP leader Bernardo Jaramillo be reopened, and that investigators determine whether paramilitaries successfully infiltrated Ossa's government-provided security detail.

Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. According to the CCJ, paramilitaries were responsible for at least 892 such killings during the first 9 months of the year. Paramilitaries targeted journalists (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), indigenous leaders (see Section 5), local politicians, and others who threatened to interfere with their criminal activities or showed leftist sympathies. For example, in January, paramilitaries in the town of Barrancabermeja, Santander department killed two feminist activists they suspected of collaborating with the FARC. On October 16, paramilitaries abducted and murdered Amaris Miranda, an activist with the Women's Popular Organization (OFF), a local NGO that was highly critical of paramilitary influence in the city. In December, police arrested four local paramilitaries suspected of participating in her murder.

The Office of the Prosecutor General continued to investigate scores of other murders committed by paramilitaries in Barrancabermeja.

The trial of four paramilitaries for the 2001 murder of former Cucuta regional ombudsman Ivan Villamizar continued at year's end (see Section 4). An arrest warrant was issued for AUC leader Carlos Castano for involvement in the crime.

There was no progress in the Prosecutor General's investigation of the 2001 paramilitary murder of Congressman Jairo Hernando Rojas.

Paramilitaries killed members of the security forces who interfered with their illegal activities. For example, on July 10, a paramilitary ambush killed two narcotics police officers who were searching for an AUC drug laboratory. Paramilitaries operating in Casanare and Boyaca departments responded to military offensives against paramilitaries in the region by executing five police officers in late July and early August. On February 13, in Gaira, Magdalena department, DAS agents arrested Luis Fernando Teheran, who was suspected of murdering five DAS agents in Magangua, Bolivar department, in February 2002.

Continuing a trend that began in 2002, paramilitaries appeared to commit far fewer large-scale massacres than in previous years. According to the Presidential Program for Human Rights, only 13 persons died in paramilitary massacres during the year, compared with 54 in 2002 and 281 in 2001. However, the CCJ blamed paramilitaries for far more massacres, reporting that paramilitaries killed at least 368 persons in massacres between July 2002 and June.

There was no progress in the investigations of alleged paramilitary massacres that occurred in Penol, Antioquia department, Frias, Magdalena department, and Sabaletas, Valle del Cauca department, in 2001.

Paramilitary continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and the mentally ill in city neighborhoods they controlled. According to the CCJ, paramilitaries committed at least 229 social cleansing killings during the first 9 months of the year. For example, the regional ombudsman in Bucaramanga, Santander department, reported that paramilitaries had murdered 37 adolescent vagrants in the city as of September. On June 1, DAS agents in Pereira, Risaralda department, captured an alleged paramilitary gunman wanted for

the murder of five drug addicts. On July 18, paramilitaries in Santa Rosa de Cabal, Risaralda department, killed three peasants who they claimed were common criminals.

Guerrillas, particularly the FARC, committed hundreds of unlawful killings. According to the CCJ, guerrillas were responsible for 427 unlawful killings during the first 9 months of the year, 203 of them massacres. The MOD attributed 70 percent of civilian deaths to guerrillas in 2002. The Presidential Program for Human Rights reported that the FARC killed at least 150 persons in massacres, although another 259 persons were killed in massacres in which the perpetrators remained unidentified.

Among guerrilla's primary targets were local elected officials, candidates for public office, religious leaders (see Section 2.c.), and alleged paramilitary collaborators. The FARC also continued its attempts to assassinate President Uribe (see Section 3).

On January 16, FARC guerrillas dragged 17 peasants from their homes in and around the town of San Carlos, Antioquia department, and executed them. Witnesses said the killers justified the executions by asserting that the victims were paramilitary collaborators. The army pursued and killed 12 of the guerrillas responsible for the massacre. On January 31, FARC guerrillas near the town of Piamonte, Cauca department, massacred eight community leaders whom they believed were paramilitary collaborators.

On May 5, the FARC executed 10 hostages, including Governor of Antioquia Guillermo Gaviria and former Minister of Defense Gilberto Echeverri (see Section 1.b.), during an ill-fated hostage rescue attempt by the military. Gaviria and Echeverri had been kidnapped in April 2002 while leading a peace march near the town of Caicedo, Antioquia department.

There was no progress in the investigations of the FARC's murders of seven ecotourists in Purace National Park in 2001, the FARC's murders of seven peasants near the village of Alto Sinu, Cordoba department, in 2001, or the ELN's murders of nine peasants in the village of La Cristalina, Santander department, in February 2001.

The Office of the Prosecutor General continued to investigate the deaths and disappearances of off-duty military and police personnel targeted by the FARC as part of its publicly announced "Pistol Plan". In January, for example, FARC guerrillas kidnapped, tortured, and killed a soldier who was returning from his father's funeral. On June 3, police arrested four members of the ELN after uncovering a plot to execute off-duty police officers in Cucuta, Norte de Santander department.

On September 26, the Office of the Prosecutor General indicted the entire FARC Secretariat for the murders of seven residents of the town of La Macarena, Meta department, in the week following the abolition of the FARC's former safe haven, or "despeje", in February 2001. Prosecutors believed the peasants were murdered for cooperating with the army.

On January 13, CTI and DAS agents arrested 14 guerrillas; one of whom was believed to have participated in the FARC's March 2000 attack on the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department, which killed 20 persons. They were awaiting trial at year's end.

The Office of the Prosecutor General continued to investigate the FARC's December 2000 murder of Congressional peace commission chairman Diego Turbay, his mother, and five other persons in Caqueta department. While arrest warrants have been issued, no progress was expected in arresting the senior FARC leaders accused of ordering the crime. On July 28, Wellington Silva, the guerrilla charged with the 1997 kidnapping and murder of Turbay's older brother, then-Senator Rodrigo Turbay, escaped from Neiva prison after FARC guerrillas launched an offensive against the prisons to free Silva and other guerrilla prisoners.

On May 17, the Government extradited Popular Liberation Army (EPL) member Gerardo Herrera Iles, who was indicted in a foreign court for the 2000 kidnapping and murder of a foreign oil company technician near the Ecuadorian border.

There was no progress in the investigation of the FARC's murders of Henry Perea, former mayor of Jurado, Choco department, in 2001, and former Minister of Culture Consuelo Araujo near Valledupar, Cesar department, also in 2001.

The trial in absentia of three FARC guerrillas suspected of involvement in the 1999 murders of 3 U.S. citizen indigenous rights activists began in Cucuta on May 26. Convicted FARC guerrilla Nelson Vargas, who confessed to the crime, was extradited to the United States.

The FARC executed guerrillas who attempted to desert. In June, the FARC Secretariat issued orders to infiltrate the Government's desertion/reinsertion program in order to murder former members of the organization. On June, FARC infiltrators murdered a former guerrilla who had accepted a leadership role in the program.

*b. Disappearance.*—The law specifically defines forced disappearance as a crime. The CCJ reported 260 cases of forced disappearance during the first 9 months of the year, and accused the security forces of direct responsibility for 48 of these cases. For example, the CCJ alleged that on May 11 troops of the 6th Brigade surrounded the towns of Montoso and Aco, Tolima department, accused various members of the population of being guerrilla collaborators, and causing the disappearance of Jose Maximiliano Gomez. The Association of Families of Detained and Disappeared Persons (ASFADDES), which reported 785 forced disappearances during the first 9 months of the year, claimed there have been more than 6,000 cases of forced disappearance since 1982. The U.N. Working Group on Enforced or Involuntary Disappearances reported that there have been at least 1,114 cases since 1981; 850 of these cases remained unresolved.

Paramilitaries were responsible for most forced disappearances. According to the CCJ, paramilitaries were responsible for 183 forced disappearances during the first 9 months of the year. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all were presumed dead (see Section 1.a.). For example, authorities believed paramilitaries killed four fishermen who remained unaccounted for after a 2001 mass abduction from the Cienaga de Santa Marta region of Magdalena department. On January 18, paramilitaries abducted an eight-man hunting party near the town of Palo Cabildo, Tolima department, as well as a three-man search party sent to look for the missing hunters. On February 12, the army discovered their bodies in a mass grave. The CCJ blamed guerrillas for 3 forced disappearances.

Kidnapping, both for ransom and for political reasons, remained a serious problem. According to the Free Country Foundation, there were 2,200 kidnappings during the year, a reduction of 30 percent compared to the 2,982 kidnapping reported in 2002. Elite government anti-kidnapping units known as GAULAs and other elements of the security forces freed 667 hostages in the first 9 months of the year. However, despite government efforts, the Free Country Foundation reported that, through August, at least 52 persons died in captivity.

Some members of the state security forces were involved in kidnapping for ransom. In August, for example, three policemen from Popayan, Cauca department, kidnapped a soldier and his younger brother, asking for \$77,000 (200 million pesos) ransom. The soldier had been part of an army unit that discovered a FARC cache of \$8 million (20.7 billion pesos) near the town of San Vicente del Caguan, Caquetá department.

The Free Country Foundation reported that paramilitaries were responsible for 168 kidnappings through November, or 8 percent of all kidnappings in which a perpetrator was identified. Paramilitaries kidnapped both for ransom and as an expression of power and influence. For example, on May 30, paramilitaries in the department of Cesar released a senior departmental government employee they had held captive for over 9 months; paramilitaries justified their actions by claiming they had held him while they investigated allegations of corruption. On September 20, the military rescued a rancher that paramilitaries were holding for ransom near the town of Puerto Lopez, Casanare department.

No progress was made in the investigation of the June 2001 paramilitary abduction of Embera-Katio indigenous leader Kimi Domico in Tierralta, Córdoba department. Comments made by AUC military commander Salvatore Mancuso in 2002 implied that Domico had been killed.

No progress was made and none seemed likely in the investigation of the disappearances of two CTI agents near Berrugas, Sucre department, in 2001 (see Section 1.a.).

Kidnapping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and the ELN. The Free Country Foundation reported that guerrillas were responsible for approximately 55 percent of kidnappings reported during the first 11 months of the year in which a perpetrator was identified. According to the Foundation, through November, the FARC kidnapped 640 persons and the ELN 320. In addition, the FARC often purchased kidnapping victims from common criminals and then negotiated ransom payments with families. There were many reports that guerrillas tortured kidnap victims (see section 1.c. and 1.g.).

One of the largest categories of kidnapping victims was children, 201 of whom were kidnapped by mid-October. In February, for example, the ELN kidnapped a captured EPL guerrilla's infant to pressure the former insurgent not to cooperate with the authorities. On February 21, the military rescued the child and arrested the guerrilla who cared for the infant.

The Free Country Foundation reported that, as of November 30, there had been 1,358 kidnappings for ransom during the year, or approximately 70 percent of all kidnappings. Guerrillas even demanded ransom payments to return the bodies of



hostages who died in captivity. In August, for example, the ELN demanded \$7,700 (20 million pesos) to return the body of deceased hostage Carlos Enrique Salinas to his widow. Salinas had died in captivity after being kidnapped from the tourist resort of Bahia Solano, Choco department, in August 2002.

The FARC and ELN also committed numerous politically motivated kidnappings. On September 14, for example, the ELN kidnapped eight foreign tourists in the mountainous Sierra Nevada region of Magdalena department. Rather than demanding a ransom, the ELN used negotiations over the hostages' release to demand political concessions. All hostages were released by December 22, in return for a Roman Catholic Church-sponsored study of economic and social conditions in the Sierra Nevada region.

The FARC used political kidnappings to discredit the Government and pressure it into a prisoner exchange. On February 13, for example, the FARC kidnapped three foreign citizens after their narcotics surveillance aircraft crash-landed in a rural area of Caqueta department. The FARC said it would release the three only as part of a prisoner exchange.

The FARC continued to hold political hostages, including former presidential candidate Ingrid Betancourt, former Senator Jorge Eduardo Gechem, former members of Congress Orlando Bernal, Luis Eladio Perez, and Consuelo Gonzalez, Congresswoman Gloria Polanco, former Governor of Meta department Alan Jara, and 12 former regional legislators from Valle del Cauca department. On August 5, the FARC released former Congressman Oscar Lizcano after nearly 3 years in captivity. The Government indicted various alleged guerrillas for these crimes, but none had been convicted by the end of the year.

The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of a "humanitarian" prisoner exchange. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the Government to cede to the FARC's demands. However, the Government insisted on ironclad guarantees that that released combatants not return to terrorist ranks, a condition unacceptable to the FARC.

The FARC also kidnapped members of the public security forces. According to the Free Country Foundation, 25 members of the public security forces were kidnapped through November, all by guerrillas, particularly the FARC.

The FARC killed numerous hostages during the year. For example, on May 5, the FARC executed Antioquia Governor Guillermo Gaviria, former Minister of Defense Gilberto Echeverri, and eight others during an ill-fated rescue attempt by the military (see Section 1.a.). During the FARC's February 13 kidnapping of three foreign citizens following their plane's crash landing, the FARC executed another foreign citizen and a Colombian military officer. The FARC also executed a former beauty queen and her industrialist husband, who were kidnapped in December 2002, and a Japanese executive, who was kidnapped in early 2001. On December 15, DAS agents arrested FARC leader Wilmer Marin, alias "Hugo," for murdering the Japanese national.

On July 4, Vice-President Francisco Santos announced that the Government was creating a sophisticated database to help GAULA units apply lessons from past operations and use information gathered from victims and families to improve their performance. The government-affiliated Fund for the Defense of Personal Liberty (FONDELIBERTAD) provided assistance to approximately 600 friends and relatives of kidnap victims.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and criminal law explicitly prohibit torture, and cruel, inhuman, or degrading treatment or punishment; however, there were reports that the police, military, and prison guards sometimes mistreated and even tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see Section 1.e.). In November, the U.N. Committee against Torture expressed "concern over the large number of cases of torture and mistreatment allegedly committed in a generalized and habitual manner by state security forces and bodies . . . both in and out of armed operations."

The Office of the Inspector General received 103 complaints of torture by state agents in 2002. The CCJ asserted that between July 2002 and June 2003 the security forces were responsible for at least 52 incidents of torture.

AI reported that, on May 28, Wilson Duarte, a peasant farmer, and Hernando Mican were abducted by paramilitaries, supported by the military, in Viota, Cundinamarca department, and later tortured and killed. The Prosecutor General's Office has issued five orders of preventive detention, including two against members of the army, in this case.

The Office of the Prosecutor General continued to investigate accusations publicized during 2002 by the Committee in Solidarity with Political Prisoners (CSPP)

that members of the Cali GAULA collaborated with paramilitaries in abducting and torturing individuals suspected of involvement in kidnappings.

The CCJ reported that paramilitaries were responsible for at least 123 cases of torture between July 2002 and June. On July 21, for example, paramilitaries allegedly abducted Nora Cecilia Velasquez, a leader of the National Association of Black and Indigenous Women, and repeatedly tortured her physically and psychologically for 3 days before releasing her. Many victims of paramilitary killings often showed signs of torture; for example, in April authorities discovered a former paramilitary base in the village of Puerto Torres, Caqueta department, and found evidence that paramilitaries had dismembered and burned victims alive.

Guerrillas also committed acts of torture. The CCJ reported 10 cases of torture by guerrillas between July 2002 and June; the bodies of many persons kidnapped and subsequently killed by guerrillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (see Section 1.b.). The MOD reported that guerrillas tortured, mutilated, and killed soldiers and police who surrendered (see Section 1.g). In May, for example, FARC guerrillas tortured and killed two police officers they forced off a bus traveling between the towns of Villanueva and Arenal, Bolivar department.

Prison conditions remained harsh, especially for prisoners without significant outside support. Many of INPEC's 8,756 prison guards were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems. Private sources continued to supplement most prisoners' food.

Only six prisons—Valledupar, Acacias, Popayan, Combita, and newly constructed prisons in Palogordo, Santander department, and La Porada, Caldas department—met international standards for acceptable prison facilities. In other facilities, inmates paid to eat, drink, or sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards.

According to INPEC, overcrowding was the prison system's most serious problem. At the end of the year, the country's prisons and jails held 62,496 inmates, 30 percent over their intended capacity of 48,000. According to the National Human Rights Ombudsman's Office, the increasing severity of overcrowding was a direct result of more aggressive Government security policies, which were adding inmates at nearly six times previous annual rates.

Incarcerated members of illegal armed groups who refused to renounce terrorist affiliations were housed separately from members of rival groups and the general prison population. Authorities generally granted incarcerated leaders of these groups substantial autonomy to organize their respective prison wings and structure daily activities. To facilitate conditions for negotiations, the Government allowed some incarcerated leaders to use special communications equipment to maintain contact with terrorists still at large. Authorities continued moving high-level narcotics traffickers to the new high security prison at Combita, where they endured the same spartan conditions as other prisoners. In March, President Uribe announced the elimination of special privileges for white-collar criminals.

The genders were separated in facilities that held both men and women, and there were dedicated women's prisons. Conditions at women's prisons were similar to those at men's. According to the Criminal Procedure Code, no one under the age of 18 may be held in a prison; juveniles were held in separate facilities operated by the Colombian Family Welfare Institute (ICBF).

There were no separate facilities for pretrial detainees, who made up nearly 60 percent of prison inmates. According to INPEC, 27,793 pretrial detainees were held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees impossible.

The Government sometimes failed to prevent deadly violence among inmates. INPEC reported at least 15 violent deaths among inmates during the year, not including suicides. There were 2 major prison riots. On May 30, inmates protesting conditions at the city jail in Santa Marta, Magdalena department, rioted for approximately 32 hours, leaving several injured. On February 3, several inmates were seriously injured—one was paralyzed—when guards used clubs and tear gas to break up a riot at a prison in San Isidro, Magdalena department. The Office of the Prosecutor General continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

One hundred and seventeen prisoners escaped during the year. Fifty escaped while on furlough with special passes, 61 escaped because of faulty security, and illegal armed groups rescued 6. For example, on December 7, 6 members of the FARC

escaped from jail in Florencia, Caqueta department, after starting a riot and overpowering the guards.

The ICRC continued to have routine access to most prisons and police and military detention centers. However, the FARC and ELN continued to deny the ICRC access to police and military hostages (see Sections 1.b. and 1.g.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, there were allegations that authorities detained citizens arbitrarily.

The 125,000 members of the National Police fall under the jurisdiction of the Ministry of Defense. The National Police includes special units that focus on intelligence, narcotics, kidnapping and extortion, and rural policing. During the year, the police established a permanent presence in all but 18 of the 157 municipalities that lacked a police presence at the end of 2002. Police are authorized to execute arrest warrants and detain suspects “caught in the act” or fleeing the scene of a crime. Agents of the Department of Administrative Security (DAS), have broad intelligence gathering, law enforcement, and immigration control function, as do members of the Prosecutor General’s Corps of Technical Investigators (CTI).

Police, DAS, and CTI officials executed arrest warrants issued by prosecutors based on probable cause. Law enforcement officials also arrested criminals caught in the act or fleeing the scene of a crime. Members of the Armed Forces detained members of illegal armed groups captured in combat, but were not authorized to execute arrest warrants. An anti-terrorism law passed by the Senate on December 10—but not yet endorsed by the Constitutional Court—would grant the military this power (see Section 1.f.). Law enforcement authorities must promptly inform suspects of the reasons for their arrest and bring suspects before a senior prosecutor within 36 hours of their detention. Prosecutors must rule on the legality of detentions within 72 hours.

The law prohibits incommunicado detention. Suspects have the right to prompt access to counsel of their choice, and public defenders from the Office of the Human Rights Ombudsman assist indigent defendants. Individuals accused of lesser or unintentional crimes have access to bail; bail is generally not available for serious crimes such as murder, rebellion, or narcotics trafficking. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In the cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Prominent human rights NGOs complained that the Government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. According to the Center for Popular Research and Education (CINEP), the security forces arbitrarily detained over 2,000 persons during the first 9 months of the year, a 400 percent increase over 2002. Many of these detentions took place in highly conflictive areas where the military was involved in active hostilities against terrorist insurgents. For example, on August 21 in the town of Saravena, Arauca department, military authorities arrested 42 persons, including social activists and human rights advocates, based on the accusations of masked informants who pointed out alleged guerrillas collaborators to prosecutors participating in the operation. The Government and prominent local NGOs frequently disagreed about how to define an “arbitrary” detention; the Government characterized detentions based on compliance with legal formalities, while NGOs typically applied other criteria that often had a political basis.

The Government said it did not hold political detainees, although some prominent NGOs considered captured guerrillas to be detained for political reasons.

Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as political pawns in a prisoner exchange (see Section 1.b.).

The Constitution prohibits forced exile, and the Government respected this prohibition in practice. However, many persons from across the socio-economic spectrum went into self-exile because of threats from paramilitaries, guerrillas, or common criminals.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the suborning and intimidation of judges, prosecutors, and witness was a serious problem. The judicial system was also extremely overburdened. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that, as of October, the civilian judiciary—including the criminal justice system—suffered from a back-

log of at least 102,000 cases. These backlogs led to large numbers of pretrial detainees (see Section 1.c.) Impunity remained the greatest challenge to the credibility of the Government's commitment to human rights.

Judicial authorities were frequently subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees (ASONAL), numerous judicial branch employees received threats against their lives and some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Others were less fortunate. For example, on January 27, paramilitary gunmen murdered municipal judge Marilis Hinojosa in the town of Becerril, Cesar department. As of the end of the year, the Human Rights Unit of the Prosecutor General's Office had charged more than 20 persons in the case, including the mayors of Becerril and the neighboring town of Codazzi. On September 4 in Bogota, suspected FARC operatives killed a former prosecutor who had been responsible for investigating the February bombing of the El Nogal social club (see Section 1.g.). Witnesses, who were even more vulnerable to intimidation, often lacked faith in the Government's ability to protect them and refused to testify.

The civilian justice system is a separate and independent branch of government that uses a Napoleonic legal system incorporating some accusatorial elements. In late 2002, Congress approved constitutional changes designed to convert the current mixed judicial system into a purely accusatorial system. The reforms will go into effect on January 1, 2005, prior to which major changes will have to be made to the penal, criminal procedure, and evidence codes. After that date, judges, rather than prosecutors, will issue arrest warrants and decide pretrial motions. Cases will be tried in open court and decided on the basis of oral trial proceedings, rather than an exhaustive written dossier.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil is the largest jurisdiction and handles all criminal, civil, labor, agrarian, and domestic cases involving non-military personnel. The civil jurisdiction is divided into 31 judicial districts, each containing at least one judicial circuit encompassing one or more municipalities. A superior tribunal serves as each district's court of appeals. The civil jurisdiction's 436 magistrates are distributed according to the population of each district. The lower circuit and municipal courts—each staffed by a judge, a court clerk, and perhaps a few administrative personnel—are the basic cells of the civil jurisdiction. In small towns, a single "all-purpose" judge rules on all cases. Specialized circuit courts within the civil jurisdiction try cases involving particularly sensitive crimes such as narcotics trafficking and terrorism.

The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeals. In addition to hearing appeals from lower courts, the Supreme Court has original jurisdiction in trials of the President, cabinet ministers, heads of independent Government agencies, admirals and generals, and magistrates of the Supreme Court, Council of State, Constitutional Court, and Supreme Council of the Judiciary (CSJ).

The administrative jurisdiction of the civilian justice system is divided into 27 judicial districts with an equal number of tribunals. Each tribunal has from 1 to 23 magistrates, depending on the population of the district. Administrative actions such as decrees and resolutions may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeals for complaints arising from administrative acts.

The Constitutional Court, which is charged with "safeguarding the integrity and supremacy" of the Constitution, is the sole judicial body that encompasses the constitutional jurisdiction of the civilian justice system. It rules on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court may also issue advisory opinions on the constitutionality of bills not yet signed into law, and randomly reviews the decisions of lower courts on "tutelas", or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process as a legal defense of last resort. Courts must rule on the validity of a tutela within 10 days. Approximately 150,000 tutelas were before the Constitutional Court for possible review at the end of the year.

The final functional jurisdiction of the civilian justice system is the special jurisdiction. The special jurisdiction consists of the justices of the peace program, designed to encourage alternative dispute resolution at the municipal level, which has been implemented in less than 1 percent of the country's municipalities, and the indigenous jurisdiction, which grants indigenous leaders the right to exercise judicial functions on indigenous reservations in accordance with traditional laws (see Section 5.).

The Supreme Council of the Judiciary (CSJ) is responsible for the administration and discipline of the civilian justice system. The CSJ is divided into two chambers: administrative and disciplinary. The administrative chamber supervises the civilian justice system's budget and determines its organization. The disciplinary chamber disciplines judicial officials and resolves conflicts of jurisdiction, such as those between the civilian and military justice systems.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issue conflicting rulings and frequently disagree about jurisdictional responsibilities.

The Office of the Prosecutor General (Fiscalia) is tasked with investigating criminal offenses and prosecuting the accused. The Supreme Court elects the Prosecutor General from a list of three candidates selected by the President. The Prosecutor General serves a 4-year term that overlaps two presidential administrations. The Office is independent of both the executive and judicial branches and is divided into national, regional, and local offices. The Office has its own corps of armed investigators known as the Corps of Technical Investigators (CTI). In 1994, the Prosecutor General's Office established a special unit to investigate human rights crimes. The human rights unit is headquartered in Bogota and includes 11 satellite units in 7 regional capitals. The unit's 42 prosecutors were handling 1,458 cases at year's end.

The Office of the Inspector General (Procuraduria), also known as the Public Ministry, investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General, whose term overlaps those of two presidents, is elected by the Senate to a 4-year term from a list of three candidates nominated by the President, Supreme Court, and Council of State, respectively. The Office of the Inspector General imposes administrative sanctions that range from letters of reprimand to dismissal and permanent bans from public office. It has no authority to impose criminal sanctions, but can refer cases to the Prosecutor General. The Inspector General's Office referred all cases of human rights violations received during the year to the human rights unit of the Prosecutor General's Office.

A criminal case begins with a preliminary investigation that can last up to 180 working days. If evidence is found linking a particular individual to a crime, the case moves into a formal investigative stage in which prosecutors have a maximum of 360 working days to file formal charges. Once formal charges are filed, the Government has 35 working days to bring a case to trial. Trials are open to the public. Judges question witnesses directly and determine the outcome of all trials. There are no juries.

An accused is presumed innocent until proven guilty and has the right to timely consultation with counsel. Attorneys from the Office of the Human Rights Ombudsman (see Section 4) serve as public defenders and are required to represent indigent defendants. However, the Office is severely overburdened. Defendants have the right to be present at proceedings against them, review relevant government evidence, present witnesses and evidence on their own behalf, and confront and question prosecution witnesses. However, most evidence continued to be presented in writing, and judges generally relied on written records, rather than oral argument, to determine guilt or innocence. Defendants have the right to appeal a conviction to a higher court.

The military justice system, as part of the Ministry of Defense, falls under the executive branch. The director of the military penal justice system reports directly to the civilian Minister of Defense. The military justice system consists of the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts, and 40 military trial courts. The civilian Supreme Court serves as a second court of appeals for cases in which sentences of 6 or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. A presidential directive issued in 2000 raised "to the category of law" a 1997 Constitutional Court ruling that defined all serious violations of human rights as unrelated to military service. Such cases are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. On July 29, the Minister of Defense inaugurated the new "Armed Forces School of Human Rights, International Humanitarian Law, and Military Penal Justice" at New Granada Military University.

Military prosecutors report to the director of the military penal justice corps, a senior flag rank officer, rather than to local commanders. The military penal code denies commanders the power to impose military justice discipline on their subordi-

nates, and extends legal protection to service members who refuse to obey illegal orders to commit human rights abuses.

Criminal investigations within the military justice system are designed to be completed quickly. Military justice system investigators conduct fact-finding with the assistance of criminal investigators and/or judicial police. Preliminary investigations generally last 60 days or less, although investigations can last up to 180 days if a case implicates 2 or more suspects. If investigators believe there is reasonable evidence of guilt, a formal investigation, conducted within the same time frame, is initiated. During formal investigation, suspects in crimes punishable by 2 or more years in prison are usually placed in investigative detention, which can last up to 120 days. At the conclusion of the formal investigation phase, investigators can close a case for lack of evidence or turn it over to military prosecutors.

Prosecutors have 15 days in which to decide whether to return a case to investigators for further investigation, close it, or issue formal charges. If a suspect is charged, a court-martial takes place within 28 days. However, this rigorous timetable is suspended if a defendant appeals the court's jurisdiction or procedural rulings, an exception that causes some cases to drag on for years. For example, jurisdictional appeals accounted for some of the delay in the military's investigation of the 1998 Air Force bombing of the village of Santo Domingo, Arauca department (see Section 1.g.).

Military judges preside over Colombian courts-martial without the assistance of a jury. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within 8 days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

Criminal procedure within the military justice system is similar to that within the civilian justice system, with the exception that the military justice system has already incorporated many accusatorial elements. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A 1993 Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on public defenders from the Ombudsman's Office.

From August 2002 to October 2003 the CSJ ruled on 18 jurisdictional disputes between the civilian and military justice systems, assigning 12 cases to the civilian system and 6 cases to the military justice system. The Superior Military Tribunal reported that 72 cases were transferred from military to civilian jurisdiction from September 2002 to October 2003. An independent review of these cases revealed that approximately 26 involved allegations of gross violations of human rights or collaboration with paramilitaries.

The MOD reported—and the Prosecutor General's Office confirmed—that military and police personnel charged by civilian prosecutors routinely were suspended from their duties and placed on half-pay. Officers and NCOs were removed from command duties. Seventeen members of the military and at least seven police officers were suspended at year's end for human rights violations and/or collaboration with paramilitaries.

The Government did not hold political prisoners, although it held approximately 6,800 prisoners accused of terrorism, rebellion, or aiding and abetting insurgency. The Government gave the International Committee of the Red Cross (ICRC) access to these prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were exceptions.

With the exception of exigent circumstances, the law requires government authorities to obtain a warrant signed by a senior prosecutor in order to enter a private home without the owner's consent. The MOD continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court. On December 10, the Senate passed an anti-terrorism statute containing provisions that would authorize government authorities to intercept private communications without judicial authorization in cases related to terrorism; implementing legislation elaborating on this exception had not been passed by the end of the year. Because the statute involves a constitutional reform, it must receive the endorsement of the Constitutional Court before becoming law. The Court had not ruled on the law by the end of the year.

On September 9, the Prosecutor General's Office charged 5 members of Medellín's anti-kidnapping unit (GAULA) with illegally wiretapping the telephone lines of 2,000 individuals and NGOs between 1997 and 2000. Separately, the Office of the Inspector General ordered the dismissal of Colonel Mauricio Santoyo, Medellín GAULA commander at the time the illegal wiretaps were placed and monitored. Santoyo, who was serving as Chief of Presidential Security at the time of his dismissal, appealed the charges. The Inspector General's ruling on Santoyo's appeal was pending at year's end. There was no significant progress in criminal and disciplinary investigations of the 2001 murder of police officer Carlos Ceballos, who testified in the case.

A key component of the Government's "Democratic Security Strategy" to combat terrorism and restore order throughout the country was a network of civilian informants who were paid to identify terrorist activists and sympathizers. Many national and international human rights groups criticized the network as vulnerable to abuse and a threat to privacy and other civil liberties.

The Government did not prohibit membership in most political organizations; however, membership in private organizations that espoused or carried out acts of violence—such as the AUC, FARC, and ELN—was illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see Section 1.g.) and conscription, and punished family members for the alleged violations of individuals. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and ordered forced implantation of intrauterine devices and forced abortions.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The country's 40-year-old internal conflict—among Government forces, several leftist insurgent groups, and a right-wing paramilitary movement nominally supportive of the State—continued. The internal armed conflict, and the narcotics trafficking that both fueled it and prospered from it, were the central causes of violations of human rights and international humanitarian law. Government security forces generally abided by international humanitarian law and respected human rights. The Human Rights Ombudsman's Office reported that only 2 percent of complaints it received about violations of human rights and international humanitarian law implicated members of the security forces. However, in violation of government and military policy, some members of the security forces violated human rights. For example, the CCJ asserted that state security forces committed 101 extrajudicial killings during the year (see Section 1.a.). Negligence by members of the public security forces, particularly during combat operations, also sometimes led to civilian deaths.

On January 18, the Human Rights Ombudsman's Office announced a \$5.3 million (15 billion pesos) lawsuit against the Government for alleged military negligence in failing to protect the citizens of Bojaya, Chocó department, during a May 2002 battle between the FARC and AUC. One hundred nineteen civilians hiding in the town church were killed when a FARC gas cylinder bomb impacted the building.

On April 8, the Office of the Prosecutor General suspended three soldiers for their roles in the accidental deaths of six children caught in a crossfire between an army unit and ELN guerrillas in the town of Pueblo Rico, Antioquia department, in 2000. The case was still under investigation by the military penal justice system at year's end.

On January 14, the Inspector General's Office upheld the 90-day suspension of a helicopter pilot and flight technician for their roles in the 1998 Air Force bombing of the town of Santo Domingo, Arauca department. In February, consistent with an October 2002 ruling by the Constitutional Court, the Supreme Council of the Judiciary (CSJ) transferred the criminal investigation of the bombing from the military to the civilian justice system. On December 20, the Prosecutor General's Office charged the helicopter's pilot, copilot, and flight technician with involuntary manslaughter.

The Government, including military authorities, followed an open-door policy toward the ICRC, allowing free and safe passage to members of impartial humanitarian organizations, even in conflict zones.

Contrary to the explicit directives of civilian defense authorities and members of the military high command, some members of the public security forces—principally enlisted personnel and NCOs, but also some more senior officials—collaborated with or tolerated the activities of illegal paramilitaries. Reasons for collaboration or tolerance varied from ideological sympathy and perceived operational exigencies to corruption and participation in illegal paramilitary activities such as drug trafficking. Evidence suggested there were tacit arrangements between local military officers and paramilitary groups in some regions, and some members of the security forces

actively assisted paramilitary groups by passing them through roadblocks, sharing intelligence, providing them with weapons and ammunition, and joining their ranks while off duty.

In January, an arrest warrant was issued for Major Renato Acuna, who was accused of trafficking arms and munitions to paramilitaries. Army Captain Jorge Ernesto Rojas will stand trial for alleged collaboration with Major Orlando Alberto Martinez in trafficking thousands of Bulgarian AK-47 assault rifles to the AUC.

Although there continued to be incidents of collaboration between members of the security forces and paramilitaries, the military substantially increased its offensive actions against paramilitary groups. According to the Ministry of Defense, members of the security forces captured 3,166 during the year, a 133 percent increase from 2002. They also killed 346 paramilitaries in combat over the year compared to 187 in 2002. Paramilitaries lost significantly more combatants per confrontation with the security forces than did the FARC or ELN.

Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. There were approximately 12,000 paramilitary combatants in the country, the largest and most influential group of which was the United Self-Defense Forces of Colombia (AUC), a terrorist organization. The AUC operated as a loose confederation of disparate paramilitary groups, the largest of which was the United Self-Defense Forces of Cordoba and Uraba (ACCU), led by the principal organizers of the AUC, Carlos Castano and Salvatore Mancuso. Other important paramilitary organizations included the Cacique Nutibara Bloc (BCN), the Central Bolivar Bloc (BCB), and the Middle Magdalena Bloc (BMM).

On July 15, following 7 months of exploratory discussions between the AUC and a special government commission, the Government's Office of the High Commissioner for Peace (ACP) and senior representatives of the AUC agreed to begin formal negotiations for the AUC's full demobilization. Two pilot demobilizations took place near the end of the year. On November 25, 874 members of the AUC's Cacique Nutibara Bloc (BCN), a primarily urban organization, demobilized in Medellin, Antioquia department. On December 7, 168 members of the Peasant Self-Defense Groups of Ortega, a small paramilitary force with loose ties to the AUC, demobilized in Cauca department. The Government continued separate discussions with other paramilitary organizations, including the BCB and the AUC's Centauros Bloc, with the goal of fully demobilizing all overt paramilitary forces by the end of 2005.

The paramilitary demobilization process was controversial. Critics from across the ideological spectrum, including major domestic and international human rights groups, expressed concerns about the legitimacy of the process, the real motivations of the paramilitaries, and the potential for impunity for confessed human rights abusers.

In December 2002, the AUC and several other paramilitary organizations called cease-fires as signs of good will in anticipation of negotiations with the Government. The AUC cease-fire was reiterated in its July 15 agreement with the Government. However, none of the paramilitary cease-fires were fully observed, and some dissident paramilitary groups never agreed to a cessation of hostilities. Power struggles for leadership and control of drug trafficking resources provoked internecine warfare among paramilitary groups. For example, prior to its demobilization in November, the BCN engaged in a violent conflict with the dissident Metro Bloc that caused the Metro Bloc's total disintegration. On the country's eastern plains, the Centauros Bloc and the Peasant Self-Defense Forces of Casanare (ACC) continued to fight over drug cultivation areas and trafficking routes. Most paramilitary cease-fire violations, however, affected innocent civilians.

The Colombian Commission of Jurists registered at least 600 violations of paramilitary cease-fires during the year, including unlawful killings (see Section 1.a.), forced disappearances and kidnappings (see Section 1.b.), and forced displacements.

Paramilitaries were responsible for thousands of civilian deaths during the year. Combat between paramilitaries and guerrillas led to the deaths of hundreds of civilians. For example, in May, crossfire between paramilitaries and guerrillas killed five indigenous persons near Tame, Arauca department. On July 6, approximately 30 peasants were killed during a battle between paramilitaries and guerrillas near Tibu, Norte de Santander department. Despite paramilitary cease-fire violations, however, the overall level of paramilitary violence appeared to drop significantly. According to figures released by the Presidential Program for Human Rights, paramilitaries committed fewer selective killings, particularly of vulnerable groups such as trade unionists, fewer massacres, and forcibly displaced fewer civilians. CCJ reported that, through September, paramilitaries were responsible for the deaths of 892 civilians, a negligible difference from 2002.

Although the overall number of displacements caused by paramilitaries fell, paramilitaries continued to forcibly displace civilians residing along key drug and



weapons transit corridors or suspected of harboring sympathies for guerrillas. For example, on April 1, paramilitaries moved into the town of Viota, Cundinamarca department, and displaced 1,500 peasants suspected of having guerrilla sympathies. Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (see Section 1.d.). For example, in January, an AUC blockade of food and other essential items forced 74 rural families to flee to urban areas of southern Bolivar department.

Paramilitaries failed to respect the injured and medical personnel. Doctors and hospitals suspected of treating guerrillas were frequently declared military targets. For example, in August paramilitaries boarded a bus in Meta department and killed an indigenous doctor for allegedly collaborating with guerrillas.

Although paramilitaries continued to recruit minors (see Section 5), paramilitary groups turned over at least 75 minors to government authorities during the year, either as signs of good faith or as conditions of formal demobilization. For example, on June 26, paramilitaries operating in Meta and Vichada departments turned over 15 child soldiers to Government authorities. In conjunction with the BCN's formal demobilization in Medellin, 48 child soldiers were demobilized separately and turned over to government social services.

The country's two largest left-wing guerrilla organizations are the 13,500 member Revolutionary Armed Forces of Colombia (FARC), a terrorist organization, and the 3,500 member National Liberation Army (ELN), also a terrorist organization. Both organizations declined in numerical strength during the year because of strong pressure from the military that caused high numbers of guerrilla casualties and led thousands of guerrillas to desert. In many areas of the country, the two guerrilla groups worked together to combat both government forces and illegal paramilitaries. On August 26, the FARC and ELN high commands issued a joint communique acknowledging their cooperation and affirming that neither would enter peace negotiations with the administration of President Alvaro Uribe.

The FARC and ELN systematically violated international humanitarian law by committing unlawful killings, kidnapping civilians and military personnel, torturing captives, and recruiting child soldiers (see Sections 1.a., 1.b., and 1.c., and 5.).

Guerrillas were responsible for a large percentage of civilian deaths related to the internal conflict. Combat between guerrillas and state security forces caused hundreds of civilian casualties. For example, on February 18, two elderly women were killed in a crossfire between the Colombian Army and FARC guerrillas attacking the town of Mantanita, Caqueta department. CCJ attributed 427 civilian deaths to the FARC and ELN, and 361 to unidentified actors.

According to the Ministry of Defense, as of September 30, guerrillas, particularly the FARC, and to a lesser extent, the ELN, committed nearly 650 terrorist bombings. On February 7, for example, a FARC operative detonated a car bomb in the parking garage of Bogota's exclusive El Nogal social club, killing 35 civilians, including 6 children, and injuring 173 others. On February 15, the FARC detonated a large cache of explosives during a police raid on a house in Neiva, Huila department that killed 17 persons and injured 37 others. The home was located near the city airport's main runway, and officials believed the explosives were intended for use in an assassination attempt against the President, who arrived by air the following day. On March 5, the ELN detonated a car bomb in a crowded shopping district in Cucuta, Norte de Santander department, that killed 7 persons and injured 60 others. In January, the FARC forced civilians to drive four cars loaded with explosives into military targets in Arauca department. The terrorists detonated the explosives by remote control, thereby killing the unwitting drivers. Guerrillas also detonated bombs attached to motorcycles, bicycles, animals, and human cadavers.

Guerrillas used landmines to defend static positions such as base camps and drug labs and as indiscriminate weapons of terror. According to the Vice-President's Office, between 70,000 and 100,000 landmines were deployed nationwide, and there were 860 registered landmine incidents during the year, a 30 percent increase over 2002. Landmines killed at least 155 people during the year, 25 percent of them civilians. Guerrillas were responsible for over 90 percent of landmine incidents. The FARC disguised landmines as everyday items such as soccer balls and paint cans, and increasingly used plastic mines that could not be detected by standard mine-sweeping technology. On February 27, the Government approved a National Mine Action Plan, and in March the Government and the OAS signed an agreement on cooperation and technical assistance.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed wounded prisoners, threatened and murdered doctors and nurses, and killed enemy combatants receiving medical care. For example, on April 22, ELN combatants entered a medical facility in the town of Fortul,

Arauca department, and executed two wounded soldiers. On April 5, FARC guerrillas in Norte de Santander department opened fire on an ambulance carrying a critically ill 6-month-old girl and her family.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and removed potential Government or paramilitary collaborators from strategic zones. For example, in February, the FARC displaced 386 peasants near La Hormiga, Putumayo Department, in an attempt to force paramilitaries to retreat from this strategic coca-cultivation area. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, in March the ELN imposed a blockade on several municipalities in eastern Antioquia department, causing serious food shortages that led to the displacement of hundreds of civilians. In May, the FARC imposed an armed shutdown of highways between the towns of Pensilvania and Samana, Caldas department. Over a period of 3 weeks, and despite efforts by the security forces to neutralize the threat, the FARC disabled and burned vehicles that attempted to travel between the towns and destroyed local television and radio stations.

The FARC continued its systematic campaign to attack and cripple the nation's vital infrastructure. According to government figures, the FARC destroyed 326 electrical towers, 19 communications towers, and 33 bridges, and made 3 unsuccessful attacks on aqueducts. The FARC, in conjunction with the ELN, increased the number of its attacks on the nation's oil infrastructure by 140 percent, blowing 179 holes in oil pipelines over the course of the year. Guerrillas reacted to an increase in security around the Cano Limon-Covenas pipeline in northern Colombia by conducting a majority of their attacks on more vulnerable pipelines in southern Colombia. For example, on July 23, the FARC attacked five oil wells in Putumayo department, which were only repaired after the arrival of foreign experts who capped the exposed wells in mid-August. Former Minister of Environment Cecilia Rodriguez called the attacks the country's worst ecological disaster in years.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press and the Government generally respected these rights in practice. Individuals criticized the Government both publicly and in private, and the media expressed a wide spectrum of political viewpoints and often sharply criticized the Government, all without fear of Government reprisal. However, journalists regularly practiced self-censorship to avoid retaliation and harassment by criminals and members of illegal armed groups.

Several major newspapers and news magazines circulated nationally, and there were many influential regional publications. There were two major national radio networks and many national and regional television channels. The National Television Commission continued to oversee television programming, although it did not censor substantive content. Major international wire services, newspapers, and television networks had a presence in the country and generally operated free of Government interference.

Media ownership remained concentrated in the hands of wealthy families, large national conglomerates, or groups associated with one or the other of the two dominant political parties. However, Spanish media conglomerate Prisa acquired majority ownership of the country's largest radio network, becoming the first foreign media owner in the country.

The Government did not assert "national security" to suppress views that were merely politically embarrassing or objectionable on other grounds, although a ban on publication of evidence related to criminal investigations remained in effect.

The Government did not appear to use libel laws to suppress criticism or engage in direct or indirect censorship of the media. However, in June, prosecutors charged newspaper columnist Roberto Posada with libel for publicly insinuating that prominent businessman Pedro Juan Moreno had links to paramilitaries. Posada successfully appealed the charges. The media's reliance on government advertising revenues may have reduced its criticism of government actions and policies.

Although the media generally did not practice self-censorship out of fear of government reprisal, national and international NGOs reported that media representatives regularly practiced self-censorship because of threats of violence. At least 7 journalists went into voluntary exile during the year, joining 13 who left the country in 2002.

The security forces generally did not subject journalists to harassment, intimidation, or violence; however, there were exceptions, as well as reports of threats and violence against journalists by corrupt local officials. In March, the Inter-American Press Association (IAPA) reported that members of the police and military had subjected journalists to arbitrary treatment in the departments of Antioquia, Arauca,

and Cesar, as well as the city of Bogota. On April 7, hired paramilitaries murdered watchdog radio journalist Jose Emeterio Rivas, who had publicly accused Julio Cesar Ardila, mayor of Barrancabermeja, Santander department, of granting lucrative municipal contracts to paramilitaries on preferential terms. On July 16, prosecutors charged Ardila and three city councilmen with ordering the murder. On September 18, Ardila, who had been in hiding, surrendered to the authorities. On December 31, he was released for lack of evidence.

During the year, journalists were intimidated, threatened, kidnapped, and killed by members of illegal armed groups. According to information gathered by the International Federation of Journalists and the Colombia Foundation for Press Freedom, 7 media representatives were killed, 11 kidnapped, and at least 55 threatened with death during the year.

Paramilitaries threatened, kidnapped, and murdered journalists. For example, in October, paramilitaries threatened newspaper correspondents Yaneth Montoya and Pedro Javier Galvis with death if they did not leave the city of Barrancabermeja, Santander department. Both left the city within 1 week of receiving the threats. On March 12, near the town of Victoria, Tolima department, police rescued broadcast journalist Pedro Cardenas from six paramilitaries who had kidnapped him 45 minutes earlier. On the morning of March 18, paramilitary gunmen murdered newspaper correspondent and local radio station reporter Luis Eduardo Alfonso as he arrived at work in Arauca City, Arauca department. Alfonso's former employer at the radio station, Efrain Varela, had been murdered by paramilitaries in June 2002.

In mid-December, prosecutors asked a presiding judge to impose the maximum sentence on AUC leader Carlos Castano and two other paramilitaries for their roles in the 1999 murder of prominent journalist Jaime Garzon. Castano had been tried in absentia. No verdict had been announced by the end of the year.

In May, the Valledupar Criminal Appeals Court overturned "not guilty" verdicts issued in January 2002 in favor of two paramilitaries accused of the 1999 murder of newspaper editor Guzman Quintero in Valledupar, Cesar department. The court imposed sentences of 39 years in prison on both suspects.

Guerrillas also threatened, kidnapped, and murdered journalists. For example, in March, the FARC made public a list of 16 journalists that it ordered to leave the department of Arauca on pain of death. All 16 left the department, leaving local media outlets to broadcast only cultural and musical programming. On January 21, the ELN kidnapped two Los Angeles Times journalists in Arauca department, allegedly for traveling in the region without its authorization. The ELN released the two on February 1. In August, the FARC kidnapped print journalist Jinet Bedoya in rural Guaviare department, releasing her after 5 days in captivity. Bedoya had been kidnapped and raped by paramilitaries in 2000. On August 23, FARC guerrillas killed radio journalist Juan Carlos Benavides when he failed to stop at a guerrilla roadblock outside Puerto Asis, Putumayo department.

The International Federation of Journalists operates an office in Bogota to monitor violence against the media and provide assistance to local journalists. The IAPA also runs its own rapid action unit in Bogota to help the Prosecutor General's Office investigate crimes against journalists. The Ministry of Interior operated a program for the protection of journalists that provided protection to 71 media representatives during the year. The Ministry of the Interior also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

The Government did not ban, restrict, or censor books, other publications, films, art exhibits, music, plays, or other cultural activities. The Government did not limit or block access to the Internet or censor websites.

The Government did not restrict academic freedom. However, paramilitary groups and guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their adversaries through both violent and nonviolent means. Paramilitaries, for example, threatened university professors and students they suspected of leftist sympathies. For example, in April, paramilitaries clandestinely distributed flyers on the campus of Francisco de Paula Santander University, in Cucuta, Norte de Santander department, that announced a social cleansing campaign targeting guerrilla sympathizers at the school.

Guerrillas used university campuses to plan, prepare, and carry out terrorist attacks. On March 4, for example, police discovered 80 homemade explosive devices and a supply of ANFO—an explosive mix of ammonium nitrate and fuel oil—hidden in the biology lab of Bogota's Pedagogic University. On March 11, two medical students from the National University in Bogota detonated incendiary devices on Bogota's principal public bus system; investigators found guerrilla propaganda and other evidence at the students' residence connecting them to illegal student organizations

linked to FARC urban militias. On April 29, the Prosecutor General's Office arrested and charged a FARC recruiter with coordinating the attacks and providing the students with explosives training.

Both paramilitaries and guerrillas regularly threatened and murdered public school teachers, especially at the high school level. According to the National Teacher's Union (FECODE), 33 teachers were murdered, 2 forcibly disappeared, and 91 displaced during the first 9 months of the year. Paramilitaries were responsible for most of these abuses. For example, on January 13, paramilitaries murdered Jose Marcelino Diaz, a teacher and FECODE organizer in Arauca City, Arauca department, and on March 12 murdered Soraya Patricia Diaz, a teacher from the town of Quinchia, Risaralda department. Guerrillas also murdered teachers. On April 22, in Corcora municipality, Antioquia department, ELN guerrillas kidnapped local teacher Ana Cecilia Duque, demanding that her father kill a local paramilitary leader to secure her release. When Duque's father refused, the ELN executed her.

On September 17, the army captured four paramilitaries suspected of killing a teacher in Cauca department. On July 21, police in Atlantico department captured Leonidas Ricardo Reyes, the AUC Southern Bloc's third-in-command, who was suspected of murdering several teachers and a student in Magdalena department.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics. Some academics went into voluntary exile.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice. The authorities normally did not interfere with public meetings and demonstrations and granted the required permits except when there was imminent danger to public order.

There were large demonstrations on many occasions by citizens throughout the country, some to repudiate terrorist activities, and others to protest Government budget cuts and social policies. The authorities generally did not interfere. For example, on August 12, more than 500,000 public employees throughout the country went on strike and held large marches in major cities to protest Government-proposed budget cuts and free trade policies. The protest was generally peaceful; however, isolated protestors in Bogota's Plaza Bolivar threw rocks at police, who responded with tear gas. Following the October elections, accusations of fraud, vote buying, and other irregularities in a handful of regional elections sparked protests in several departments. In Malambo, Atlantico department, police had to transport ballots in an armored vehicle to prevent protestors from burning them.

The Constitution provides for freedom of association. The Government generally respected this right in practice. Legal organizations are free to associate with international groups in their field. However, membership in proscribed organizations such as the FARC, ELN, and AUC is a crime. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against labor unions and NGOs (see Sections 4 and 6.a.).

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

Although there is no official state religion, most citizens were Roman Catholic and the Roman Catholic Church retained a de facto privileged status. Accession to a 1997 public law agreement with the State is required for non-Roman Catholic religions to minister to their adherents in public institutions, such as schools and hospitals. Although 12 Christian churches had acceded to the agreement, the Government had not given a similar opportunity to hundreds of other mostly small, evangelical churches that received legal recognition after 1997.

Protestant churches complained that new zoning laws show de facto favoritism toward Roman Catholicism, since most Roman Catholic cathedrals were constructed before zoning laws were instituted and are therefore exempt from the laws' requirements.

Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons. The Presidential Program for Human Rights reported that illegal armed groups made numerous threats against priests and other religious workers, killed 7 priests, and kidnapped 3 others. On February 10, for example, paramilitaries issued menacing statements against Catholic priest Francisco de Roux, Director of the Middle Magdalena Peace and Development Plan, who had publicly criticized paramilitaries and spoken out in favor of a possible humanitarian prisoner exchange between the Government and the FARC. On February 17, the FARC kidnapped a priest who was celebrating Mass on the outskirts of the town of Calvario, Meta department. On November 21, the body of Father Jose Rubin Rodriguez, who had been

kidnapped a week earlier by armed men identifying themselves as guerrillas, was found in Tame, Arauca department.

On October 29, the criminal trial of FARC commander John Fredy Jimenez and hired gunman Alexander de Jesus Zapata began for the March 2002 murder of Roman Catholic Archbishop of Cali Isaias Duarte (see Section 1.e.).

According to the Evangelical Council of Churches (CEDECOL) and Colombian NGO Justapaz, 40 evangelical church leaders were assassinated during the year, most by the FARC. The FARC inhibited the right to free religious expression in areas it controlled, forcing the closure of hundreds of evangelical churches, particularly in the southwestern part of the country. In September, the FARC Secretariat ordered unit commanders to target evangelical pastors because of their alleged undercover work for the Government and foreign intelligence services.

On May 8, unidentified assailants wearing camouflage uniforms picked out and beheaded four members of a Protestant congregation in Tierralta, Cordoba department. The victims included the pastor, the church treasurer, an 80-year-old woman, and a teenage boy.

The Human Rights Unit of the Prosecutor General's Office reported that it was investigating 31 crimes that it believed were religiously motivated.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to travel domestically and abroad, and the Government generally respected this right in practice; however, there were exceptions. In areas where counterinsurgency operations were underway, police and military officials sometimes imposed curfews or required civilians to obtain safe-conduct passes. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways cut kidnappings at illegal checkpoints by 43 percent and led to a major increase in intercity vehicular traffic.

The Social Solidarity Network (RSS), the Government's displaced persons service agency, registered nearly 173,000 new displaced persons during the year, a decrease of 46 percent from 2002. The Consultancy for Human Rights and Displacement (CODHES), a human rights NGO specializing in displacement issues (see Section 4), estimated that 230,000 persons were displaced during the year, a 49 percent decrease from CODHES's figures for 2002. Various explanations were advanced to explain the sharp decline in displacements. The Government pointed to a larger state security presence throughout the country and a decrease in paramilitary violence related to the Government's ongoing negotiations with the country's largest paramilitary organization. CODHES and other NGOs asserted that instead of displacing peasants, paramilitaries and guerrillas were now forcibly preventing displacements.

The RSS had registered more than 1,200,000 displaced persons since 1995; UNHCR estimated there were over 2 million displaced persons in the country, placing it third among countries with the largest IDP populations. Precise numbers of IDPs were difficult to obtain, however, since some persons were displaced more than once and many did not register with the Government or NGOs. The FARC and ELN discouraged IDPs from registering with the Government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among the displaced population. The vast majority of IDPs were rural peasants who were displaced to large cities such as Bogota. According to the UNHCHR, 25 percent of IDPs were indigenous or Afro-Colombian.

Although some persons voluntarily displaced for economic reasons, most IDPs were forcibly displaced by paramilitaries or guerrillas, who used forced displacement to gain control over strategic or economically valuable territory and weaken their opponents' base of support.

The Government was unable to provide sufficient humanitarian assistance to the displaced, despite statutes and court rulings requiring it to do so. Many IDPs lived in unhygienic conditions with little access to health care and educational or employment opportunities. Government assistance for the displaced was provided principally through the Social Solidarity Network (RSS), the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. However, the ICRC and various NGOs provided most humanitarian assistance to the displaced, who generally received assistance for only 90 days. In May, the UNHCR and the Government reached agreement on a program to help refugees and IDPs. Under the terms of the agreement, the UNHCR will work with the Senate and its human rights commission on promoting and implementing legislation to help the displaced.

In April, the Government of Panama forcibly repatriated 109 refugees to the Uraba region of Antioquia department, claiming the refugees had ties to the FARC. UNHCR monitored the repatriation and provided humanitarian assistance. In De-

ember, the Government cooperated with the Government of Panama in repatriating 84 refugees to the town of Jurado, Choco department. Unlike the April repatriation, December's cooperative effort was well managed and complied fully with international standards.

The Constitution provides for the right to asylum under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The country has a tradition of providing asylum dating from the 1920s. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the U.S. Committee for Refugees, 217 recognized refugees resided in the country at the end of the year. Eighteen persons applied for asylum during the year; 12 were approved, 4 rejected, and 2 were under review, along with 11 applications still pending from 2002.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic generally free and fair elections held on the basis of nearly universal suffrage. However, active duty members of the Armed Forces and Police may not vote, and civilian public employees, although eligible to vote, are not allowed to participate in partisan politics.

Congressional and presidential elections were last held in March and May 2002, respectively. In March 2002, voters elected a bicameral legislature with a mix of independents and members of the traditional Liberal and Conservative parties. In May 2002, voters elected independent candidate Alvaro Uribe president. Both elections were generally free and fair, in spite of a concerted campaign by terrorist organizations such as the FARC to disrupt them.

Political parties generally operated freely and without government interference. Parties that fail to garner 50,000 votes in a general election are automatically dissolved, but can reincorporate at any time by presenting 50,000 signatures to the National Electoral Commission (CNE). The Liberal and Conservative parties have long dominated politics, but the election of President Uribe as an independent in 2002 and the success of center-left candidates in regional elections suggested the political arena was widening. In August, representatives of several small, center-left parties created the larger Independent Democratic Pole (PDI) party.

On October 25, 14 of 15 items on a major political and economic reform referendum failed when turnout fell short of the required 25 percent of registered voters. On October 26, voters in 32 departments, the national capital, and 1,096 municipalities elected governors, mayors, and city council members. Center-left candidates fared well in the elections, winning, among other posts, the governorship of Valle del Cauca department and the mayor's office in Bogota. The elections were generally free and fair, despite attempts by paramilitaries and guerrillas to interfere. However, elections were not held in two rural municipalities in Vaupes department because of threats and violence by the FARC.

Paramilitaries attempted to influence local and regional elections through intimidation and violence. In some areas, paramilitary threats forced selected candidates to withdraw from key races. For example, in Cesar department, where the AUC has significant influence, a single gubernatorial candidate ran unopposed; nearly half those who voted submitted blank ballots in protest. In regions where paramilitaries exercised less political influence, they attempted to affect the elections by attacking candidates they opposed. For example, on June 5, four paramilitary gunmen killed Norte de Santander gubernatorial candidate and former National Peace Council member Tirso Velez.

As it did prior to the 2002 national elections, the FARC conducted a systematic campaign of violence to disrupt and discredit the referendum and local and regional elections. According to the Presidential Program for Human Rights, 29 candidates for regional offices were murdered during the year, and 8 were kidnapped. The FARC committed most of these crimes. For example, on August 30, FARC gunmen murdered Afro-Colombian mayoral candidate Jose Luciano Castillo in Roberto Payan municipality, Narino department. On October 19, the FARC killed Mario de Jesus Cordona, a mayoral candidate in the town of Chaparral, Tolima department. FARC threats led at least 160 candidates to drop out of the elections completely. For example, on October 18, 22 candidates for local offices in the town of Hacari, Norte de Santander department, resigned after receiving specific threats from the FARC.

The FARC also continued to threaten and commit acts of violence against incumbent government officials. The assassination of President Uribe remained a FARC priority. Military and judicial officials believed, for example, that a large cache of explosives detonated during a police raid on a house near the municipal airport in Nevia, Huila department, was intended to be used to attack the President when he arrived at the airport the following day. Although the perpetrators of 60 percent of the murders of local officials were still unknown at the end of the year, the FARC was responsible for at least 30 percent of these crimes. Nine mayors and 75 city council members were murdered during the year. Scores of local officials from throughout the country resigned because of threats from the FARC. For example, on March 31, three mayors from Norte de Santander department resigned because of specific FARC threats. The Office of the Human Rights Ombudsman reported that at least 300 mayors conducted business from regional capitals via telephone and messenger because they were not safe in their own towns.

The FARC continued to hold politicians hostage to pressure the Government into a prisoner exchange (see Section 1.b.).

There are no legal and few practical restrictions on the participation of women and minorities in politics. There were 5 women—including the Minister of Foreign Affairs—in the 13-member cabinet, 11 women in the 102-member Senate, and 18 women in the 166-member House of Representatives. There were 2 women on the 23-member Supreme Court, 2 women on the 13-member Supreme Council of the Judiciary (CSJ), and 1 woman on the 9-member Constitutional Court. On October 2, Clara Inez Vargas began a 10-month term as the Constitutional Court's first female president.

A quota law requires that women be placed in at least 30 percent of nominated government posts, and the government must report to Congress each year on the percentage of women in high-level government positions.

There were 4 indigenous Senators, two of whom occupied seats reserved for indigenous persons, and 2 indigenous members of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There was 1 Afro-Colombian Senator and there were 3 Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their opinions on human rights conditions in the country.

Over 60,000 human rights and civil society NGOs were registered in the country, although most existed only on paper. The most prominent domestic human rights NGOs included the Colombian Commission of Jurists (CCJ) and Jose Alvear Restrepo Lawyers' Collective, both of which focused on defending human rights through legal analysis and case work; the Jesuit-founded Center for Popular Research and Education (CINEP), which managed the country's largest and most influential database of human rights violations; the Permanent Committee for the Defense of Human Rights (CPDDH), which provided support and assistance to victims of human rights violations and worked to organize civil society to defend human rights and promote a peaceful resolution to the country's armed conflict; the Committee in Solidarity with Political Prisoners (CSPP), which focused on the rights and treatment of persons detained for politically motivated crimes, particularly left-wing subversion; the Association of Families of Detained and Disappeared Persons (ASFADDES), the country's leading voice in demanding justice for the disappeared; the Consultancy for Human Rights and Displacement (CODHES) which advocated policies designed to prevent displacement and defended the rights of the displaced; the Association for Alternative Social Promotion (MINGA), which sought to promote respect for human rights through education, research, lobbying, and legal assistance; the Peace Network (Redepaz), a civil society organization dedicated to the promotion of peace at the national, regional, and local level; and the Free Country Foundation, which provided psychological, legal, and public relations assistance to kidnap victims and their families and lobbied the Government for better anti-kidnapping efforts. The Truth for Colombia ("Verdad Colombia") group was a relatively new association of small, centrist human rights NGOs that generally supported the Government's anti-terrorism security policies.

Local human rights NGOs had an influence that far exceeded their membership or resources. By sharing information among themselves and disseminating it to

international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

Prominent local NGOs made an effort to be fair and objective in their analysis of a serious and complex human rights situation. However, their coverage of human rights abuses tended to focus on the Government and right-wing paramilitaries, rather than leftist guerrillas. Local NGOs' emphasis on the negative frustrated Government officials whose own statistics indicated the human rights situation was improving. These drastically divergent understandings of the human rights situation deepened already profound mutual suspicions.

On September 9, in a nationally televised speech, President Uribe harshly criticized unspecified NGOs for masking a political—and even terrorist—agenda behind the shield of defending human rights. Human rights groups reacted strongly to the President's criticisms, noting that accusations of guerrilla collaboration could expose them to violent reprisals. Uribe's remarks were spurred by release of "The Authoritarian Spell", a report compiled by a group of approximately 80 NGOs, including some of the country's most prominent, that was highly critical of the Government's human rights performance. The report asserted that there had been a dramatic rise in what it defined as "grave violations of human rights" during the first year of Uribe's presidency.

The President's criticism of NGOs laid bare a fundamental controversy over the nature and accuracy of human rights statistics in Colombia. Government and NGO statistics on human rights often differed dramatically. Some of these discrepancies could be explained by differences in terminology and methodology. For example, the Government defined a massacre as the intentional killing of four or more persons at the same time and place, while NGOs defined a massacre as the deaths of three or more persons. CINEP strictly followed legal conventions that define "human rights violations" as crimes that can only be committed by the state or state-sponsored actors, which led it to attribute, directly or indirectly, all "human rights violations" to the Government. The Government, on the other hand, defined human rights violations to encompass crimes by all illegal armed groups, whether paramilitaries or guerrillas, as well as the state. The Government based its data on information reported to government authorities, supplemented by press reports and confirmable NGO statistics. NGOs, on the other hand, relied primarily on citizen complaints and press reports that satisfied the particular NGOs own standard of credibility. The Government's reliance on official reports undoubtedly led to an underreporting of violations. NGO statistics, on the other hand, undoubtedly overreported violations, since they relied heavily on unsubstantiated claims.

In a September 30 speech before the United Nations, President Uribe, while not retracting his September 9 criticisms, expressed his respect for the work of impartial human rights activists. However, the Government reserved the right to challenge reports considered biased.

Although the Government generally did not interfere with the work of domestic human rights NGOs, some NGOs claimed that the Government arrested human rights activists arbitrarily, particularly in highly conflictive areas (see Section 1.d.).

The Government asserted that many self-declared "human rights" activists were actually engaged in criminal activities that supported terrorism. For example, on October 21, authorities arrested Ramon del Carmen Garces, president of the Arauca departmental assembly and director of a local human rights NGO, for allegedly diverting \$370,000 (1 billion pesos) in government assistance from his NGO to the ELN. On August 1, authorities arrested human rights activist Maria Teresa Cedeno for allegedly bribing a demobilized guerrilla to retract testimony that had led to the conviction of five FARC guerrillas for a car bombing in October 2002.

On September 9, the Prosecutor General's Office indicted five police officers in Medellin for the alleged illegal wiretapping of NGO phone lines between 1997 and 2000. Separately, the Inspector General's Office ordered the dismissal of Colonel Mauricio Santoyo, then-commander of the police unit responsible for the illegal wiretapping (see Section 1.f.).

The Government, through the Ministry of Interior and Justice and the DAS, allocated approximately \$ 14,100,000 (36.65 billion pesos) to its program for the protection of human rights activists and other vulnerable populations. The Government provided protection to over 3,000 human rights activists during the year and bulletproofed 15 additional offices and residences. Requests for protection increased by 7 percent, a significant decline from the 106 percent increase registered in 2002. Nevertheless, human rights groups continued to complain that the protection program was inadequate.

According to the CCJ, 16 human rights activists were killed during the year. The CCJ attributed most of these killings to paramilitaries. In October, for example, leaders of the paramilitary Central Bolivar Bloc released a public letter accusing re-



gional NGOs of acting as mouthpieces for leftist guerrillas. On October 17, paramilitary gunmen murdered Esperanza Amaris Miranda, a human rights activist with the Popular Women's Organization (OFP), one of the groups mentioned in the letter. On May 2, paramilitaries also tortured and murdered Henry Campos, son of OFP activist Maria Emma Garzon.

The Prosecutor General's Office reported little progress in its investigation of the November 2002 murder of Jose Rusbell, a member of the Joel Sierra Human Rights Committee in Arauca department.

On December 19, four armed men entered the offices of "La Corporacion Casa de la Mujer", a well-known feminist organization, and stole computer drives containing contact lists, financial information, project descriptions, and the identity of national and international organizations the organization worked with. There were no suspects in the robbery at the end of the year.

The Government generally did not interfere with the work of international human rights and humanitarian NGOs. Representatives of international human rights groups visited the country and held meetings with local human rights groups and individuals in various regions of the country without Government interference. These international delegations sometimes received active Government protection. The larger international NGOs, such as AI, Human Rights Watch, and the Washington Office on Latin America (WOLA), devoted equal attention to government forces, guerrillas, and paramilitaries; however, they held the Government to a higher standard and criticized it not only for direct violations of human rights, but also for high levels of impunity and failure to completely sever links between the military and paramilitaries.

The Government cooperated with international governmental organizations. The United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations High Commissioner for Human Rights (UNHCHR), and the International Committee of the Red Cross (ICRC) had an active presence in the country and were allowed to carry out their work without government interference.

UNHCHR's Bogota office opened at government invitation in 1997; it later added field offices in Cali and Medellin and was in the process of establishing an office in Bucaramanga, Santander department. The office monitored and analyzed the national human rights situation and provided advice and assistance on human rights protection. In 2002, President Uribe extended UNHCHR's mandate in the country through the end of his administration in 2006.

In its human rights report for 2002, published in March, the Colombia office of the UNHCHR made 27 recommendations for improving the human rights situation in Colombia. Twenty-four of the recommendations were directed at the Government. At an international donor's conference held in London on July 10, the Government, while expressing some reservations, endorsed the recommendations in principle. The UNHCHR and local NGOs reported that the Government had not fully complied with most of the recommendations by the end of the year.

The National Human Rights Ombudsman ("Defensor del Pueblo"), who reports to the Inspector General (see Section 1.e.), is elected by the House of Representatives from a list of three candidates submitted by the President to serve a 4-year term overlapping those of two presidents. The Office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defenders for the indigent (see Section 1.e.), the Ombudsman's 34 regional offices served as a channel for complaints of human rights violations. The Ombudsman's Bogota Office was the headquarters of a national Early Warning System (SAT) designed to alert public security forces to impending human rights violations, particularly large-scale massacres.

During the year, then-Ombudsman Eduardo Cifuentes resigned his post. President Uribe appointed Volmar Antonio Perez to fill the position until August 2004, when the House of Representatives will select a new Ombudsman. While in office, Cifuentes was active in his role, publicly criticizing a wide variety of human rights violations, visiting massacre sites, and pressing for increased security and humanitarian assistance for affected communities. In his caretaker role, Perez was a less public figure. However, the office, with international assistance, continued to provide training to regional ombudsmen and conducted public education on human rights. Despite the Office's successes, resource constraints meant the office was generally underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

In their role as human rights defenders, regional ombudsmen were under constant threat from illegal armed groups. Four paramilitaries remained on trial for the 2001 murder of regional human rights ombudsman Ivan Villamizar, in Cucuta,

Norte de Santander department. An arrest warrant was outstanding for AUC leader Carlos Castano for his alleged involvement in the crime (see Section 1.a.).

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

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions were not enforced

*Women.*—The law prohibits domestic violence, including spousal abuse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 22,271 cases of domestic violence against women during the year, but noted that only a small percentage of cases of domestic violence against women were brought to its attention. The law provides legal recourse for victims of domestic violence. Judicial authorities may remove an abuser from the household and oblige him to seek therapy or reeducation. According to the Ministry of Justice and Interior, 1,290 persons were criminally charged for domestic violence during the year; 256 were convicted. The law stipulates that the Government must provide victims of domestic violence with immediate protection from physical or psychological abuse. Through its “Make Peace” program, the Colombian Family Welfare Institute (ICBF) provided safe houses and counseling for victims; however, its services were dwarfed by the magnitude of the problem. In addition to fulfilling traditional family counseling functions, the ICBF’s 531 family ombudsman were assigned a total of 18,686 new domestic violence cases through September. The Human Rights Ombudsman’s Office conducted regional training workshops to promote the application of domestic violence statutes.

The law prohibits rape and other forms of sexual violence, including by a spouse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 8,666 cases of suspected sex crimes, including rape, but noted that, like cases of domestic violence, only a small percentage of such crimes came to its attention. The Penal Code provides for sentences of between 4 and 40 years for crimes against sexual freedom and human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The maximum sentence for violent sexual assault is 15 years; the minimum sentence is 8. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The ICBF provided support to victims of sexual violence.

Prostitution, which is legal in designated “tolerance zones”, was widespread and remained a serious problem exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, especially in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism.

Trafficking in women for sexual exploitation continued to be a problem (see Section 6.f.).

The law prohibits sexual harassment; however, it was a pervasive problem.

The Constitution prohibits discrimination against women, and specifically requires authorities to ensure “adequate and effective participation by women at decision making levels of public administration. However, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that were generally incompatible with their education and experience. Government unemployment statistics indicated that the unemployment rate for women was 21.5 percent, 6.4 percent higher than the rate for men. According to the U.N., women earned an average of 34 percent less than men during the year. Female workers in rural areas were most affected by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to train them in parenting skills, women’s groups reported that single mothers continued to face serious economic and social problems. According to a 1997 Constitutional Court ruling, a woman’s decision to bear a child cannot be considered just cause for firing her if she is pregnant or the mother of a child under 3 months of age. There were no published reports of such firings during the year.

*Children.*—The Constitution imposes an obligation on the family, society, and the state to protect children, foster their development, and ensure their ability to fully exercise their rights; however, these obligations were not completely fulfilled. The Children’s Code describes these rights and establishes the services and programs designed to enforce the protection of minors. The ICBF oversees all Government child protection and welfare programs and also funds nongovernmental programs that benefit children.

The Constitution stipulates that the state must provide a free public education for children between the ages of 6 and 15; however, the National Department of Statistics (DANE) estimated that only 75 percent of children between 6 and 15 attended school. By law, a primary education is universal, compulsory, and free. The Government covered the basic costs of primary education, although many families faced additional expenses such as matriculation fees, books, school supplies and transportation costs that were often prohibitive, especially for the rural poor.

The law requires the Government to provide medical care to children. However, medical facilities were not universally available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 7,844 cases of child abuse during the year. According to the Association Against Child Abuse, less than 5 percent of child abuse cases are reported to government authorities. Although final statistics were unavailable for the year, the National Institute for Legal Medicine and Forensic Sciences estimated that of the 8,666 cases of suspected sex crimes reported to it, 70 to 80 percent involved the sexual abuse of children, the vast majority under them under 14. The ICBF estimated that 25,000 children were victims of sexual exploitation, and provided assistance, both directly and through other specialized agencies, to over 14,400 of them during the year.

According to UNICEF, an estimated 35,000 adolescents worked as prostitutes, in spite of legislation prohibiting sex with minors and the employment of minors for prostitution. The ICBF provided assistance to 6,200 of the country's estimated 30,000 street children. Children were also trafficked for sexual exploitation (see Section 6.f.).

Since 1999, persons under 18 are prohibited from serving in the public security forces. However, both paramilitaries and guerrillas used child soldiers. In September, HRW released a comprehensive study on child soldiers in Colombia that reported that approximately 11,000 children were members of illegal armed groups; UNICEF reported that the number was as high as 14,000. Both paramilitaries and guerrillas forcibly recruited minors as combatants. For example, in April, a captured child soldier from the FARC described how he was coerced into joining the guerrillas by a FARC recruiter who gave him food for his family and later insisted that the teenager either repay him or join the insurgency.

Paramilitary groups released some child soldiers as a sign of good faith in anticipation of demobilization negotiations with the Government (see Section 1.g.). On June 27, security forces in Sucre department captured retired Army Sergeant Omer Eligio Gonzalez, who was in charge of recruiting minors for paramilitaries.

Although many minors were forcibly recruited, a 2002 study by UNICEF found that 83 percent of child soldiers volunteered. Limited educational and economic opportunities and a desire for acceptance and camaraderie increased the appeal of service in armed groups. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the MOD reported an increase in the number of minors deserting illegal armed groups. As of October 29, at least 301 children had surrendered to state security forces during the year. FARC child deserters reported that local guerrilla commanders threatened to kill their families should they desert or attempt to do so. A reinsertion program for former child soldiers administered by the ICBF provided assistance to 725 children during the year.

Child labor was a problem (see Section 6.d.).

According to UNHCR, 74 percent of all internally displaced persons were women and children (see Section 2.d.). The Human Rights Ombudsman's Office estimated that only 15 percent of displaced children attended school. Displaced children were especially vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

*Persons with Disabilities.*—The Constitution enumerates the fundamental social, economic, and cultural rights of persons with physical disabilities. However, serious practical impediments prevented their full realization of these rights. For example, there is no legal requirement that buildings provide special access for persons with disabilities. Consequently, the disabled could not access most public buildings and transportation systems; however, the Constitutional Court ruled that persons with physical disabilities must have access to voting stations and receive assistance if they request it. The Court also ruled that the social security fund for public employees cannot refuse to provide services for children with disabilities, regardless of the costs involved.

*Indigenous People.*—The Constitution gives special recognition to the fundamental rights of indigenous persons, who make up approximately 2 percent of the population.

By law, indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 545 reservations as municipal entities, with officials selected according to indigenous traditions. However, approximately 200 indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute (INCORA) administered a program to buy back lands declared to belong to indigenous communities. In March, the U'wa tribe said it would resume protests of exploration and drilling on lands it considers sacred near the U'wa reservation in Arauca department.

The Constitution provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (see Section 1.e.). However, these jurisdictions were subject to manipulation and often rendered punishments that were much more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous persons. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous persons continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal conflict. According to the Presidential Program for Human Rights, 164 indigenous persons were killed during the year, 75 by paramilitaries, 18 by the FARC, and 8 by the ELN. The UNHCHR strongly criticized threats and violence against indigenous communities and characterized government investigations of human rights violations against indigenous groups as inadequate. The National Organization of Indigenous Persons (ONIC) reported many incidents in which illegal armed groups forcibly recruited indigenous persons, restricted indigenous persons' freedom of movement, blockaded indigenous communities, or accused indigenous persons of sympathizing with their adversaries.

*National/Racial/Ethnic Minorities.*—Approximately 22 percent of the population was of African origin. Afro-Colombians are entitled to all constitutional rights and protections; however, they faced significant economic and social discrimination. Seventy-four percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors. In July, the Prosecutor General's Office indicted 3 army generals for alleged dereliction of their duty to protect civilians, which contributed to the deaths of 119 Afro-Colombians during a FARC attack on the town of Bojaya in May 2002.

Little concrete progress was made on implementing a 1993 law designed to benefit Afro-Colombians by expanding public services and private investments in predominantly Afro-Colombian regions. The 1993 law also specifies that Afro-Colombian communities should receive collective titles to some Pacific coastal lands. However, Afro-Colombian leaders complained that the Government was slow to issue land titles and that access to these lands was often inhibited by the presence of paramilitaries and guerrillas.

#### *Section 6. Workers Rights*

*a. The Right of Association.*—The Constitution provides for the right to organize unions, except for members of the armed forces, police, and persons executing "essential public services" as defined by law. In practice, violence against union members and antiunion discrimination were obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. According to the National Labor College (ENS), a Medellin-based NGO that collects, studies, and consolidates information on organized labor, there were 2,357 unions registered in the country at the end of the year, with a total of 856,099 members, or approximately 4 percent of the labor force.

The heavily amended 1948 Labor Code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a simple registration process. However, this process is slow and sometimes takes years. Unions are legally authorized to determine their internal rules, elect their own officials, and manage their own activities. The law penalizes interference with freedom

of association and forbids the dissolution of trade unions by administrative fiat. Although government interference in union activities is limited, the Government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers this amendment to be inconsistent with freedom of association, since it believes an administrative authority only should conduct investigations when there are reasonable grounds to believe that an offense has been committed.

Labor leaders nationwide continued to be targets of attacks by illegal armed groups. According to the ENS, 6 union members were kidnapped, 4 disappeared, 295 were threatened with death, 20 survived attempts on their lives, and 80 were killed in 2003. By comparison, 161 union members were killed in 2002. In the case of over 82 percent of murders of trade union members, the ENS was unable to determine which illegal armed group was responsible. Based on available information, the ENS attributed 15 percent of these crimes to paramilitaries. The United Workers Central (CUT), the country's largest and most left-leaning labor federation, claimed that paramilitaries were responsible for 77 percent of the murders of trade union members through September and that paramilitaries were especially aggressive in targeting members of the CUT. For example, on April 9, alleged paramilitaries murdered Ivan Manuel Muniz in Riohacha, La Guajira department. Muniz was a local leader of the national teachers union, FECODE, a CUT affiliate. On July 15, alleged paramilitaries shot and killed Marco Tulio Diaz, a labor activist with the CUT-affiliated National Oil Workers Union, USO, in Cucuta, Norte de Santander department; paramilitaries have long accused USO of being a civilian arm of the ELN.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. There were few successful prosecutions of crimes against trade union members. However, on December 19, former army major Cesar Alonso Maldonado and paramilitary Regulo Rueda were convicted and received 28 years in prison for their roles in the December 2000 attempted murder of labor leader and current member of Congress Wilson Borja. Arrests were made in other important cases. For example, three Army NCOs were arrested for their alleged involvement in the September murder of Wilson Rafael Pelufo, a union activist in Barranquilla, Atlantico department. The Prosecutor General's Office continued to investigate paramilitaries for crimes against union leaders committed in previous years, such as the 2001 murders of Valmore Locarno, Victor Hugo Orcasita, and Gustavo Soler, activists with mine workers union SINTRAMINERGETICA.

High levels of impunity led some labor organizations to file civil suits against the alleged authors of paramilitary anti-labor violence. For example, in March, SINTRAMINERGETICA filed suit in a foreign court against the Drummond Company, which operates a large coal mine in Cesar department. The suit alleged that the company ordered or acquiesced in local paramilitaries' murders of three union activists. In April, a foreign court ruled that Panamerican Beverages, Coca-Cola's main bottler in Latin America, could be sued for allegedly hiring paramilitaries to kill and intimidate union leaders at several of its bottling plants; the court dismissed a similar lawsuit against the Coca-Cola Company.

Due to a lack of conclusive evidence, the ENS attributed only two murders of trade unionists to guerrillas. In one example, the ELN murdered an Antioquia teachers union member (see Section 2.a.).

During the year, the Government announced the establishment of an Inter-Institutional Commission for the Promotion and Protection of Worker's Human Rights. The Commission's work plan was negotiated with the country's principal labor federations. The Commission is charged with preventing human rights violations against union members and promoting and protecting freedom of association, collective bargaining, and the right to strike. In July, President Uribe called for the police, the justice system, and the public to afford union leaders better protection. The President said that unions are moral reference points necessary for the smooth functioning of communities.

To improve the security of particularly vulnerable union leaders, the Government increased resources devoted to the Ministry of Interior and Justice's protection program for trade union leaders. During the year, the program secured 30 union headquarters and residences and provided protection to 1,424 union members and activists, some of whom owed it their lives. For example, on August 22, Juan Carlos Galvis, president of beverage workers union SINALTRAINAL in Barrancabermeja, Santander department, survived an attempt on his life because the protection program had provided him with an armored car and personal bodyguards. Although trade union leaders acknowledged the benefits of the program, they still complained that its resources were insufficient to adequately protect the large number of trade

unionists under threat. The Executive Council of the CUT also complained that labor unions were not given an adequate voice in the administration of the program.

At the May meeting of the ILO's Committee on Freedom of Association, the body dropped a recommendation that the ILO Governing Body appoint a Fact-Finding and Conciliation Commission for the country. In June, the ILO's Governing Body rejected labor unions' request for a Commission of Inquiry, but did urge the Government "to put an end to the intolerable situation of impunity and to punish effectively all those responsible."

The ILO had a number of long-standing criticisms of the Labor Code: the requirement that Government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trade once 6 months have passed following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the Government's power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

Unions are free to join international confederations without government restrictions and did so in practice.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects workers' right to organize. Workers in large firms and public services were the most successful in organizing, but they represented only a small percentage of the workforce. High unemployment, a large informal economic sector, traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult.

The Constitution provides for the right to collective bargaining. Consistent with the decline in union membership, however, the number of workers covered by collective bargaining agreements fell. According to the ENS, 176,774 workers were employed under collective bargaining agreements during 2002, compared to 409,918 during the period 1994–1995. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. Paramilitaries threatened—and sometimes killed—union members who refused to renounce collective bargaining agreements.

Collective pacts between individual workers and their employers are not subject to collective bargaining and were used by employers to complicate and discourage labor organization. However, these practices did effectively complicate and discourage labor organization. Although employers must register collective pacts with the Ministry of Social Protection, the Government does not exercise oversight or control over them. There is no mandatory mediation in private labor-management disputes.

The Constitution provides for the right to strike, except for members of the armed forces, police, and persons executing "essential public services" as defined by law.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. Legislation that prohibits public employees from striking is still in effect, although it is often overlooked. By law, public employees must accept binding arbitration if mediation fails; however, in practice, public service unions decide by membership vote whether or not to seek arbitration.

Various high profile strikes occurred during the year. For example, on January 16, the National Oil Workers Union (USO) called a 1-day strike to protest the arrest of former USO President Hernando Hernandez, who was accused of rebellion and subversion for alleged ties to the ELN. On February 21, after USO protestors began destroying company property at a refinery in Barrancabermeja, police and soldiers broke up the protest with tear gas and clubs, wounding 9 persons and arresting 15 others. On June 19, the country's 3 principal labor federations called a national work stoppage to protest a restructuring of three parastatal corporations that was expected to eliminate 40,000 jobs.

Labor law applies in the country's 15 free trade zones (FTZs), and its standards are enforced.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution forbids slavery and any form of forced or compulsory labor, and this protection generally was enforced by the Government and respected in practice in the formal sector.

Paramilitaries and guerrillas practiced forced conscription (see Section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside full government control (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits the employment of children under 14 in most occupations, and the Labor Code prohibits the granting of work permits to children under 18; how-

ever, child labor remained a significant problem, particularly in the informal sector. According to the National Department of Statistics (DANE), nearly 15 percent of children were employed. A National Committee for the Eradication of Child Labor, which included officials from the Ministries of Social Protection, Education, and Communications, as well as representatives of unions, employer associations, and NGOs, implemented the Government's Action Plan to Eradicate Child Labor. The Action Plan includes specific goals and strategies to protect children by updating information on child labor, strengthening the education system, and actively searching for child workers and removing them from the workplace.

The 1989 decree that established the Minors Code prohibits the employment of children under 12. It also requires exceptional conditions and the express authorization of the Labor Ministry to employ children between 12 and 17. Children under 14 are prohibited from working, with the exception that those ages 12 and 13 may perform light work with the permission of their parents and appropriate labor authorities. Children ages 12 and 13 may work a maximum of 4 hours a day, children ages 14 and 15 a maximum of 6 hours a day, and children ages 16 and 17 a maximum of 8 hours a day. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Children are prohibited from working in a number of specific occupations, including mining and construction; however, these requirements largely were ignored in practice, and only 5 percent of working children possessed the required work permits.

According to a recent report released by parastatal company *Mineros de Colombia* (MINERCOL), between 200,000 and 400,000 children worked in illegal gold, clay, coal, emerald, limestone and other mining operations. Children also worked extensively in agriculture, both on subsistence family farms and in larger, export-oriented industries such as flower cultivation. According to DANE, approximately 200,000 children worked as coca pickers or in other aspects of the illegal drug trade. The legal minimum age of 14 was inconsistent with completing a basic education, and only 38 percent of working children attended school.

The legal definitions of "worst forms of child labor" and "hazardous work" are consistent with ILO convention 182 and do not exempt specific sectors.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Sections 1.f. and 5), prostitutes (see section 5), or coca pickers. The Minors Code provides for fines ranging from 1 to 40 minimum monthly salaries for violations of child labor laws. If a violation is deemed to have endangered a child's life or threatened his or her moral values, sanctions can also include the temporary or permanent closure of the guilty establishment. In the formal sector, the Ministry of Social Protection enforced child labor laws through periodic inspections.

The Ministry had inspectors in each of the country's 32 departments and the national capital, responsible for certifying and conducting repeat inspections of workplaces that employed children; however, the system lacked resources and covered only 20 percent of the child labor force employed in the formal sector of the economy.

The National Committee for the Eradication of Child Labor conducted training on legislation and enforcement for approximately 600 public officials in 7 departments and created an information system on child labor to better measure and understand the problem. The Government, the major labor federations, and media representatives published articles, broadcasted documentaries, and launched other outreach programs to delegitimize child labor. UNICEF continued a program to encourage children to leave the workforce and return to school. An ILO pilot project removed nearly 3,000 child workers from dangerous jobs in low-tech, open-pit mines in the municipalities of Muzo and Sogamoso, Boyaca department, and Nemocon, Cundinamarca department.

*e. Acceptable Conditions of Work.*—The Government sets a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government, was about \$117 (332,000 pesos). Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation. The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Social Protection estimated 17 percent of all workers received salaries below the poverty line. An estimated 70 percent of all workers earned wages that were insufficient to cover the costs of the Government's estimated low-income family shopping basket.

Colombia's labor code provides for a regular workday of 8 hours and a regular workweek of 48 hours. The code stipulates that workers are entitled to receive premium compensation for additional hours worked and for work performed on Sun-

days. A major labor reform bill, passed in December 2002, reduced the amount of overtime pay and monetary compensation for workers who are fired unjustly, and gave employers greater flexibility in devising work schedules by lengthening the period of "day work" by 4 hours, from 6 a.m. to 10 p.m. Colombian law requires employers to provide premium pay for work performed outside these hours. The law also created the country's first unemployment benefits program, which provides unemployed workers with benefits for 6 months.

Legislation provides comprehensive protection for workers' occupational safety and health, which the Ministry of Social Protection attempted to enforce through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. The Social Security Institute reported 202,090 work-related accidents through the first 9 months of the year, resulting in 547 deaths. Workers in the informal sector sometimes suffered physical or sexual abuse.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however it remained a problem.

The Criminal Code provides for prison sentences of between 10 and 15 years and fines of up to 1,000 times the monthly minimum wage. These penalties, which are even more severe than those for rape (see Section 5), can be increased by up to one-third if there are aggravating circumstances, such as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. Police actively investigated trafficking offenses and some traffickers were prosecuted. However, limited resources hindered prosecutions.

A Government advisory committee composed of representatives of the Presidency, the Ministry of Foreign Affairs, the Ministry of Interior and Justice, the DAS, the Office of the Inspector General, the Office of the Prosecutor General, and Interpol met every 2 months to discuss trafficking in persons. The committee prepared information campaigns, promoted information exchange between government entities, created trafficking hot lines for victims, and encouraged closer cooperation between the Government and Interpol.

The Government cooperated with foreign counterparts on investigations and successfully freed victims in solo and joint operations. To protect citizens trafficked to other countries, Government foreign missions provided legal aid and social welfare assistance. Colombia was a source country for trafficking in persons, primarily for sexual purposes and principally to Europe and Asia. Countries with large numbers of victims included Spain, the Netherlands, and Japan. Victims were also trafficked to the United States and other Latin American countries. According to the DAS, Colombia was the second most common country of origin for trafficking victims in the Western Hemisphere, with an estimated 45,000 to 50,000 victims overseas. The vast majority of trafficking victims were young women, although children and young men were also at risk. Female trafficking victims were a high risk for sexually transmitted diseases, unwanted pregnancies, and forced abortions.

Many traffickers were honest about the sexual nature of the work they offered, but lied about working conditions, clientele, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting phantom jobs abroad. Most traffickers were well-organized and linked to narcotics or other criminal organizations.

The International Organization for Migration (IOM) strengthened government institutions involved in anti-trafficking efforts and assisted trafficking victims. Specifically, the IOM trained 1,610 officials in 18 regional departments on trafficking issues, provided victims with job training and employment opportunities, and helped victims obtain necessary medical care. The Hope Foundation ("Fundacion Esperanza"), an anti-trafficking NGO, also provided educational information, social support, and counseling to trafficking victims.

The IOM conducted a major anti-trafficking public relations campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.



## COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a president and unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. The presidential term of Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), began in May 2002, after he garnered 58 percent of the vote in a fair and free election. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the anti-narcotics police—and the Ministry of the Presidency share responsibility for law enforcement and national security. Civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market economy was based primarily on light industry, tourism, and agriculture; the country's population was approximately 3.9 million. The Constitution protects the right to private property; however, domestic and foreign property owners have in the past encountered difficulty obtaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants substantial rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Real gross domestic product (GDP) growth was 5.6 percent, compared with 2.8 percent in 2002. The unemployment rate was 6.7 percent. An estimated 19 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and penitentiary overcrowding remained a problem. The judicial system processed some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence was a serious problem, and traditional patterns of unequal opportunity for women remained, despite continuing government and media efforts to advocate change. Abuse of children also remained a problem, and child prostitution was a serious problem. Child labor persisted, although it has declined during the last 5 years. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings.

There was one instance of a killing by security forces that occurred when they were removing squatters (see Section 1.f.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence, and the authorities generally abided by these prohibitions; however, members of the public forces were responsible for some physical abuse. The Ombudsman's office was an effective mechanism for lodging and recording complaints of police misconduct (see Section 4).

As of December, the Ombudsman's office received 53 reports of police abuse of authority or misconduct. Of these, 43 reports were still being investigated at year's end, 8 were determined to be legitimate, and 2 were determined to be without merit. This compared with 12 legitimate complaints received in 2002 and 21 in 2001.

Prison conditions generally met international standards. Prisoners were usually separated by sex and by level of security (minimum, medium, and maximum); however, overcrowding sometimes prevented proper separation. Most but not all pretrial detainees were held separately from convicted prisoners. As of September, the Ombudsman's office received 14 complaints of physical abuse of prisoners by guards, of which 7 were still being investigated, two were determined to be legitimate, and 5 were determined to be without merit. The office also received 50 other complaints from prisoners alleging inadequate medical care, arbitrary administrative procedures, violation of due process of disciplinary procedures, unfair denial of prison transfer requests, and poor living conditions. Of these 50 complaints, 25 were still being investigated, 12 were determined to be legitimate, and 13 were determined to be without merit. The Ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common.

Penitentiary overcrowding remained a problem. As of December, the Social Adaptation Division of the Ministry of Justice reported a total of 12,908 persons under its supervision, including 6,723 jailed prisoners, 1,216 persons required to spend

nights and weekends in jail, 4,501 persons in supervised work programs requiring no jail time, and 468 juveniles. The overall prison overpopulation rate was 8 percent; however, crowding was more severe in several small jails. The facility in Perez Zeledon had the highest rate of overcrowding at 61 percent. Problems at La Reforma prison complex, the country's largest, have drawn attention to conditions in that prison. The Ombudsman attributed the problems to overcrowding, crumbling infrastructure, lack of adequately trained prison personnel, lack of prisoner employment programs, and insufficient medical care. Local judicial officials also cited the practice of grouping hardened criminals together with first-time offenders because of a shortage of maximum-security units and a poorly functioning drug-rehabilitation program.

As of December, the Ministry of Justice reported a total of 1,109 women under its supervision, including 454 jailed prisoners, 194 persons required to spend nights and weekends in jail, and 541 persons in supervised work programs requiring no jail time. Female prisoners were held separately in conditions that generally were considered fair, although the overcrowded women's prison held 50 percent more inmates than its intended capacity.

Juveniles were held in separate detention facilities in campus-like conditions that generally were considered good. The juvenile penal system held 28 youths in detention and another 440 in supervised alternative sanction programs.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions in practice.

In 1996, the Government combined several police units into a single "public force" that includes the Border Guard, the Rural Guard, and the Civil Guard. The public force is approximately 9,805 strong (an additional 300 slots need to be filled), not including municipal police forces, which are under the budget and supervision of each municipality. The public force has a Disciplinary Legal Department with an Internal Affairs Unit to investigate charges made against its members. During the year, these investigations resulted in 181 dismissals, primarily for unauthorized absence (80 cases), alcohol and drug abuse (44 cases), corruption (19 cases), and excessive physical force (6 cases).

The Pacheco administration continued implementation of the 1994 Police Code and the 2001 Law for Strengthening the Civilian Police in an effort to depoliticize and professionalize the police force. That law amended the Police Code to replace military ranks with civilian titles, required the police academy to develop a course and diploma in police administration that includes material on the fundamental and universal principles of human rights, and attempted to ensure that police officials were not dismissed due to a change in administrations.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respected these rights.

The law provides for the right to bail, and the authorities observed it in practice. The authorities generally did not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. A criminal court may hold suspects in pretrial detention for periods of up to 1 year, and the court of appeals may extend this period to 2 years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every 3 months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in July there were 1,850 persons in pretrial detention, representing 28 percent of the prison population.

The Constitution bars exile as punishment, and it was not used.

*e. Denial of Fair Public Trial.*—The Constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary enforced this right; however, the legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload supported by a shrinking budget.

The judicial branch of government includes the upper and lower courts, the judicial investigative police department, the office of the prosecutor, the office of the public defender, forensic laboratories, and the morgue. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the Assembly opposes such renewal. Overall, the Supreme Court has

a reputation for independence and integrity. Below the Supreme Court, the next tier of courts is organized at the circuit level. The final tier of courts, or courts of the first instance, operate at the municipal level.

Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. Persons accused of serious offenses and held without bail sometimes remained in pretrial custody for long periods (see Section 1.d.). Lengthy legal procedures, numerous appeals, and large numbers of detainees caused delays and case backlogs.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; government authorities generally respected these prohibitions, and violations were subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of genocide, homicide, procurement of minors, production of pornography, smuggling of minors, corruption of minors, trafficking in the organs of minors, and international crimes (which include terrorism and trafficking in slaves, women, children, or narcotics). Legal guidelines on the use of wiretaps, however, are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title damaged the real property interests of many who believed they held legitimate title to land. Landowners throughout the country have suffered frequent squatter invasions for years. In July, the security forces removed about 500 squatters from a 1,000-hectare parcel of bamboo forest owned by the Standard Fruit Company, resulting in the death of one squatter. At year's end, an investigation into this death was under way.

#### *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 an August survey by La Nacion newspaper of 184 journalists on their perception of freedom of the press, 41 percent said they left out information in reporting because of legal concerns, 79 percent said they felt pressure not to investigate certain issues, and 22 percent claimed that they had received some type of threat during the previous 12 months relating to the performance of their job. The greatest number of threats came from business and political interests. Of the surveyed journalists, 75 percent indicated that they felt constrained in their practice by existing legislation, and the same proportion were unsatisfied with the slow progress the Assembly had made in reforming existing laws.

A 1996 “right of response” law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers found it difficult to comply with provisions of this law. The Penal Code outlines a series of “insult laws” that establish criminal penalties of up to 3 years in prison for those convicted of “insulting the honor or decorum of a public official.” The law also identifies defamation, libel, slander, and calumny as offenses against a person’s honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee asserted that such laws had the effect of restricting reporting by the media, and that they wrongly provided public officials with a shield from public scrutiny by citizens and the press.

On December 23, journalist Ivannia Mora was murdered; on December 28, the police arrested her former employer and charged him with the killing. Her attempt to start a competing newspaper appeared to be the motive.

The authorities arrested five suspects in the July 2001 murder of popular radio host Parmenio Medina; at year's end, they were detained pending trial.

The Office of Control of Public Performances rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. A tribunal reviews appeals of the office’s actions.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

In June, an estimated 50,000 workers and students staged a protest rally in central San Jose during strikes by public teachers and public utility workers. The demonstration ended peacefully and without incident. In September, several thousand dock workers in the province of Limon went on strike, as did workers from the pe-

troleum parastatal. There were some confrontations with police, several arrests and a few injuries.

Most cases were dismissed for the 63 demonstrators arrested in July 2002 protests that blocked several major highways; in one of the few cases that went to trial, the court acquitted former Deputy Celimo Guido.

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

The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from impeding the free exercise of other religions “that do not impugn universal morality or proper behavior.” Members of all faiths freely practiced their religion without government interference. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. Denominational and nondenominational private schools were free to offer any religious instruction they saw fit. Foreign missionaries and clergy of all faiths worked and proselytized freely.

The Government does not restrict the establishment of churches. New churches, primarily evangelical Protestant churches that are located in residential neighborhoods, occasionally have encountered problems with local municipalities due to neighbors’ complaints about noise and traffic. Some have been closed as a result.

For more detailed information, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. There were no restrictions on travel within the country, emigration, or the right of return.

There was a long tradition of providing refuge to persons from other countries. The law provides for granting refugee status or asylum to persons who meet the definition of the U.N. 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The Government makes a distinction between political asylum and refugee status, the former handled by the Minister of Foreign Affairs and the latter by the Refugee Department.

During the year, the Government received 12,468 applications for refugee status, of which 11,852 were from Colombians. From January to July, the Government recognized 1,182 persons as refugees, of which 1,063 were of Colombian origin. This compares to 3,785 requests in 2002, of which 3,613 were from Colombians. These figures include family members. As of August 1, the UNHCR reported the total refugee population to be 14,008, including 8,760 Colombian refugees. The majority entered in legal visitor status and applied for asylum. Those who sought temporary refugee status were expected to return to their country of origin once the period of conflict ended there.

The Constitution specifically prohibits repatriation of anyone subject to potential persecution. The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. According to the General Directorate of Migration, between January and August, the Government had deported 690 persons, of which 492 were Nicaraguans, and denied entry to 26,005 persons, of which 22,334 were Nicaraguans.

Allegations of abuse by the Border Guard periodically arose. Although instances of physical abuse appeared to have declined, there continued to be credible reports of extortion of migrants by border officials.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two 4-year terms. Assembly members may seek reelection after at least one term out of office.

In the February 2002 elections, the failure of any one presidential candidate to win 40 percent of the popular vote necessitated a runoff election in April, which was won by Abel Pacheco of the Social Christian Unity Party. PUSC candidates won 19

of the Legislative Assembly's 57 seats. The National Liberation Party won 17 seats, and several other parties hold the remaining seats.

Women encountered no legal impediments to their participation in politics and were represented increasingly in leadership positions in the Government and political parties. To increase women's representation in government, the Supreme Electoral Tribunal required that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The First Vice President (who is also a cabinet member), the Minister of Children's Welfare, the Minister of Health, and the Minister of Women's Affairs were women. There were 20 women among the Legislative Assembly's 57 deputies, including 4 legislative committee chairwoman, and women held several prominent offices in the 3 largest political parties.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They accounted for about 1 percent of the population, and their approximately 20,000 votes constituted an important swing vote in national elections. No member of the Legislative Assembly identified himself as indigenous.

There were three Afro-Caribbean members in the Assembly; one represented San Jose province and two represented the Caribbean province of Limon. The country's 100,000 Afro-Caribbeans, who mostly resided in Limon province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination.

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

Various 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 Costa Rican Commission for Human Rights and the Commission for the Defense of Human Rights in Central America monitored and reported on human rights, as did the Ombudsman's office.

The Ombudsman's office served as a recourse for citizens who had complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office was part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judicial independence of the Ombudsman's office. The office investigated complaints and, when appropriate, initiated suits against officials. It was divided into nine different directorates, including one for women's issues, one for children and adolescents, as well as a "special protection" directorate for populations such as indigenous people, senior citizens, prisoners, persons with disabilities, immigrants, etc.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, were located in San Jose.

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

The Constitution provides that all persons are equal before the law, and the Government generally respected this provision.

*Women.*—The Government identified domestic violence against women and children as a serious societal problem. The National Institute for Women (INAMU), an autonomous institution created in 1998 that is dedicated to gender equality, received 13,560 calls on its domestic abuse hotline from January through July, compared with 63,990 calls in all of 2002. INAMU attributed the decline to better police training and the hiring of more female police officers, which in turn led to more immediate and direct intervention. Between January and August, INAMU counseled 3,609 female victims of abuse in its San Jose office and accepted 176 women in INAMU-run shelters.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes prosecuted 448 cases related to domestic violence during 2002, compared with 456 cases in 2001. INAMU reported that 25 women and girls were killed in incidents of domestic violence between January and September, compared with 24 during 2002.

The 1996 Law Against Domestic Violence established precautionary measures to help victims. The authorities incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. The public prosecutor, police, and the Ombudsman all had offices dedicated to this prob-

lem. The law against sexual harassment in the workplace and educational institutions sought to prevent and punish sexual harassment in those environments.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is under the age of 18.

The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. As part of its 3-year National Plan for Equality of Opportunity between Women and Men, the Government established an office for gender issues in almost all ministries and most parastatal organizations.

According to the U.N. Development Program, women over age 15 represented 36.6 percent of the labor force. Most women (76 percent) worked in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupied 45 percent of professional and technical positions, and 30 percent of legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women was approximately 78 percent of the earned income for men, despite the fact that 20.5 percent of women in the workforce had some university instruction, compared to 11.4 percent of men.

*Children.*—The Government was committed to children's rights and welfare through well-funded systems of public education and medical care. It also established a legal framework intended to comply with the Convention on the Rights of the Child and other international standards. Primary education is compulsory, free, and universal. The law requires 6 years of primary and 3 years of secondary education for all children, and attendance is required until age 15. School attendance requirements are generally enforced, with an estimated primary school dropout rate as of August of 2.7 percent and a secondary school dropout rate of 5.5 percent. There was no difference in the treatment of girls and boys in education or in health care services. The country had a high rate of literacy (96 percent) and a low rate of infant mortality (11 persons per 1,000). The Government spent over 5 percent of GDP on medical care, including that for children. The autonomous National Institute for Children (PANI) oversaw implementation of the Government's programs for children. In May 2002, President Pacheco changed the title of PANI's Executive Director to the Minister of Child Welfare.

In recent years, PANI increased public awareness of abuse of children, which remained a problem. PANI's budget was \$19,832,000 (8,131 million colones), a 21 percent increase over the 2002 budget. From January to April, PANI assisted 5,391 children, including 184 cases of substance abuse, 283 cases of physical abuse (compared with 403 in 2002), 2,984 cases of sexual abuse (compared with 3,475 in 2002), and 924 cases of psychological abuse (compared with 1,601 in 2002). The 1997 Code of Childhood and Adolescence redefined psychological abuse and increased awareness of it. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hampered legal proceedings against those who committed crimes against children.

The Government, police sources, and UNICEF representatives acknowledged that child prostitution was a serious problem (see Section 6.f.).

The NGO Casa Alianza operated a 24-hour telephone help line that received 136 accusations of exploitation of minors from January through August. Casa Alianza estimated that of the approximately 1,500 children living on the street, 76 percent were addicted to drugs and 29 percent survived by prostitution. In 2002, the organization produced a study in which it criticized the Government for failure to fund PANI adequately. It also criticized PANI for lacking the professional and technical resources needed to address the problems of street children in the proper psychological, social, and legal context.

The Constitution and the Labor Code provide special occupational protection for minors and establish a minimum working age of 15 years. Child labor is a problem mainly in the informal sector of the economy (see Section 6.d.).

*Persons with Disabilities.*—The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law was not enforced widely, and many buildings remained inaccessible to persons with disabilities. The Ministry of Education operated a Program for Persons with Disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The Ministry reported that 19,782 students with disabilities were registered in the school system during the year, and that 46 special education centers had been created.

*Indigenous People.*—The population includes nearly 64,000 indigenous persons among 8 ethnic groups. Most (73 percent) lived in traditional communities on 22 reserves which, because of their remote location, often lacked access to schools, health care, electricity, and potable water. The Ombudsman had an office to investigate violations of the rights of indigenous people.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The Labor Code also guarantees freedom of association in the negative sense, i.e. the right not to join a union and to leave a union, and accordingly prohibits any action that might infringe that right. About 12 percent of the work force was unionized, and approximately 80 percent of all union members were public sector employees. Unions operated independently of government control.

Some trade union leaders contended that the existence of worker “solidarity associations” in some enterprises displaced unions and discouraged collective bargaining. However, since 1993, these non-dues-collecting organizations have been prohibited by law from representing workers in collective bargaining negotiations or in any other way assuming the functions of or inhibiting the formation of trade unions. Instead, their function has been to offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans.

The law prohibits discrimination against union members and imposes sanctions against offending employers. However, a 2001 International Labor Organization (ILO) report noted continued problems related to the slowness and inefficiency of redress procedures for unjustified firings and discriminatory antiunion measures, especially in the private sector. According to the Labor Ministry, the situation has improved, and the number of outstanding cases was reduced from 16,619 in 1998 to 7,742 in 2002. The Ministry credits the establishment of specialized labor courts and the appointment of 37 new judges working expanded hours with reducing the backlog. In 2000, the Ministry created the Center for Alternative Resolution of Labor Disputes (RAC), which depends on conciliation and arbitration and dispenses with the legal formalities of the labor courts. During the year, RAC handled 2,462 cases, 47 percent of which resulted in an agreement between the parties.

Delays in processing court rulings were common throughout the judicial branch, with little improvement in the slow and ineffective recourse procedures in response to anti-union discrimination. The Ministry of Labor continued its efforts to modernize the National Inspection Directorate, by increasing the authority of regional officers to investigate and process cases of alleged abuse by employers. These regional offices also established local forums where government officials, employers, and employees could discuss labor issues. Inspectors were provided increased opportunities for training and participation in Ministry of Labor administration.

Unions could and did form federations and confederations and affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. The ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) cited the importance of amending both the Labor Code and the Constitution in order “to abolish the current excessive restrictions on the right of foreign nationals to hold trade union office.”

Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation; however, the employer is not obligated to follow any specific procedures to prove grounds for dismissal. The revised provisions require employers who are found guilty of unfair labor practices to reinstate workers fired for union activities; however, enforcement of the measure was lax. In 1999 and again in 2002, the CEACR noted its concern that no prior authorization from the administrative authority is required for dismissal. It also noted that legislation needs to be amended “to expedite judicial proceedings concerning anti-union discrimination and to ensure that the decisions thereby are implemented by effective means.”

If a trade union of which at least 34 per cent of the workforce are members requests collective bargaining, the employer is obligated to initiate the bargaining process. If the employer refuses to do so, or if no agreement is reached, the workers may have recourse to the judicial procedures that exist to resolve socio-economic disputes, which include the possibility of exercising the right to strike. In the event of noncompliance with an agreement by an employer, the trade unions can, in addition to taking legal action to force the employer to comply, request that the employer be fined and forced to pay compensation.

Private sector unions had the legal right to engage in collective bargaining; however, collective bargaining diminished as a result of several factors, including lengthy delays in court processing of unfair dismissal suits of union organizers. The 2001 ILO report drew attention to the “enormous imbalance” in the private sector between the number of collective agreements concluded by trade union organizations (12, with 7,200 workers covered) and direct pacts concluded by nonunionized workers (130). The COE noted that trade union confederations linked this imbalance with employers or solidarity associations, an allegation that employers denied. The ILO requested that the Government take the necessary measures to promote collective bargaining within the meaning of ILO Convention 87 and to hold an investigation by independent persons concerning the reasons for the increase in direct pacts with nonunionized workers.

The law provides for the right to strike, and workers exercised this right. The general requirements set out by the legislature for a strike to be legal include the requirement that at least 60 percent of the workers in the enterprise support strike action. The Constitution and Labor Code restrict the right of public sector workers to strike. Following the Constitutional Chamber’s ruling in August 2000 that the prohibition of strike action in public services contained in the Labor Code was unconstitutional, the prohibition applies only to essential services that are listed restrictively and directly concern the national economy or public health. However, they also include transport services, which in the view of the CEACR is “incompatible with the right of workers’ organizations to organize their activities and to formulate their programs in full freedom,” as set out in ILO Convention 87. The CEACR also criticized the 60 percent vote required to call a legal strike, noting that account should be taken only of votes cast, and that the required quorum and majority should be fixed at a reasonable level.

In practice, strikes, whether legal or not, were tolerated. There were a number of strikes by public sector workers during the year. In May and June, electricity and telecommunication workers were out for 3 weeks and public school teachers went on strike for 1 month. In neither case did workers lose their salaries. In September, dock workers in the province of Limon went on strike as did workers from the petroleum parastatal. Nonetheless, the COE reported that workers in the rail, maritime, and air transport sectors were prohibited from exercising their right to strike.

There were no legal restrictions on the right of private sector workers to strike, but few private sector workers belonged to unions. Private sector strikes rarely occurred, and there were no major strikes during the year.

All labor regulations apply fully to the country’s nine export processing zones (EPZs). The Labor Ministry oversaw labor regulations within the EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, and there were no reports that it occurred. Laws prohibit forced and bonded labor by children, and the Government generally enforced this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution and the Labor Code provide special occupational protection for minors and pregnant and nursing women, and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from PANI, while children under the age of 15 may not work legally. The law prohibits night work and overtime for minors. A higher minimum age for admission to employment, such as 18 years, applies to certain activities considered to be unhealthy or hazardous. In addition, minors are entitled to facilities allowing them to attend educational establishments, through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

PANI, in cooperation with the Labor Ministry, generally enforced these regulations in the formal sector. Due to limited government resources for enforcement, some children worked on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry.

Child labor was a problem mainly in the informal sector of the economy, including small-scale agriculture, domestic work, and family-run enterprises. Child prostitution remained a serious problem (see Section 6.f.). In August, the Ministry of Labor and ILO released the “National Report of the Results of the Survey of Child and Adolescent Labor in Costa Rica.” According to the report, of the 1.1 million children and adolescents between the ages of 5 and 17 in the country, 11 percent were employed or looking for work. Child workers were employed mainly in agriculture (43.4 percent), in construction, as street vendors, and as domestic servants. The primary reasons given for working were to help support the family or to work in the family business or farm.



With help from the ILO, the Labor Ministry was working to phase out child labor in the formal sector and asked employers of children to notify the Ministry of such employment. The Ministry of Labor maintained an Office for the Eradication of Child Labor, and the Government has a number of social programs aimed at reducing the causes of child labor. These include providing small loans and economic aid to families with at-risk children and scholarships for poor families to cover the indirect costs of attending school. The country also implemented a number of programs aimed at reinserting child workers into the education system.

*e. Acceptable Conditions of Work.*—The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, set minimum wage and salary levels for all sectors. Monthly minimum wages for the private sector ranged from approximately \$142 (56,904 colones) for domestic employees to approximately \$560 (223,923 colones) for university graduates. Public sector negotiations, based on private sector minimum wages, normally followed the settlement of private sector negotiations. The Ministry of Labor effectively enforced minimum wages in the San Jose area but did so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage was not sufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they voluntarily worked beyond their normal hours. Little evidence existed that employers coerced employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees but either did not use the committees or did not turn them into effective instruments for improving workplace conditions. The Government did not provide sufficient resources to the Labor Ministry to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose, or to verify effectively compliance with labor laws by the country's approximately 42,000 companies. Workers have the right to leave work if conditions become dangerous; however, workers who did so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

The Government estimated that there were as many as 500,000 Nicaraguans living in the country, many of them in irregular status, and working in agriculture near the Nicaraguan border.

*f. Trafficking in Persons.*—The law prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking, and trafficking in persons was a problem.

The 1999 Law Against the Sexual Exploitation of Minors specifically penalizes persons who use children and adolescents under age 18 for erotic purposes and makes it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and raided brothels and arrested clients. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution.

On October 9, the authorities arrested "Sinai" Monge Munoz for allegedly operating a child prostitution ring in San Jose. It was alleged that she ran the operation for 11 years, supplying adolescents between the ages of 14 and 17 for purposes of prostitution. At year's end, she was detained pending trial; the authorities were investigating her for pimping.

In November 2002, Merlin Ocampo Chacon, a former Migration officer, was sentenced to 12 years' imprisonment for criminal association with an international document fraud operation and another official is awaiting trial for allegedly passing a false passport to a minor for transit through Panama to the United States.

In December 2002, a court convicted five persons arrested in 2001 for sexual exploitation of children; two were sentenced to 30 years' imprisonment and three to 16 years' imprisonment.

The government agencies responsible for addressing the problem include the Special Prosecutor on Domestic Violence and Sex Crimes, the Foreign Ministry, the

Labor Ministry, the Public Security Ministry, the Child Welfare Ministry, and the Tourism Ministry.

Costa Rica was a transit and destination country for trafficked persons and, to a lesser degree, a country of origin. Cases of trafficking have involved persons from Colombia, Dominican Republic, Panama, Nicaragua, Romania, and Russia. There also were reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the U.S. Some Costa Rican women, generally from impoverished backgrounds, have also been trafficked to Canada, Mexico, and the U.S. Traffickers often approach victims with a promise of secure employment and good pay.

Child prostitution was a serious problem. Although no official statistics existed, PANI identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Child prostitutes have also been sent from San Jose to coastal and border communities. PANI estimates that 3,000 children suffer from commercial sexual exploitation.

There was no evidence at a national level of government tolerance of trafficking, and efforts were being made to raise awareness and encourage a professional, law enforcement approach to trafficking at the local level. These efforts, however, were hampered by a lack of resources. A government Inter-Ministerial Group on Trafficking was formed to address the problem. Each participating ministry reportedly incorporated preventive trafficking measures into its ministerial agenda. The Government supported prevention programs to combat sexual exploitation of minors and trafficking and a radio campaign to raise awareness about the plight of street children. There were limited formal mechanisms specifically designed to aid trafficked victims; however, the Government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.

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## CUBA

Cuba is a totalitarian state controlled by Fidel Castro, who is chief of state with the titles of president, head of government, first secretary of the Communist Party, and commander in chief of the armed forces. Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus. In March, Castro declared his intent to remain in power for life. The Communist Party is the only legal political entity, and Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 609-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State, which Castro heads. On January 19, the Government held general elections for all 609 seats on the ANPP. The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal entity of state security and totalitarian control. Officers of the Revolutionary Armed Forces, which are led by Fidel Castro's brother, General Raul Castro, were assigned to the majority of key positions in the Ministry of Interior in the past several years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigated and actively suppressed political opposition and dissent. It maintained a pervasive system of surveillance through undercover agents, informers, rapid response brigades (RRBs), and neighborhood-based Committees for the Defense of the Revolution (CDRs). The Government traditionally has used the CDRs to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. RRBs consisted of workers from a particular brigade (construction workers, a factory, etc.) that were organized by the Communist Party to react forcefully to any situation of social unrest. The Government on occasion used RRBs instead of the police or military during such situations. Members of the security forces committed numerous, serious human rights abuses.

The economy was centrally planned, with some elements of state-managed capitalism in sectors such as tourism and mining. The country's population was approximately 11 million. The economy depended heavily on primary products such as

sugar and minerals, but also on its recently developed tourism industry and emigrant remittances. The economy performed poorly during the year, primarily due to inefficient policies. The annual sugar harvest was the smallest since 1933, partly as the result of a restructuring of the sugar industry that included the closure of half the country's sugar mills and the elimination of one-quarter of the jobs in the industry. Government officials predicted the economy would grow by 1.5 percent during the year. Government policy was officially aimed at preventing economic disparity, but persons with access to dollars enjoyed a significantly higher standard of living than those with access only to pesos. During the year, the Government repressed small-scale businesses and announced substantial new taxes for private room renters, imposing additional hardships for those operating in the country's small private sector. A system of "tourist apartheid" continued, whereby citizens were denied access to hotels, beaches, and resorts reserved for foreign tourists.

The Government's poor human rights record worsened, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government peacefully. Although the Constitution allows legislative proposals backed by at least 10,000 citizens to be submitted directly to the ANPP, in 2002, the Government rejected a petition known as the Varela Project with more than 11,000 signatures calling for a national referendum on political and economic reforms. In October, Project Varela organizers submitted a second petition to the ANPP with more than 14,000 new signatories. Communist Party-affiliated mass organizations tightly controlled elections to provincial and national legislative bodies, resulting in the selection of single, government-approved candidates. In March, the Government arrested 75 human rights activists, independent journalists, and opposition political figures on various charges, including aiding a foreign power and violating national security laws. Authorities subjected the detainees to summary trials and sentenced them to prison terms ranging from 6 to 28 years. During the year, other human rights activists were arrested for acts such as possessing and publicly displaying human rights literature, receiving money and medicine from abroad for families of political prisoners, communicating with international media organizations, and organizing meetings and demonstrations to call for political reforms. Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening, and the Government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association and closely monitored domestic and international journalists through physical and electronic surveillance. It limited the distribution of foreign publications and news, restricted access to the Internet, and maintained strict censorship of news and information to the public. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government maintained tight restrictions on freedom of movement, including foreign travel and did not allow some citizens to leave the country. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, on April 11, the Government summarily executed three persons for hijacking a ferry, following a summary trial and a perfunctory review of the death sentences.

In March, the three men, Lorenzo Copello Castillo, Barbaro Sevilla Garcia, and Jorge Martinez Isaac, were arrested for hijacking a ferry during an effort to migrate illegally. On April 5, the Havana City Provincial Court began the trial and convicted the three men on April 8. On April 9, the Supreme Court rejected their appeal and

the Council of State confirmed the death sentences. On April 11, the Government executed the men and did not advise their families until they had been buried. The Inter-American Commission on Human Rights (IACHR) and other international observers criticized the executions, in particular, the summary nature of the hijackers' trials and the absence of due process. The IACHR determined that the process leading up to the executions constituted "the arbitrary deprivation of life." Local human rights monitors noted the especially harsh nature of the punishments in view of the fact that no persons were injured during the hijacking.

During the year, there were reports that prisoners died in jail due to lack of medical care (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 abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners. The Government took no steps to curb these abuses. There continued to be numerous reports of disproportionate police harassment of black youths (see Section 5).

On January 22, police forced Jose Daniel Ferrer Garcia and a colleague from a bus and beat them. Ferrer was a local leader of the Christian Liberation Movement and a Project Varela organizer. In April, the Santiago Provincial Court sentenced him to 25 years' imprisonment for "acts against the independence or the territorial integrity of the State" (see Section 1.e.).

On February 11, police in Santiago Province beat Daniel Perea Garcia of the Christian Liberation Movement and dragged him to a local police station, where he was fined and released. Perea was one of several members of the Christian Liberation Movement arrested following a series of government-organized attacks against opposition members in Santiago Province.

The Government continued to subject persons who disagreed with it to what it called acts of repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims were obliged to stage public protests against those who dissented from the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occurred. Police and state security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

In January, the first secretary of the Communist Party in Granma Province and several government candidates for the January 19 ANPP elections directed several dozen persons to engage in an act of repudiation against Tania de la Torre Montesinos of the Assembly to Promote Civil Society. Government officials placed young children in front of baton-wielding adults and instructed the children to yell pro-government slogans at de la Torre.

On February 4, 100 members of an RRB attacked the home of Jesus Mustafa Felipe of the Christian Liberation Movement, shouting death threats and pro-government slogans. According to the opposition members who took refuge in Mustafa's home, several individuals sprayed a toxic pesticide into the home during the attack. On February 18, Mustafa was tried on charges of "contempt of authority" and sentenced to 18 months' imprisonment. In March, the authorities levied additional charges against Mustafa and sentenced him to 25 years' imprisonment following a summary trial (see Section 1.e.).

There were also smaller-scale acts of repudiation, known as "reuniones relampagos" or rapid repudiations. These acts were conducted by a small number of persons, usually not from the target's neighborhood, and lasted up to 30 minutes. These individuals shouted epithets and threw stones or other objects at the victim's house.

On July 30, members of a CDR shouted pro-government slogans at fellow CDR member Olga Lidia Arbolaez Crespo for having signed the Varela petition. According to an independent journalist, Arbolaez was forced to take refuge in her home when her attackers threatened to stone her for stating that citizens needed greater political freedoms and for making other "subversive statements."

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh. The Government claimed that prisoners had rights such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director; however, police and prison officials often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. The Penal Code pro-

hibits the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity; however, the code fails to establish penalties for committing such acts, and they continued to occur in practice. Detainees and prisoners, both common and political, often were subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Pretrial detainees were generally held separately from convicted prisoners, although some long-term detainees, including political detainees, were held with convicted prisoners. In Havana, there were two detention centers; once sentenced, persons were transferred to a prison.

In June, political prisoner Manuel Vazquez Portal, one of 75 activists arrested by the Government in March, reported that his cell flooded with water every day and that sewage from a latrine regularly spilled into his cell. Vazquez was sentenced to 18 years' imprisonment for his work as an independent journalist (see Section 2.a.).

Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, were semi-dark all the time, had no water available in the cell, and had a hole for a toilet. No reading materials were allowed, and family visits were reduced to 10 minutes from 1 or 2 hours. There was no access to lawyers while in the punishment cell.

On January 31, a political reeducation officer beat jailed independent journalist Carlos Brizuela Yera for having copies of the Universal Declaration of Human Rights and a report from the international nongovernmental organization (NGO) Reporters Without Borders. Brizuela was arrested in March 2002 on charges of public disorder, resistance, and contempt for authority and remained jailed without trial.

On September 2, prison officials beat political prisoner Angel Ramon Eireos Rodriguez, of the February 24 Movement, with a club for demanding improved prison conditions. Eireos was jailed on February 28 and was serving a 20-month sentence on charges of "resistance" and "contempt for authority."

Prison guards and state security officials subjected human rights and prodemocracy activists to threats of physical violence, to systematic psychological intimidation, and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners.

In January, political prisoner Juan Carlos Gonzalez Leyva reported that another inmate had entered his cell during the night and attempted to bludgeon him but fled when Gonzalez Leyva awoke. Prison authorities told Gonzalez Leyva's family that they would take steps to prevent further such incidents. Gonzalez Leyva, who is blind, was arrested in March 2002 on charges of "contempt for authority, public disorder, disobedience, and resistance." Prosecutors requested a 6-year sentence for Gonzalez, but at year's end he remained jailed without trial.

On September 18, five political prisoners at 1580 Prison in Havana went on a hunger strike to demand protection from common prisoners, who were beating political prisoners at the instigation of prison guards. On September 22, police beat two of the hunger strikers, Iosvani Aguilar Camejo and Jose Enrique Santana, to induce them to give up their protest. Aguilar and Santana were among the 300 persons rounded up by the Government in February 2002 after 21 asylum seekers used a bus to break into the Mexican Embassy.

In October, seven political prisoners at Holguin Provincial Prison went on a hunger strike to protest the beating of jailed independent journalist Ivan Hernandez Carrillo by the prison official in charge of political re-education. Prison authorities denied a request by the families of the hunger strikers to see the prisoners to assess their health and barred the prisoners from otherwise communicating with their families. Prison officials ended the protest in November by separating the hunger strikers and sending them to different prisons.

In October, the family of Leonardo Bruzon Avila reported that he would be on a hunger strike from October 10 to November 11 to demand the release of all political prisoners. State Security officials reportedly offered to release Bruzon in July if he would allow himself to be filmed conversing with them. Bruzon declined the offer, suspecting authorities would use such a film falsely to allege that he was a Government agent, and officials transferred him from a medical detention facility to a regular prison. Bruzon was jailed in February 2002 on charges of civil disobedience and, at year's end, remained jailed without trial.

On December 6, a common prisoner in Holguin Provincial Prison beat 54-year-old political prisoner Adolfo Fernandez Sainz until Fernandez was unconscious. The prisoner who carried out the beating was authorized by prison guards to exercise control over other inmates. Prison officials told Fernandez the common prisoner should

have beaten him harder in order to kill him. In April, Fernandez was sentenced to 15 years' imprisonment for his work as an independent journalist (see Section 2.a.).

Political prisoners were required to comply with the rules for common criminals and often were punished severely if they refused. They often were placed in punishment cells and held in isolation.

On June 9, Elsa Morejon, the wife of political prisoner Oscar Elias Biscet, reported that Biscet was being held in a tiny isolation cell for refusing to wear a prison uniform. Morejon asserted that common prisoners were permitted to wear their civilian clothes and believed that Biscet was being singled out for punishment because of his political views. Biscet's cell was sealed to prevent daylight from entering, and he was not permitted to leave his cell for exercise or to have a Bible. The authorities barred Biscet from receiving visitors from March until August, when he was permitted to see his wife. Biscet's conditions improved in August, although he continued to refuse to wear the prison uniform. In November, he was placed in a punishment cell with a convicted murderer for 21 days for allegedly inciting other prisoners to demand improved treatment by prison officials and authorities again suspended family visits. In December, authorities advised Morejon that Biscet would be placed in a punishment cell indefinitely for failing to show proper deference to prison officials. Biscet was 1 of 75 political detainees subjected to summary trials in April (see Section 1.e.).

The Government regularly failed to provide adequate nutrition and medical attention, and a number of prisoners died during the year due to lack of medical attention. Both the IACHR and the former U.N. Special Rapporteur on the country, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition. On July 30, Amnesty International (AI) expressed concern to the Government regarding the poor health of numerous political prisoners, the limitations on family visits for some political prisoners, and the incarceration of many political prisoners far from their home provinces. The Government did not respond to AI.

In May, Miriam Leyva, the wife of jailed independent journalist Oscar Espinosa Chepe, reported that prison officials were failing to provide adequate medical treatment for Chepe, who suffers from liver disease, high blood pressure, intestinal polyps, and other illnesses. Chepe was 1 of 28 independent journalists sentenced to long prison terms in April following summary trials (see Section 2.a.). According to Leyva, Chepe lost 25 pounds due to diarrhea and lack of medical care in the weeks following his arrest, conditions aggravated by his transfer to a prison 500 miles from Havana. Prison officials refused Leyva's numerous requests to see Chepe or to provide him medication. A prison doctor informed Leyva that State Security agents, rather than medical staff, determined what medication would be administered to Chepe. In August, prison officials transferred Chepe to a military hospital in Havana, where he received improved medical care and was permitted to see his wife but remained in poor health. Leyva complained that prison officials limited her access to Chepe's doctors and kept Chepe heavily sedated.

In July, jailed independent journalist Juan Carlos Herrera Acosta reported that common prisoner Carlos Duane died of a heart attack after prison medical officials repeatedly refused to respond to Duane's complaints of chest pains.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. Some prison directors routinely denied religious workers access to detainees and prisoners. Reading materials, including Bibles, were not allowed in punishment cells.

In September, officials at Kilo 8 Prison in Camaguey Province threatened to suspend family visits for nine political prisoners who read aloud to each other from the Bible. The nine prisoners, Eduardo Diaz Fleites, Ricardo Gonzalez Alfonso, Lester Gonzalez Penton, Juan Carlos Herrera Acosta, Regis Iglesias Ramirez, Jose Miguel Martinez, Omar Rodriguez Saludes, Claro Sanchez Altarriba, and Miguel Valdes Tamayo, were among the 75 activists and independent journalists arrested in March and sentenced to long prison terms following summary trials (see Section 1.e.).

There were separate prison facilities for women and for minors. Conditions of these prisons, especially for women, did not take into account the special needs of women. Human rights activists believed that conditions were poor.

The Government did not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused to allow prison visits by the International Committee of the Red Cross (ICRC) since 1989.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective and commonly used tactics for harassing opponents. The Law of Penal Procedures requires police

to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The Ministry of the Interior exercises control over police and internal security forces. The National Revolutionary Police (PNR) is the primary law enforcement organization and was generally effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating and suppressing opposition political groups, although the PNR does play a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were few reports of corruption, although authorities arrested several PNR officers in January on corruption charges during a crackdown on narcotics trafficking and other illegal activities.

The authorities routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and unsanitary conditions for hours or days at a time. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometimes employed false charges of common crimes to arrest political opponents. Detainees often were not informed of the charges against them. The authorities continued to detain human rights activists and independent journalists for short periods, often to prevent them from attending or participating in events related to human rights issues (see Sections 2.a. and 2.b.). The authorities also placed such activists under house arrest for short periods for similar reasons.

In March, authorities arrested 75 human rights activists, journalists, and opposition political figures, charging them with various crimes, including national security violations and aiding a foreign power. The U.N. High Commissioner for Human Rights expressed concern regarding the arrests and summary trials, as did many governments, international organizations, and public figures. The 75 political prisoners included 28 independent journalists, 9 independent librarians, and at least 21 persons affiliated with the Varela petition. Several of the prisoners were elderly; 21 of the prisoners were over the age of 50.

In mid-March, police arrested Regis Iglesias Ramirez of the Christian Liberation Movement on charges of "acts against the independence or the territorial integrity of the State." On April 5, the Havana City Provincial Court sentenced Iglesias, a Project Varela organizer, to 18 years' imprisonment (see Section 1.e.).

On March 18, Ministry of the Interior officials arrested poet and independent journalist Raul Rivero on charges that he carried out "acts against the independence or the territorial integrity of the State." On April 5, he was convicted and sentenced to 20 years' imprisonment (see Section 2.a.).

On March 20, Ministry of the Interior officials arrested Martha Beatriz Roque of the Assembly to Promote Civil Society for acts against the independence or the territorial integrity of the State.

On March 25, police arrested human rights monitor Marcelo Manuel Lopez Banobre of the Cuban Commission for Human Rights and National Reconciliation after he visited a foreign embassy in Havana. The authorities subjected Lopez to a summary trial and sentenced him to 15 years' imprisonment under Article 91 of the Penal Code, acts against the independence or the territorial integrity of the State (see Section 1.e.). He was penalized in part for his work on behalf of AI and other international human rights organizations.

Many of the 75 activists subjected to summary trials in April reported that they had little or no access to a lawyer and many were only advised of the charges against them as the trials were about to begin. For example, independent journalist Manuel Vazquez Portal was arrested on March 19 but was not able to see a lawyer until the day of his trial on April 4.

There were at least 32 political detainees awaiting trial at year's end. Most of the 32 had been held for more than 1 year.

According to relatives, approximately 9 of the 300 persons arrested near the Mexican Embassy in February 2002 remained jailed without trial at year's end.

The Government often held persons without charges for months and then released them, which avoided the spectacle of a trial.

State security police used detentions and warnings to prevent organizations around the country from performing any actions in remembrance of the four pilots killed in February 1996 by military aircraft.

The authorities sometimes detained independent journalists in order to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the Government (see Section 2.a.).

Time in detention before trial counted toward time served if convicted. Bail was available and usually was low and more equivalent to a fine.

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision. Both the U.N. Commission on Human Rights and the IACHR criticized this tactic for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so-called special inclination to commit crimes referred to in the Penal Code amounted to a subjective criterion used by the Government to justify violations of individual freedoms and due process for persons whose sole crime was to hold a view different from the official view.

The Government also used exile as a tool for controlling and eliminating internal opposition. The Penal Code permits the authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of from 1 to 10 years. Under this provision, authorities may exile any person whose presence in a given location would be "socially dangerous."

On May 23, Ministry of the Interior officers advised independent journalist Oscar Mario Gonzalez that he should not return from a planned trip to Spain. The officials warned Gonzalez that he could be jailed for 25 years if he continued to work as a journalist.

The Government pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. Human Rights Watch (HRW) observed that the Government routinely invoked forced exile as a condition for prisoner releases and also pressured activists to leave the country to escape future prosecution. AI expressed particular concern about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they did not leave the country. According to AI, this practice "effectively prevents those concerned from being able to act in public life in their own country."

*e. Denial of Fair Public Trial.*—The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of society and the State, further compromises the judiciary's independence. The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civilian courts existed at the municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges presided over them. There was a right to appeal, access to counsel, and charges were generally known to the defendant, although several political detainees subjected to summary trials in April were unaware of the charges against them until moments before their trials were set to begin. Defendants enjoyed a presumption of innocence, but the authorities often ignored this right in practice.

Military tribunals assumed jurisdiction for certain counterrevolutionary cases and were governed by a special law. The military tribunals processed civilians if a member of the military was involved with civilians in a crime. There was a right to appeal, access to counsel, and the charges were known to the defendant.

The law and trial practices did not meet international standards for fair public trials. Almost all cases were tried in less than 1 day; there were no jury trials. While most trials were public, trials were closed when there were alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer (see Section 1.c.). The authorities regularly denied defendants access to their lawyers until the day



of the trial. Several dissidents who served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

In early April, the Government summarily tried 75 independent journalists, human rights activists, and members of the political opposition for alleged acts against the independence or the territorial integrity of the State or aiding a foreign power. All 75 of the detainees were arrested, tried, convicted, and sentenced within a period of 20 days. On April 9, the Government asserted the 75 detainees were provided adequate legal guarantees during the trials; however, the families of the detainees disputed that assertion. Most defense attorneys for the 75 detainees had less than 24 hours to prepare for trial, and several defendants were unaware that they were going to be tried until the moment they were escorted into the courtroom. The authorities permitted small numbers of family members to attend the trials but excluded public and diplomatic observers and packed the courtrooms with regime supporters. The family of Luis Enrique Ferrer Garcia of the Christian Liberation Movement was barred from the courtroom during his trial, and members of the public reportedly pushed Ferrer's 56-year-old mother to the ground as she waited outside for the verdict. Much of the evidence against the defendants consisted of unsubstantiated or unspecified allegations of activities against the Government on behalf of a foreign power and vague accusations of "counterrevolutionary" behavior. The testimony provided by 12 State Security agents infiltrated into opposition groups consisted primarily of attacks against the character of several of the defendants. In June, AI found that, "the conduct for which dissidents were prosecuted was not self-evidently criminal; it was nonviolent and appeared to fall within the parameters of the legitimate exercise of fundamental freedoms as provided under international standards." AI determined that all 75 jailed activists were "prisoners of conscience."

The law provides the accused with the right to an attorney, but the control that the Government exerted over the livelihood of members of the state-controlled lawyers' collectives compromised their ability to represent clients, especially when they defended persons accused of state security crimes. Attorneys reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

On April 4, the Havana City Provincial Court sentenced Martha Beatriz Roque Cabello of the Assembly to Promote Civil Society to 20 years' imprisonment for "activities aimed at subverting the internal order of the Cuban State" and for allegedly receiving funds from and maintaining links to a foreign government. Prosecutors, who had requested a life sentence for Roque, failed to specify how Roque's activities had threatened the stability of the Government. Roque was arrested on March 20 while undertaking a fast to draw attention to the case of Oscar Elias Biscet and other political prisoners.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos of the United Cuban Workers Council to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. Much of the evidence against Alvarez consisted of an inventory of materials in his possession, including a fax machine, fax paper, and a video camera, as well as evidence of his contacts with unions in Latin America and Europe (see Section 6.a.).

On April 5, the Havana City Provincial Court sentenced Antonio Diaz of the Christian Liberation Movement to 18 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated that business cards found in Diaz' possession demonstrated his links to foreign diplomats and that these links, together with Diaz' comments to foreign media and his possession of "counterrevolutionary" books, constituted a grave threat to national security.

On April 8, the Havana City Provincial Court sentenced Oscar Elias Biscet of the Lawton Human Rights Foundation to 25 years' imprisonment for unspecified acts against the independence or territorial integrity of the State. At the time of his trial, Biscet was in detention on separate charges of public disorder stemming from his arrest in December 2002 for attempting to organize a human rights seminar. Biscet was released from prison in October 2002 after serving a 3-year sentence for "insulting the symbols of the Fatherland" and public disorder.

Human rights monitoring groups inside the country estimated the number of political prisoners to be between 300 and 400 persons. The authorities imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. The Government did not permit access to political prisoners by human rights organizations. It continued to deny access to prisoners by the ICRC.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such as the CDRs, remained one of the most pervasive and repressive features of daily life. The Government employed physical and electronic surveillance against nonviolent political opponents. The State assumed the right to interfere in the lives of citizens, even those who did not oppose the Government and its practices actively. The authorities utilized a wide range of social controls. The mass organizations' ostensible purpose was to improve the citizenry, but in fact their goal was to discover and discourage nonconformity. Although official statistics indicated that CDRs have grown over the past decade and included 93.5 percent of the population over the age of 14, in reality, citizen participation in these mass organizations declined. The economic crisis both reduced the Government's ability to provide material incentives for their participation and forced many persons to engage in black market activities, which the mass organizations were supposed to report to the authorities.

The Interior Ministry employed an intricate system of informants and block committees (the CDRs) to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controlled all access to the Internet, and all electronic mail messages were subject to censorship. Dial-up Internet service was prohibitively expensive for most citizens. The Interior Ministry's Department of State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The Government also monitored domestic phone calls and correspondence. The Government sometimes denied telephone service to political dissidents. Cell phones generally were not available to average citizens.

In April, authorities revealed that they used hotel waiters and other nonofficial persons to monitor the conversations of regime opponents in public places. Government prosecutors used testimony by waiters at the Hotel Nacional in Havana to help convict and sentence to lengthy prison terms the 75 political opponents during summary trials in April (see Section 1.e.).

In early August, officers of the Ministry of the Interior threatened to arrest the wife of political prisoner Blas Giraldo Reyes Rodriguez if she continued to receive activists who visited her to express sympathy for the jailing of her husband. Police told Isel de las Mercedes Acosta Obregon that they would try her for violating the Law to Protect National Independence and the Economy (Law 88) (see Section 2.a.) if she did not cease "counterrevolutionary activities."

On September 5, police threatened to take the 3-month-old daughter of Milka Pena, the wife of political prisoner Luis Enrique Ferrer Garcia. Police also warned Pena that they could prevent her from receiving remittances from abroad, her major source of income since the jailing of her husband in March. Police did not explain why they were threatening Pena, but she assumed it was because she had a sign on her home calling for the release of political prisoners.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana. The number of forced evictions increased throughout the country during the year as the Government enforced new, stricter regulations against housing "illegalities."

On January 14, police in Santa Clara Province evicted 11 families from their houses and demolished the structures, despite the fact that the owner of the property authorized the families to settle there. The authorities gave the families 72 hours to remove their belongings before evicting them.

In late September, police evicted Hilda Machado from her home in Havana Province for building a home without the required permit. Machado complained that she previously paid a fine for building without a permit, but had been allowed to continue construction. Several dozen neighbors protested Machado's eviction but were unable to stop officials from seizing her property.

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

*a. Freedom of Speech and Press.*—The Constitution provides for citizens' freedoms of speech and press insofar as they "conform to the aims of socialist society"; this clause effectively bars free speech. In law and in practice, the Government did not allow criticism of the revolution or its leaders. Laws against anti-government propaganda, graffiti, and disrespect of officials impose penalties between 3 months and 1 year in prison. If President Castro or members of the ANPP or Council of State were the objects of criticism, the sentence could be extended to 3 years. Charges of disseminating enemy propaganda, which included merely expressing opinions at

odds with those of the Government, could bring sentences of up to 14 years. In the Government's view, such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines constituted enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism. Police and state security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

The Constitution states that print and electronic media are state property and can never become private property. The Communist Party controlled all media except for a few small church-run publications. The Penal Code bars "clandestine printing" and provides for 3 to 6 months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Even the Catholic church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vitral* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year, although officials publicly described it as "counterrevolutionary propaganda." In March, the Cuban Conference of Catholic Bishops indicated that the Church did not register its publications with the Ministry of Culture as required by law because registration would force it to concede control to the State.

Citizens did not have the right to receive publications from abroad, although news stands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts at times overcame the jamming attempts on short-wave bands, but its medium-wave transmissions were blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All legal media must operate under party guidelines and reflect government views. The Government attempted to shape media coverage to such a degree that it not only exerted pressure on domestic journalists but also pressured groups normally outside the official realm of control, such as visiting and resident international correspondents. The Government barred some foreign journalists from entering the country.

The 1999 Law to Protect National Independence and the Economy (Law 88) outlaw a broad range of activities that undermine state security and toughens penalties for criminal activity. Under the law, anyone possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, may be subject to fines and prison terms of 7 to 20 years for each charge. The authorities convicted more than 30 independent journalists and human rights activists under Law 88 during the year, sentencing them to prison terms of up to 27 years. AI expressed "grave concern" regarding the application of Law 88, which it said appeared to place "unlawful restrictions on internationally-recognized rights."

The authorities arrested 28 independent journalists in March and subjected them to summary trials on charges of violating Law 88 or for alleged acts against the security of the State. All were convicted and sentenced to terms ranging from 14 to 27 years' imprisonment. On April 4, the IACHR Special Rapporteur for Freedom of Expression expressed "grave concern" about the actions taken against independent journalists and urged the Government to respect freedom of expression and information. The international press freedom organizations Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) also criticized the arrests and trials of the independent journalists. RSF launched a public campaign on behalf of the imprisoned journalists, identifying the country as the "Biggest Prison in the World for Journalists."

On April 5, the Havana City Provincial Court sentenced Raul Rivero, director of the independent Cuba Press news agency, to 20 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated Rivero was convicted for receiving payment for stories submitted to foreign news publications and for maintaining links with foreign diplomats and international NGOs, including RSF. The court alleged that Rivero filed false or misleading stories for personal gain, noting that he had used his income to purchase rugs, an air conditioner, and plastic chairs.

On April 5, the Havana City Provincial Court convicted Ricardo Gonzalez Alonso of the Cuba Press news agency of acts against the independence or territorial integrity of the State and sentenced him to 20 years' imprisonment. The sentencing document focused on Gonzalez' publication of the magazine *De Cuba*, which included articles by opposition political figures. The document also indicated Gonzalez maintained a library that included "counterrevolutionary" literature, had contacts with

foreign diplomats, and received food, money, and medicine from exile organizations abroad.

On April 5, the Havana City Provincial Court sentenced independent journalist Manuel Vazquez Portal to 18 years' imprisonment for violating Law 88. The court determined that Vazquez received small payments for news stories that were "seditious and aggressive towards the revolutionary process." In September, the CPJ selected Vazquez as one of four winners of the annual International Press Freedom Award.

On April 6, the Havana City Provincial Court sentenced independent journalist Oscar Espinosa Chepe to 20 years' imprisonment for violating Law 88 and for acts against the independence or territorial integrity of the State. The court convicted Chepe for filing "false or distorted" news stories to foreign news organizations for payments of \$15 to \$100. Chepe was 62 years old and in poor health (see Section 1.c.).

The Government continued to subject independent journalists to internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment (see Sections 1.d., 1.f., and 2.d.). Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. The authorities also placed journalists under house arrest to prevent them from reporting on conferences sponsored by human rights activists, human rights events, and court cases against activists. AI, HRW, the Inter-American Press Association, RSF, and the CPJ criticized the imprisonment of journalists and the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech. In addition, police increasingly tried to prevent independent journalists from covering so-called sensitive events (see Section 1.d.).

In April, the Government revealed that purported independent journalists Manuel David Orrio and Nestor Bagueer were agents of the Ministry of the Interior assigned to infiltrate and report on independent journalists. Both Orrio and Bagueer testified on behalf of the State against independent journalists during summary trials of 75 activists in April.

On February 13, the authorities expelled Argentine journalist Fernando Ruiz Parra from the country for meeting with dissidents.

During the year, at least four independent journalists were denied the right to emigrate, including Manuel Vazquez Portal, Jorge Olivera, Normando Hernandez, and Dorka Cespedes. Vazquez, Olivera, and Hernandez were among the 28 independent journalists subjected to summary trials and lengthy prison sentences in April.

The authorities often confiscated equipment when arresting journalists, particularly photographic and recording equipment. It was possible to buy a fax machine or computer, payable in dollars; however, even if a receipt could be produced, police often confiscated equipment and used it as evidence against the journalists. Photocopiers and printers either were impossible to find on the local market or were not sold to individuals, which made them a particularly valuable commodity for journalists.

Resident foreign correspondents reported that the very high level of government pressure experienced since 2000, including official and informal complaints about articles, continued throughout the year. The Government exercised its ability to control members of the resident foreign press by requiring them to obtain an exit permit each time they wished to leave the country. The Government also forced foreign correspondents to hire local staff from government agencies.

Distribution of information continued to be controlled tightly. Importation of foreign literature was controlled, and the public had no access to foreign magazines or newspapers. Leading members of the Government asserted that citizens did not read foreign newspapers and magazines to obtain news because they did not speak English and had access to the daily televised round tables on issues with which they needed to concern themselves. The Government sometimes barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats.

In March, authorities arrested nine independent librarians and charged them with violating Law 88 or for acts against the independence or the territorial integrity of the State. All nine, including Raul Rivero, Victor Rolando Arroyo, Ivan Hernandez Carrillo, Jose Luis Garcia Paneque, Ricardo Gonzalez, Roberto de Miranda, Blas Giraldo Reyes, Jose Miguel Martinez Hernandez, and Omar Pernet Hernandez, were subjected to summary trials and sentenced to 13 to 26 years' imprisonment.

In late September, police in Holguin Province confiscated 250 books and 2 typewriters from independent librarian Lorenzo Garcia Rodriguez. Garcia reported that

police stationed an officer outside his home following a 3-hour search of his belongings and that he was under constant police surveillance, even when he attended Mass.

The Government controlled all access to the Internet, and all electronic mail messages were subject to government review and censorship. Access to computers and peripheral equipment was limited, and the Internet only could be accessed through government-approved institutions. Dial-up access to government-approved servers was prohibitively expensive for most citizens. E-mail use grew slowly as the Government allowed access to more users; however, the Government generally controlled its use, and only very few persons or groups had access. During the year, the Government blocked instant messaging programs and reportedly increased efforts to identify unauthorized Internet and e-mail users. In 2002, the Government opened a national Internet gateway to some journalists, artists, and municipal-level youth community centers, but the authorities continued to restrict the types and numbers of international sites that could be accessed. The Government did not permit Catholic Church representatives to have access to the Internet.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed materials; however, the Government's threats to expel embassy officers who provided published materials had a chilling effect on some missions. On September 11, the Government shut down the Spanish Cultural Center for allegedly undertaking activities outside the scope of cultural exchange; the Government did not specify which activities constituted the alleged violation.

The Government restricted literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline more than any freedom of expression. The educational system taught that the State's interests took precedence over all other commitments. Academics, government journalists, and other government officials were prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. As a matter of policy, the Government demanded that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents included denying them advanced education and professional opportunities. President Castro stated publicly that the universities were available only to those who shared his revolutionary beliefs.

Artistic expression was less restricted. The Government encouraged the cultural community to attain the highest international standards and to sell its work overseas for hard currency.

*b. Freedom of Peaceful Assembly and Association.*—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be “exercised against the existence and objectives of the Socialist State.” The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to 3 months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates.

The Government's policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. On September 8, the Government permitted for the sixth consecutive year a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana. A number of activists participated in the procession. The authorities permitted a total of 50 processions nationwide to mark the feast day of Our Lady of Charity but denied 14 others. The Government also denied permits for separate processions in the towns of Managua and East Havana on political grounds (see Section 2.c.).

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies (see Section 1.d.). There were unapproved meetings and demonstrations, which the Government frequently disrupted or attempted to prevent. The authorities sometimes used or incited violence against peaceful demonstrators.

In June and July, officials of the Ministry of the Interior threatened to arrest the 10 to 20 wives of political prisoners who staged silent marches after attending Mass together at Havana's Santa Rita Church. In several instances, the authorities also threatened to terminate family visits with the political prisoners or to otherwise re-

tialiate against the prisoners for their spouses' displays of support. The spouses stopped walking together as a result of the threats, but continued to attend the same Mass.

The Government organized marches on May Day and held a rally, "Tribuna Abierta," every Saturday in a different municipality in the country. There was both radio and television coverage of the weekly rally. The Government employed CDRs and officials in the workplace to compel mass participation in these events.

The Government generally denied citizens the freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities never have approved the existence of a human rights group. However, there were a number of professional associations that operated as NGOs without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers (Agramonte), the Association of Independent Architects and Engineers, and several independent journalist organizations. The Constitution proscribes any political organization other than the Communist Party (see Section 3).

Recognized churches (see Section 2.c.), the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations were the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who had been established in the country for more than a century, the authorities continued to ignore those groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized NGOs were affiliated at least nominally with or controlled by the Government.

*c. Freedom of Religion.*—The Constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law; however, in law and in practice, the Government continued to restrict freedom of religion. In general, unregistered religious groups continued to experience various degrees of official interference, harassment, and repression. The Government's main interaction with religious denominations was through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engaged in active efforts to control and monitor the country's religious institutions, including through surveillance, infiltration, and harassment of religious professionals and practitioners. The Government's policy of permitting apolitical religious activity to take place in government-approved sites remained unchanged; however, citizens worshiping in officially sanctioned churches often were subjected to surveillance by state security forces, and the Government's efforts to maintain a strong degree of control over religion continued.

The Constitution provides for the separation of church and State. In 1991, the Government allowed religious adherents to join the Communist Party. A 1992 constitutional amendment prohibits religious discrimination and removed references to "scientific materialism" (i.e., atheism) as the basis for the State. The Government does not favor any one particular religion or church; however, the Government appeared to be most tolerant of those churches that maintained close relations to the State through the Cuban Council of Churches (CCC). The CCC is generally supportive of government policies. Members of the armed forces do not attend religious services in uniform, probably to avoid possible reprimand by superiors.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice, the Government refused to recognize new denominations; however, the Government tolerated some religions, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter-day Saints. Unregistered religious groups were subject to official interference, harassment, and repression. The Government, with occasional exceptions, prohibited the construction of new churches, forcing many growing congregations to violate the law and meet in private homes.

Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the CCC, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition, CCC Pentecostal members complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

In 1998, following the visit of Pope John Paul II, the country's Roman Catholic bishops called on the Government to recognize the Catholic Church's role in civil

society and the family, as well as in the temporal areas of work, the economy, the arts, and science and technology. The Government continued to limit the Catholic Church's access to the media and to the Internet and refused to allow the Catholic Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools. In February, the Archbishop of Havana issued a pastoral letter lamenting the disintegration of families and the extreme pressure to emigrate and called upon the Government to shift from "policies of vengeance" to "policies of compassion." In March, the country's Ambassador to the Vatican asserted in an Italian magazine that complete religious freedom existed in the country and urged the Catholic Church to register its publications with the Ministry of Culture. The Cuban Conference of Catholic Bishops sent an open letter to the magazine criticizing the Government's strict control over the activities of the Catholic Church, especially state restrictions on religious education and Church access to the mass media. The Bishops' letter noted that the Catholic Church declined to register its publications because registration would force it to concede control to the State regarding the subject matter, number of pages, frequency, and number of copies of Catholic Church publications. In September, the Conference of Catholic Bishops issued a document accusing the Government of imposing tighter restrictions on the Church and on society since the visit of Pope John Paul II, and calling on the Government to show clemency towards political prisoners.

On May 15, local officials in the town of Managua in Havana Province revoked authorization for a procession to mark the feast day of the patron saint of Managua. Although the authorities permitted the procession to take place for the first time in 2002, officials told Pablo Fuentes, the local Catholic priest, that they had revoked authorization for the procession because Fuentes was politically "unreliable." In September, the Office of Religious Affairs of the Communist Party advised Fuentes, a Spanish national, that the Government would not extend his authorization to remain in the country.

In mid-July, Communist Party officials in the city of East Havana barred a procession for the feast day of the Virgin of Carmen because the parish priest was a friend of Christian Liberation Movement leader Oswaldo Paya. Communist Party officials told the priest that he should inform his congregation that the Government had barred the procession specifically because of his friendship with Paya.

The Government allowed 9 foreign priests and 18 nuns to enter the country to replace other priests and nuns whose visas had expired. The applications of 60 priests and other religious workers remained pending at year's end, as did a request from the Conference of Catholic Bishops for the Government to permit 15 Catholic orders to establish a presence in the country; the lack of approval limited the training of Cuban seminarians.

In the past several years, the Government relaxed restrictions on some religious denominations, including Seventh-day Adventists and Jehovah's Witnesses. Jehovah's Witnesses, once considered "active religious enemies of the revolution," were allowed to proselytize door-to-door and generally were not subjected to overt government harassment, although there were sporadic reports of harassment by local Communist Party and government officials.

Education is secular, and no religious educational institutions are allowed. There were no reports that parents were restricted from teaching religion to their children.

The Government continued to prevent any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official—and exorbitant—retail prices. Religious literature and materials must be imported through a registered religious group and can only be distributed to officially recognized religious groups. In punishment cells, prisoners were denied access to reading materials, including Bibles (see Section 1.c.).

The CCC continued to broadcast a monthly 15-minute program on a national classical music radio station on the condition that the program could not include material of a political character.

State security officials visited some priests and pastors prior to significant religious events, ostensibly to warn them that dissidents were trying to "use the Church"; however, some critics claimed that these visits were done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed human rights advocates who sought to attend religious services commemorating special feast days or before significant national days, sometimes entering churches and disrupting religious ceremonies.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government severely restricted freedom of movement. The Govern-

ment generally did not impose legal restrictions on domestic travel; however, it limited migration to Havana, and initially restricted persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. For the past several years, state security officials prohibited human rights advocates and independent journalists from traveling outside their home provinces, and the Government also sentenced others to internal exile.

In early August, officers of the Ministry of the Interior in Pinar del Rio Province warned dissident Hector Ramon Novo Suarez that he could not travel to the city of Havana. The officials told Novo that he would be tried for "contempt for authority" if he ignored their instructions and traveled to Havana.

Decree 217 prohibits persons in other provinces from moving into Havana on the grounds that if internal migration was left unchecked, the city's problems regarding housing, public transport, water, and electrical supplies would become worse; visits to the city were permissible. Police frequently checked the identification of persons on the streets, and if someone from another province was found living in Havana illegally, that person was fined \$12 (300 pesos) and sent back home. Fines were \$40 (1,000 pesos) for those who resided illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it targeted individuals and families predominantly of African descent from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. The Government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delayed or denied exit permits, usually without explanation. Some denials involved professionals who tried to emigrate and whom the Government subsequently banned from working in their occupational fields. The Government refused permission to others because it considered their cases sensitive for political or state security reasons. Resolution 54 denies exit permits to medical professionals until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation, normally applied to recent graduates, was not published officially and may have applied to other professionals as well.

On March 24, police confiscated the exit permits of independent journalist Normando Hernandez and his wife Yarahy Reyes as they were preparing to leave the country. Police arrested Hernandez, subjected him to a summary trial and sentenced him to 25 years' imprisonment for alleged acts against the independence and territorial integrity of the State (see Section 1.e.).

The Government routinely denied exit permits to young men approaching the age of military service until they reached the age of 27, even when it authorized other family members to leave. However, in most of those cases approved for migration to the United States under a 1994 migration agreement, the applicants eventually received exemption from obligatory service and were granted exit permits.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (for example, merchant seamen who defected while overseas and sports figures who defected while on tours abroad).

Migrants who travel to the United States must pay the Government a total of \$600 per adult and \$400 per child, plus airfare. These government fees for medical exam, passport, and exit visa—which must be paid in dollars—were equivalent to approximately 5 years of a professional person's total peso salary and represented a significant hardship, particularly for political refugees who usually were marginalized. Many political refugees were fired from their jobs for being "politically unreliable" and had no income. At year's end, there were no refugees unable to leave the country because of inability to pay exit fees.

The Penal Code provides for imprisonment of up to 3 years or a fine of \$12 to \$40 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) stated that it regarded any sentence of more than 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense.

In 1994, the Government eased restrictions on visits by and repatriations of Cuban emigrants. Citizens who established residency abroad and who were in possession of government-issued permits to reside abroad may travel to the country without visas, although citizens who departed after December 31, 1970, must obtain a costly passport to reenter the country. Persons who are at least 18 years of age are eligible to travel abroad and may remain outside the country for up to 11 months. In 1995, the Government announced that emigrants, who were considered



not to have engaged in so-called hostile actions against the Government and who were not subject to criminal proceedings in their countries of residence, could apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, in 1999, the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. It remained unclear which policy the Government actually was implementing.

The Constitution provides for the granting of asylum to individuals persecuted “for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace.” In practice, the Government has no formal mechanism to process asylum for foreign nationals. In practice, the Government provided protection against refoulement. The Government cooperated with the UNHCR, and provided temporary protection to a small number of persons. There was no information available on its use during the year.

A total of 29 persons applied for refugee status during the year, of which 11 were approved; according to the UNHCR, there were 836 refugees in the country.

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

Citizens do not have the legal right to change their government or to advocate change, and the Government retaliated systematically against those who sought peaceful political change. The Constitution proscribes any political organization other than the Communist Party. In 2002, the Government amended the Constitution to restrict further citizens’ rights to change the Government, making socialism the “irrevocable” basis of the Constitution. In March, President Castro declared his intent to remain in power for the rest of his life. While the Constitution provides for direct election of provincial, municipal, and ANPP members, the candidates for provincial and national office must be approved in advance by mass organizations controlled by the Government. In practice a small group of leaders, under the direction of President Castro, selected the members of the highest policy-making bodies of the Communist Party: The Politburo and the Central Committee.

The authorities tightly controlled the selection of candidates and all elections for government and party positions. The candidacy committees were composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDRs and were responsible for selecting candidates, whose names then were sent to municipal assemblies that selected a single candidate for each regional seat in the ANPP. An opposition or independent candidate never has been allowed to run for national office.

On January 19, the Government held national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. According to the official media, 97.6 percent of registered voters participated in the elections, and the candidates were voted in by 91 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party entities, and mass organizations to urge voters to cast a “unified vote” where marking one box automatically selected all candidates on the ballot form. In practice, the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

Deputies in the National Assembly, delegates in the provincial assemblies, and members of the Council of State are elected during general elections every 5 years. Municipal elections are held every 2½ years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government’s structure. In 2002, the Government held elections for local representatives to the municipal assemblies. Government newspapers reported that 95 percent of voters participated in the election, compared with 98 percent in 2000. Slightly less than 50 percent of those elected were incumbents, 22 percent were women, and 6 percent of all candidates were between the ages of 16 and 30. The reports also claimed that nationwide the number of blank ballots remained steady at 2.8 percent, and the number of annulled ballots decreased from 3 percent to 2.4 percent.

Although not a formal requirement, in practice, Communist Party membership was a prerequisite for high-level official positions and professional advancement.

The Government rejected any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. In 2002, opposition organization All United (Todos Unidos) delivered a petition to

the National Assembly proposing a five-point national referendum on political and economic reforms. This effort, known as the Varela Project and led by Christian Liberation Movement leader Oswaldo Paya, was based on Article 88 of the 1976 Constitution, which permits citizens to propose legislation if such proposals are backed by at least 10,000 citizens; the Varela petition had 11,020 signatures. The Varela Project called for an end to limits on freedom of association, an amnesty for non-violent political prisoners, reduced barriers to private enterprise, electoral reforms, and free elections within a year of the referendum. In an apparent effort to reject the Varela Project without publicly addressing it, the Government mobilized citizens to sign a petition making the socialist character of the Constitution "untouchable." The Government claimed that 99.37 percent of eligible voters signed the government petition requesting such a modification to the Constitution. The National Assembly unanimously passed the amendment making socialism the irrevocable basis of the Constitution. The changes did not rescind the right of citizens to propose legislation, and Varela organizers continued to collect signatures in support of their proposal.

On October 3, Paya submitted a second Varela petition to the ANPP with over 14,000 signatures. Government officials detained persons working in support of Project Varela and retaliated against certain persons who signed the petition. At least 21 of the 75 activists sentenced to lengthy prison terms in April were Varela organizers. The authorities jailed all of the key figures in the Christian Liberation Movement with the exception of Oswaldo Paya.

On February 5, the Supreme Court suspended municipal judge Iosdel Trujillo Vivas of Santa Clara Province for having signed the Varela petition.

On June 18, officials expelled Yailen Labores Rojas from her job as an agronomy professor for having signed the Varela petition. Officials told her that she was removed for being "politically unreliable." Labores did not belong to an opposition organization.

Government leadership positions continued to be dominated by men. There were no legal impediments to women voting, holding political office, or rising to political leadership; however, there were very few women or minorities in policymaking positions in the Government or the Communist Party. There were 2 women in the 24-member Politburo and 20 in the 150-member Central Committee. Women held 218 seats in the 609-seat National Assembly. Although blacks and persons of African descent made up more than half the population, they held only six seats in the Politburo. Following the selection of the new ANPP in January, government-run Granma reported that the National Assembly was 67 percent white, 22 percent black, and 11 percent mestizo.

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

The Government did not recognize any domestic human rights groups or permit them to function legally. The Government subjected domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refused to consider applications for legal recognition submitted by human rights monitoring groups (see Section 2.b.).

Dissidents generally believed that most human rights organizations were infiltrated and subjected to constant surveillance. Activists believed that some of the dissidents were either state security officials or were persons attempting to qualify for refugee status to leave the country. Public identification of suspected state infiltrators was a crime punishable by 8 to 15 years' imprisonment.

In April, authorities confirmed that 12 purported dissidents were in fact agents of the Ministry of the Interior. Those identified were Noel Ascanio Montero, Nestor Bager Sanchez, Odilia Collazo Valdes, Aleida Godinez Soler, Otuardo Hernandez Rodriguez, Ana Rosa Jorna Calixto, Roberto Martinez, Manuel David Orrio del Rosario, Yamila Perez Reyes, Pedro Serrano Urra, Pedro Luis Veliz Martinez, and Alicia Zamora Labrada. The 12 infiltrators testified against several of the 75 human rights activists and independent journalists subjected to summary trials in April.

In August, the Government released a book alleging that noted human rights monitor Elizardo Sanchez Santa Cruz, of the Cuban Commission for Human Rights and National Reconciliation, had been a state security agent since 1997. Sanchez denied having acted as a government agent, although he acknowledged having been in discussions with government officials for many years in an effort to negotiate improved human rights conditions.

The Government steadfastly rejected international human rights monitoring. In 1992, the country's U.N. representative stated that the Government would not recognize the mandate of the U.N. Commission on Human Rights on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged, and the Government refused even to acknowl-

edge requests by the Special Rapporteur to visit the country. On April 17, the UNCHR passed a resolution that expressed concern about the human rights situation in the country and repeated its earlier call to receive the visit of Christine Chanet, the personal representative for Cuba of the U.N. High Commissioner for Human Rights. At year's end, the Government had not allowed the representative to visit the country as required by the UNCHR resolution.

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

The country is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin; however, evidence suggested that racial discrimination occurred frequently. The Government restricted the migration of persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community.

*Women.*—Violent crime rarely was reported in the press, and there was no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates reported that violence against women was a problem. The law establishes strict penalties for rape, and the Government enforced the law; however, according to human rights advocates, the police did not act on cases of domestic violence.

The 2000 report of the U.N. Special Rapporteur on Violence Against Women stated that most government officials did not view violence against women as prevalent; however, activists at the grassroots level were attuned to problems of violence affecting women. The Rapporteur urged the Government to take comprehensive steps to enhance the legal protection against violence against women and urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal for persons over 17 years of age; however, pandering or otherwise benefiting from prostitution is a felony. Prostitution increased greatly in recent years. Press reports indicated that tourists from various countries visited specifically to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as "jineteras") still were visible in Havana and other major cities during the year. Police obtained early success in their efforts by stationing officers on nearly every major street corner where tourists were present. Some street police officers were suspected of providing protection to the jineteras. Most observers believed that the Government clamped down on prostitution to combat the perception that the Government promoted sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them. The U.N. Special Rapporteur's report recommended that the Government dismantle the centers and find "other mechanisms that do not violate the rights of the prostitutes." There was no information available regarding whether or not the Government dismantled these centers.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women were subject to the same restrictions on property ownership as men. The law provides up to 1 year of maternity leave and grants working mothers preferential access to goods and services. Approximately 40 percent of all women worked, and they were well represented in many professions. According to the Cuban Women's Federation (FMC), a mass organization affiliated with the Communist Party, in 2000, women held 33 percent of managerial positions. The FMC also asserted that 11,200 women had received land parcels to cultivate, that more than 561,000 women had begun working as agricultural workers, and that women devoted 34 hours a week to domestic work, approximately the same number of hours they spent working outside the home.

*Children.*—The Constitution provides that the Government protect family, maternity, and matrimony. It also states that all children have the same rights under the law and notes the duties of parents to ensure their protection. The law requires school attendance until the ninth grade, and this law generally was respected in practice. Education was free, but it was grounded in Marxist ideology. State organizations and schools were charged with the integral formation of children and youth. The national health care system covered all citizens.

Although not covered in the official media, there were occasional reports of child abuse; however, there was no societal pattern of child abuse. Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. Although work camps for adolescents still exist, the duration is considerably shorter than in the period before 1990. Students were pressured to enlist for up to a week of "volunteer labor" in rural areas.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. The police generally enforced laws on underage prostitution; however, the phenomenon continued as more cabarets and discos opened for the growing tourist industry, which made it easier for tourists to come into contact with child prostitutes. Workers at some tourist facilities appeared to tolerate both legal and underage prostitution. The Government did not publicly acknowledge the prevalence of child prostitution; however, the Government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

*Persons with Disabilities.*—The law prohibits discrimination based on disability, and there were few complaints of such discrimination. There are no laws that mandate accessibility to buildings for persons with disabilities. In practice, buildings and transportation rarely were accessible to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurred and was acknowledged publicly by high governmental officials, including President Castro during remarks at the World Conference on Racism in South Africa. President Castro acknowledged that the revolution had not eradicated racism. There were numerous reports of disproportionate police harassment of black youths. Evictions, exacerbated by Decree 217, primarily targeted individuals and families who migrated to Havana from the eastern provinces, which were traditionally areas of black or mixed-race populations (see Section 2.d.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society take precedence over individual workers' preferences. Established official labor organizations have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the State and the Communist Party, which also managed the enterprises for which the laborers worked. Because all legal unions were government entities, anti-union discrimination by definition did not exist.

The Communist Party selects the leaders of the sole legal labor confederation, the CTC, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibited independent unions, and none were recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on the freedom of association and the right to organize. Those who attempted to engage in unofficial union activities faced government harassment. On June 10, the International Labor Conference concluded that government law and practice were in violation of ILO Convention 87 on Freedom of Association. The Applications Committee of the International Labor Conference also called upon the Government to release trade unionists arrested in March and urged the Government to accept an ILO mission to verify labor conditions and to work with the Government to ensure full compliance with Convention 87. The Government rejected the Application Committee's conclusions and any possibility of an ILO mission.

In November, the ILO's Committee on Freedom of Association (CFA) criticized the authorities' recognition of only a single official union and prohibition of independent trade unions. The CFA also cited the absence of collective bargaining and the right to strike, the arrest and harassment of union members, government infiltration of independent unions, and illegal house searches. The CFA expressed particular concern regarding the arrests and lengthy imprisonment of seven union organizers in March and April and recommended that the ILO Direct Contacts Mission investigate the situation. The Government representative denounced the ILO and CFA as "stooges" of a foreign government and rejected any possibility of a Direct Contacts Mission.

Workers may lose—and many have lost—their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created but functioned without legal recognition, were subject to infiltration by Government agents, and were unable to represent workers effectively or work on their behalf.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos, leader of the illegal United Cuban Workers Council, to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated Alvarez was convicted in part for having links to

international trade unions, including the Latin American Workers Central union and the Venezuelan Workers Central union, and for reporting workers rights violations to the ILO.

On April 5, the Havana City Provincial Court sentenced Carmelo Agustin Diaz Fernandez of the United Cuban Workers Council to 16 years' imprisonment for acts against the independence or the territorial integrity of the State.

The CTC is a member of the Communist World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is virtually the only employer in the country. The law prohibits strikes, and none were known to have occurred during the year. The 1995 Foreign Investment Law denies workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms managed to negotiate exceptions, the Government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency and, in turn, paid workers very low wages in pesos. Typically workers received 5 percent of the salary paid by the companies to the State. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consulted with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen “deserved” to work in a joint enterprise.

There are no functioning export processing zones, although the law authorizes the establishment of free trade zones and industrial parks.

*c. Prohibition of Forced or Bonded Labor.*—Neither the Constitution nor the Labor Code prohibits forced or bonded labor. The Government maintained correctional centers where it sent persons for crimes such as dangerousness. Prisoners held in such centers were forced to work on farms or building sites doing construction, agricultural work, or metal work. The authorities often imprisoned noncooperative internees.

In September, a prisoner at El Anoncillo minimum-security prison reported that inmates were forced to perform agricultural work for 12 hours per day without remuneration. The prisoner stated that the food was poor and that there were no baths or medical facilities at the camp. Prison guards threatened to send inmates to a maximum-security prison if they failed to work and to place them in isolation cells if they complained.

The Government employed special groups of workers, known as “microbrigades,” who were reassigned temporarily from their usual jobs to work on special building projects. These microbrigades were increasingly important in the Government’s efforts to complete tourist and other priority projects. Workers who refused to volunteer for these jobs often risked discrimination or job loss. Microbrigade workers reportedly received priority consideration for housing assignments. The military assigned some conscripts to the Youth Labor Army, where they served a 2-year military service requirement working on farms that supplied both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government required children to work. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects, and were paid a small wage for this labor. Students in post-secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year on mainly agricultural work. According to school rules, refusal to do agricultural work could affect the student’s ability to continue studying at the institution.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum working age is 17 years. However, the Labor Code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. The country has not ratified ILO Convention 182, but the Government adhered to Convention 182 standards concerning the elimination of the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The CETSS sets the minimum wage, which varies by occupation. For example, the minimum monthly wage for a maid was \$6.35 (165 pesos); for a bilingual office clerk, \$7.30 (190 pesos); and for a gardener \$8.30 (216 pesos). The Government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for approximately 1 week per month). However, even with these subsidies, the minimum wage did not provide a decent standard of living for a worker and

family. Corruption and black market activities were pervasive. The Government rationed most basic necessities such as food, medicine, clothing, and cooking gas, which were in very short supply.

The Government required foreign companies in joint ventures with state entities to hire and pay workers through the State (see Section 6.b.). HRW noted that the required reliance on state-controlled employment agencies effectively left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers' trial period at the job with the employer. Foreign companies paid the Government as much as \$500 to \$600 per worker per month, while the workers received only a small fraction of that in pesos from the Government.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls usually were inadequate, and the Government lacked effective enforcement mechanisms. Industrial accidents apparently were frequent, but the Government suppressed such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

In July, administrators at the Gerardo Abreu Fontan candy factory in Havana fired maintenance foreman Julian Diaz for refusing to work on a high-voltage power line without the proper safety equipment. Diaz requested assistance from the union representative, but the union representative advised Diaz not to challenge the firing or otherwise "make trouble" for the candy factory.

*f. Trafficking in Persons.*—The Penal Code prohibits trafficking in persons. Although there were no reports that persons were trafficked to or from the country, there were incidents of trafficking, in the form of child prostitution, within the country that were not reported in the official media.

The code also provides for penalties for violations, including a term of 7 to 15 years' imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years' imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger in engaging in such smuggling. These provisions were directed primarily at persons engaging in organized smuggling of would-be emigrants. In addition, the revised code made it illegal to promote or organize the entrance of persons into or the exit of persons from the country for the purpose of prostitution; violators were subject to 20 to 30 years' imprisonment.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families (see Section 5).

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## DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. A president, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, was head of state with largely ceremonial powers. Prime Minister Pierre Charles' Dominica Labour Party (DLP) prevailed in generally free and fair elections in 2000. The DLP holds a majority coalition in the Parliament. The judiciary is independent.

The Dominica Police—the only security force—was controlled by and responsive to the democratically elected Government. Some members of the security force committed human rights abuses.

The country's primarily agrarian, market-based economy depended heavily on earnings from the declining banana industry. The country had a population of approximately 72,000. The Government's efforts to market the island as an ecotourism destination produced mixed results, and the economy contracted by 4.7 percent in 2002. There was a high external debt, and the International Monetary Fund estimated the unemployment rate at over 26 percent at year's end.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Prison conditions were poor; violence against women and children was a problem; and there were instances of discrimination against indigenous Carib Indians and societal discrimination against female Caribs in mixed marriages.

## RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, but there were some complaints of use of excessive force by the police.

The police have a formal complaint procedure to handle such allegations (see Section 1.d.). During the year, the police force received 50 complaints, of which 1 was sent to the Director of Public Prosecution (DPP) for consideration of possible charges, 3 were referred to the Police Service Commission for action, 1 warning was issued, 1 officer was found guilty, 15 were dismissed for lack of evidence, and 29 cases remained pending at year's end.

Prison conditions were poor. Overcrowding and unsanitary conditions continued to be problems in the prison, which held 243 prisoners at year's end in a 60-year-old facility designed to hold 60 to 80 inmates. The prison provided work therapy, music and sports programs, educational opportunities, and counseling for inmates. Prisoners continued to complain about the poor quality of prison food; however, prison officials noted that prisoners had access to fresh pork from pigs raised at the prison. Pretrial detainees were housed with convicted prisoners, due to overcrowding and a lack of sufficient holding cells. Female prisoners were segregated from male prisoners, and juveniles were segregated from adult inmates.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice; however, if the authorities were unable to bring a detainee to court within the requisite period, the detainee could be released and rearrested later.

The 440-person police force was stretched thin and was understaffed by approximately 50 persons. Public complaints against the police are reviewed by the Deputy Police Commissioner, who initiates an investigation. After the investigation, a tribunal is formed to review the information and, if appropriate, it is referred to the DPP of the Police Service Commission for internal resolution. The Welfare Department has provided training on child abuse to the police Criminal Investigation Division, which handles these complaints. The police force last received human rights training 2 or 3 years ago.

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

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it was generally independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provided free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; government authorities generally respected these prohibitions, and violations were subject to effective legal sanction.

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

*a. Freedom of Speech and Press.*—The Constitution provides for the right of free expression, and the Government generally respected this right in practice. The political opposition openly criticized the Government.

The print media consisted of three private newspapers and political party journals; all published without censorship or government interference. The principal radio station was state-owned and had a government-appointed board. There were also two independent radio stations owned by private companies and a Christian radio station. Citizens had access to independent news sources through cable television and radio reception from neighboring islands.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for 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.

For a more detailed discussion, see the 2003 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 may revoke passports if subversion is suspected but has not done so in the past several years.

The Government has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The unicameral legislative assembly, called the House of Assembly, is composed of 21 parliamentary representatives and 9 senators. The representatives are elected by popular vote. The President appoints the senators; five senators are chosen with the advice of the prime minister and four with the advice of the opposition leader. Elections must be held at least every 5 years, although the Prime Minister can call elections at any time.

In January 2000, the DLP won 10 seats in generally free and fair elections, defeating the United Workers' Party (UWP), which had held power since 1995. DLP leader Roosevelt P. "Rosie" Douglas forged a majority coalition of 13 seats out of the 21 elected seats in Parliament, with the Dominican Freedom Party, holder of 2 seats, and 1 former UWP parliamentarian who changed party affiliation to join the DLP Government. Douglas died in office in October 2000, and the former Minister of Communication and Works, Pierre Charles, became Prime Minister.

There were no impediments in law or in practice to the participation of women in leadership roles in government or political parties. There were 6 women in the 30-seat legislature: 2 elected parliamentary representatives and 4 senators appointed by the President. There were no women in the Cabinet.

There were no impediments in law or in practice to the participation of Carib Indians in national political life. The Parliamentary Representative for Indigenous People was a Carib Indian; he served concurrently as the Prime Minister's Parliamentary Secretary with responsibility for Carib affairs.

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

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominican National Council of Women, and a women's and children's self-help organization, operated freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

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

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities generally respected in practice.

*Women.*—Domestic violence cases were common. Government and nongovernmental organizations (NGOs), including religious organizations, tried to address this problem. There was no family court to deal specifically with domestic violence issues. Women could bring charges against husbands for battery, and both the police and the courts prosecuted cases of rape and sexual assault, but there are no specific spousal abuse laws. All rape cases were handled solely by female police officers. The Department of Labor established a crisis response mechanism to assist women who were victims of domestic violence. The Welfare Department of the Ministry of Community Development assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all cases of abuse to the police.

In 2001, a Protection Against Domestic Violence Act was enacted that allows abused persons to appear before a magistrate without an attorney and request a protective order. The court may also order that the alleged perpetrator be removed from the home in order to allow the victims, usually women and children, to remain



in the home while the matter was being investigated. Police enforcement of protective orders increased after enactment of this act and after officers received training in dealing with domestic abuse cases. The Dominica National Council of Women, an NGO, taught preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily and provided to approximately 150 persons. Due to a shortage of funding, the organization could only permit persons to stay at the shelter for several days at a time; however, if needed, further housing was provided in private homes for up to 3 weeks. The Catholic Church continued to be active in educating the public about domestic violence.

Sexual harassment was a problem.

While there was little open discrimination against women, property ownership continued to be deeded to "heads of households," who were usually males. When the male head of household dies without a will, the wife may not inherit the property or sell it, although she may live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent. According to the Labor Department, many women in rural areas found it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

*Children.*—The law stipulates that the Government should protect the rights of children to education and health care. Education was compulsory through the age of 16, and primary health care was available throughout the island.

Various laws enumerate children's rights, but their enforcement was hampered by lack of staffing in government agencies. There were nine staff members in the social welfare office that handled all welfare problems, including complaints of child abuse. The Welfare Department estimated that there were over 200 cases of child abuse during the year, compared with 189 in 2002. The Department also reported that through September there were 52 reports of child sex abuse, of which 21 involved incest. There was an increase in the number of child abuse cases in the Carib reservation. The Welfare Department believed that the increase in reported cases throughout the country was due to the Government's plan outlined in its Child Abuse Report and Procedures and a few highly publicized brutal child abuse cases, which greatly increased awareness of the problem.

Although the maximum sentence for sexual molestation (rape, incest) is 25 years' imprisonment, the normal sentence given was 5 to 7 years except in the case of murder. The age of consent for sexual relations is 16 years.

*Persons with Disabilities.*—Beyond the general protection of the Constitution, there was no specific legislation to address problems facing persons with disabilities. However, the labor laws permit authorization of employment of a person with disabilities for less than the minimum wage, in order to increase opportunities for employment of such persons (see Section 6.e.). There was no requirement mandating access for those with disabilities.

*Indigenous People.*—There was a significant Carib Indian population, estimated at 3,400 persons, most of whom lived on a 3,782-acre reservation created in 1903 and expanded in 1997. About 65 percent of the Carib population were between the ages of 18 and 35. There was a three-person police station on the reservation; the police assigned there were generally Carib Indians. School, water, and health facilities available on the Carib reservation were rudimentary but similar to those available to other rural citizens; however, there was no secondary school on the reservation. Most Carib Indians engaged in farming, fishing, and handicrafts. Unemployment was believed to be higher than in rest of the country, while the average income was below the national average. The Government built the Carib Model Village to showcase Carib culture; however, it was not yet open to the public.

The reservation is governed by the 1978 Carib Act. This act states that any child of a Carib Indian is also Carib. Non-Caribs may become Carib Indians if they are invited to live in the territory with a Carib and then do so for 12 years. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and six members of the Council of Advisors (they also are eligible to vote in national elections). Separate elections for council members and the Chief were held every 5 years. According to the Carib Act, the Council must meet once a month, determine the Chief's itinerary, and publish council meeting agendas in the government Gazette.

Building permits for homes within the reservation were obtained from the Carib Council and were available only to Carib Indians. As a result, Carib women who were married to, or who lived with, non-Carib men were often advised to put the home in their names. Until 1979, the Carib Act allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law

changed, practice had not yet changed. An estimated 25 percent of the Carib Indian population was believed to be in mixed marriages or relationships.

One of the major issues facing the Carib Indians was the increasing encroachment on their territory by farmers, particularly on the southern side of the reservation. The 1903 land grant, on which the Carib Indians based their claim to the land, does not clearly delineate the reservation boundaries. Another issue for the Carib Indians was their difficulty in obtaining bank financing. As all land on the reservation was held communally, individuals were not able to pledge land as collateral for loans.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers have the legal right to organize, to choose their representatives, and to strike. Unions represented approximately one-third of the total work force, although slightly over half of government workers were unionized.

The law prohibits anti-union discrimination by employers, and judicial authorities enforced union rights. In addition, employers must reinstate workers fired for union activities; however, unions were concerned that this law was not being honored. Both the National Workers Union and the Waterfront and Allied Workers Union pursued separate cases on behalf of shop stewards who the unions alleged were dismissed for union activities. These two cases remained unresolved at year's end. The law also requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures, and this requirement was honored in practice. Department of Labor inspectors, under the supervision of the Labor Commissioner, enforce labor legislation.

All unions were independent of the Government. While there were no direct ties, members of certain political parties dominated some unions.

Unions may and do affiliate with various international labor bodies.

*b. The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining was widespread in the nonagricultural sectors of the economy, including in government service, and there was also recourse to mediation and arbitration by the Government.

Workers have the right to strike; however, the banana, coconut, and citrus fruit industries as well as port services were deemed "essential services," which effectively prohibited workers in these sectors from going on strike. The International Labor Organization (ILO) considered this definition overly broad. The ILO repeatedly urged the Government to amend legislation so that restrictions on the right to strike would only be imposed in the case of services limited to those the interruption of which would endanger the life, personal safety, or health of the whole or part of the population, or in the case of an acute national crisis. The ILO noted that existing legislation made it possible to stop a strike by compulsory arbitration and empowered the Minister to refer disputes to compulsory arbitration if in his or her opinion it concerns serious issues. The Industrial Relations Advisory Board, which is composed of union members, government representatives, and private businessmen, advised the Minister of Labor to amend this legislation and remove the coconut and citrus industries from the definition of "essential services." By year's end, the Government had not taken any action to amend this legislation.

In February, the Public Service Union led an 8-day strike that severely affected government business to protest the Prime Minister's cost-cutting proposals, which involved salary reductions. Further demonstrations and sick outs were held in March, causing the temporary closure of the airports when the Government announced that it would not pay the workers that went on strike in February. The Public Service Union brought two court challenges to this government action, but no hearing date had been set by year's end. Additional demonstrations occurred in June and July to protest the additional cuts in the Government's budget. Unions reported that the demonstrations were peaceful, and there was no difficulty in obtaining permits for the demonstrations in advance.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. The ILO has asked the Government to repeal the National Service Act, on the grounds that it is conducive to forced labor for economic development; the Government took no action to do so.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Two acts prohibit employment of children, but define "child" differently, one as under age 12 and the other under age 14. The Government has ratified the ILO Minimum Age

Convention, specifying 15 years as the minimum age for employment, and abides by this standard in principle.

*e. Acceptable Conditions of Work.*—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) was as low as \$0.37 (EC\$1.00) per hour if meals were included. However, minimum wages for most workers fell in a range between \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shop clerks. Minimum wages were not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels, but the Government had not yet acted upon these recommendations at year's end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation per year. The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conduct health and safety inspections. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

*f. Trafficking in Persons.*—In November, the Immigration and Passport Act was amended to state "a person is guilty of an offense of human trafficking if that person assists any other person to enter or leave Dominica in an unlawful manner." A person convicted of such an offense is liable for a fine of \$37,500 (EC\$100,000) and/or imprisonment of up to 7 years. There were reports that migrants were smuggled through Dominica to St. Maarten. There were no reports that persons were trafficked to, from, or within the country.

The country has an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$75,000 to \$100,000 (EC\$200,000 to EC\$270,000) for a family of up to four persons. This process reportedly facilitated the illegal immigration of persons from China and other countries to North America. The Government refused to end the economic citizenship program, despite complaints from the Governments of Canada, Australia, and the United States. Since the beginning of the economic citizenship program in 1996, the Government estimated that over 700 applicants received citizenship. During the year, 15 persons purchased citizenship, compared with 85 in 2002.

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## DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral congress. President Hipolito Mejia of the Dominican Revolutionary Party (PRD) took office in August 2000 after a generally free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also controlled the Senate, with 29 of 32 seats, and held 72 out of 150 seats in the Chamber of Deputies, 4 short of an absolute majority. The Constitution provides for an independent judiciary; however, interference from outside authorities remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the armed forces (army, air force, and navy) form the security forces. The military's domestic responsibilities include maintaining public order and protecting persons and property. The police are under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which had personnel both from the police and from the military, report directly to the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government

authority or control. Some members of the security forces committed a number of human rights abuses.

The market-based economy continued to diversify. The country has a population of approximately 8.8 million, including an estimated 650,000 undocumented Haitians. Tourism, telecommunications, and exports from Free Trade Zones (FTZs) were major sources of foreign currency and providers of employment. Remittances from abroad were more than \$2 billion during the year. As a result of the collapse of a large commercial bank, followed by several smaller bank failures, the economy contracted by 1.3 percent. Central Bank intervention to protect depositors sharply increased the money supply and the fiscal deficit, causing a depreciation in the peso/dollar exchange rate. According to the Central Bank, inflation was 43 percent. Unemployment was estimated at 16.1 percent but was probably higher. Income distribution in the country was highly skewed.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Members of the security forces continued to commit unlawful killings. The police and, to a lesser degree, the military tortured, beat, or otherwise abused detainees and prisoners. The Government referred cases of police and military abuse to the civilian courts, instead of holding nontransparent proceedings in police or military tribunals. Prison conditions ranged from poor to harsh. Some prisoners died in custody due to negligence. Police arbitrarily arrested and detained suspects and suspects' relatives. While the judiciary continued efforts to consolidate its independence and to improve the efficiency of the courts, lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists and editors often practiced self-censorship. Police on several occasions used excessive force to disperse demonstrators. The Government restricted the movement of Haitian and Dominican-Haitian migrants and forcibly expelled some of them. Other serious problems included violence and discrimination against women; child prostitution; abuse of children; discrimination against persons with disabilities; child labor; and severe discrimination against and abuse of Haitian migrants and their descendants. There continued to be reports of forced labor. Many workers continued to face unsafe labor conditions. Trafficking in persons 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.*—There were no reports of political killings; however, members of the security forces committed many killings that were unlawful, unwarranted, or involved excessive use of force. The National Commission on Human Rights reported approximately 250 extrajudicial killings, the National Police reported approximately 150, and the Dominican Committee for Human Rights reported 292 such killings. Greater precision was not possible, because accounts of incidents varied and some went unreported.

In the majority of killings by police, the police stated that the deaths resulted from an exchange of gunfire in the course of an arrest, requiring officers to act in self-defense. A number of eyewitness accounts matched police reports; others did not. In a few cases, the police rearranged the crime scene to make it appear as if deadly force had been required for self-defense. For example, in September police officer Cristino Alvarez Ventura killed a youth in a case of mistaken identity. Realizing he had killed the wrong person, Alvarez planted a revolver in the victim's hand to back his claim of self-defense. Public outcry prompted an investigation by a police commission, which determined that Alvarez was the sole person responsible for the killing. The case is expected to be tried in a civilian, rather than a police or military, court.

In September, police officer Rubio Blondy and another officer killed a 22-year-old in another case of alleged mistaken identity. According to relatives, the victim showed his identity card to police officers before being shot while having a snack at a cafeteria in Santo Domingo. In December, the case was sent to the civilian Court of Instruction in the National District.

In October, two off-duty police officers, Abel Garcia and Luis Castro Concepcion, shot and killed an advertising agent in San Francisco de Macoris. The authorities sent the case to a police tribunal, and a hearing was scheduled for February 2004.

The new National Police Chief, appointed in 2002, submitted several cases of human rights abuses committed by members of the National Police and armed forces to civilian criminal courts. The National Commission on Human Rights reported that in the first 11 months of year, authorities remanded 114 members of

the National Police to courts on accusations of extrajudicial killings. Of these, 79 were remanded to civilian courts.

Human rights organizations stated that the police employed unwarranted deadly force less often against criminal suspects than in previous years, although uniformed vigilantism persisted on a less-than-deadly level. Criminals who refused to pay police “commissions”—bribes to ignore criminal activity—were sometimes beaten or shot in an appendage rather than killed. The lack of qualified investigators and the nontransparent conduct of investigations of killings in “exchanges of gunfire” resulted in impunity in a number of cases.

A significant number of deaths occurred in custody due to negligence by prison authorities (see Section 1.c.).

Private Eduardo Ortiz Delgadillo, who allegedly killed a bus driver in March 2002, was free on bail at year’s end. His case was in the 7th Penal Court in Santo Domingo, but a hearing had not yet been scheduled.

Police officer Carlos Manuel Ramirez Herrera remained in Najayo prison for the April 2002 killing of a youth during a protest. His trial was pending in the San Cristobal court of instruction.

There was no further action in the case of the military officers accused of killing Reformist Social Christian Party (PRSC) activists in May 2002.

Police lieutenant Juan Bautista Berroa and his accomplices remained in a prison in San Francisco de Macoris for an unlawful killing in May 2002; their trial remained pending.

In February, a court sentenced police officer Demetrio Mario Leonardo to 12 years in prison and ordered him to pay \$60,000 (3 million pesos) in damages for an unlawful killing committed in 2001.

In November, the trial began of police Private Francisco “Tyson” and codefendant Sergeant Medina Medina, charged with a 2001 killing. A civil court ordered Tyson jailed at the Special Operations Camp in Manoguayabo; Sergeant Medina Medina was free on bail.

Pedro Encarnacion Baez, charged with the 2001 killing of Carmelo del Rosario, has been free on bail since December 2002. His case was assigned to the Court of Instruction in La Romana.

In July, the Appellate Court gave its verdict on the appeal of the 30-year sentences of retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and civilian Luis Emilio de la Rosa Beras, convicted in 2000 for the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. De la Rosa, Pou Castro, and Cabrera Duran were sentenced to 10, 12, and 15 years respectively. Each defendant was also fined \$100,000 (5 million pesos). The Appellate Court judges did not find the Government culpable and did not fine the State the requested \$2.4 million (120 million pesos). The Santo Domingo Human Rights Institute requested that the Government submit the Martinez case to the Inter-American Commission on Human Rights (IACHR) for review; the Government did not follow through on that request.

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

In 2002, an instruction judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in 1994. The judge excluded two other individuals, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in 2001 the victim’s family appealed this decision; that appeal and Matos Villanueva’s contest of the decision to try him in criminal court remained pending in Santo Domingo’s Court of Appeal at year’s end. The defendants continued working in various capacities for the Government. There was no action on the family’s complaint to the IACHR.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the law prohibit torture and other forms of physical abuse. Senior police officials took this prohibition seriously and regularly investigated reports of torture and abuse; however, some security forces personnel, primarily mid-level and lower-ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem of physical abuse. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse. More than 20 young men suffered severe knee injuries or amputations due to police violence. The Dominican Human Rights Committee received multiple complaints of torture from detainees at the De-

partment of Theft at police headquarters in Santo Domingo, as well as from prisons in Mao, Barahona, Azua, and Santiago.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions and a method called "roasting the chicken" in which the victim was placed over hot coals and turned. Human rights advocates described another form of abuse called "the toaster," in which guards laid shackled prisoners on a bed of hot asphalt for an entire day and beat them with a club if they screamed. Human rights advocates described a police practice called "golpe de pollo" in which police beat a person's ears until they bled. Another torture method was that of enclosing detainees in water cisterns for lengthy periods.

In January, a police officer from Bani was videotaped as he removed a prisoner from a holding cell, took him to the patio area of the police station, then hit the prisoner on the face, head, and buttocks in front of an audience of local residents. The authorities arrested the police officer and sent the case to a police tribunal in Santo Domingo. The tribunal dismissed all charges, and the officer remained on the force.

In June, the sister and female friend of a man accused of hotel robbery reported that police Lieutenant Valenzuela tortured and beat their accused relative in custody (see Section 1.d.).

According to the National Commission on Human Rights, military and police officials were reported to beat, torture, and randomly deport Haitians living in the border towns of Pedernales and Elias Pina (see Section 2.d.).

Police Colonel Francisco Beras Santos, accused in 2002 of torture and sexual violation of a woman in his police station, was free on bail. His court hearing was rescheduled several times and remained pending at year's end.

The National District Prosecutor's office had a program of placing lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to ensure that detainees' rights were respected (see Section 1.d.). This program remained geographically limited, principally to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. In some instances, authorities interpreted the presence of prosecutors as meaning that detainees could be held more than 48 hours after being transferred from "police" custody to "prosecutorial" custody (see Section 1.d.).

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose. However, submission to civilian judicial authority was sometimes still contested by mid-level officers (see Section 1.e.).

During the year, the authorities dismissed numerous government employees for links with groups engaged in smuggling (see Section 6.f.). In April, the Court of Instruction determined that Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien) should stand trial on charges of alien smuggling. In June, Garcia lost an appeal to throw out the charges. Garcia evaded arrest for months until Congress reconvened August 16 and remained free, citing parliamentary immunity. On October 22, the Supreme Court began trial proceedings and referred the case to criminal court on October 30, where a further hearing was held on December 3. When a translator for two non-Spanish speaking defendants did not appear, the court postponed the trial until January 2004.

Human rights courses were offered in the training curriculums for military and DNCD enlisted personnel and officers. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. More than 3,000 members of the military received training during the year. In August, the Institute published a book about human rights and the role of the military, written by its Assistant Academic Director. However, monitoring and sanctioning systems for abuses of human rights remained ineffective.

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of control of the authorities. The General Directorate of Prisons was under the authority of the Public Ministry and was seriously under-funded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Prisoners and human rights groups alleged that prisoners were not taken to their trials unless they paid bribes to the

guards (see Sections 1.d. and 1.e.). Prisons employed few physicians and had few medical supplies. Prisoners immobilized by AIDS or terminally ill were not transferred to hospitals, but some terminal-stage inmates were released to spend their last days at home.

According to the Attorney General's office, the police and the military held more than 14,500 prisoners and detainees in 34 prisons with a total intended capacity of approximately 9,000 persons. The military operated 21 prisons with a total of 5,084 prisoners, and the National Police operated 13 prisons, with a total of 9,557 inmates. A warden was responsible for running each prison and reported to the Attorney General through the General Directorate of Prisons. A police or military colonel (or lieutenant colonel), generally appointed for a period of only 3 to 6 months, was responsible for providing security and notionally reported to the warden. In practice, the colonel was in charge of the prison, and neither the Directorate of Prisons nor the individual wardens had much power. Some prisons were totally out of the authorities' control and were in effect operated by armed inmates. Individual inmates could secure a tolerable level of existence only by paying for food, sleeping space, and medical care.

Virtually all prisons experienced extreme overcrowding. At La Victoria prison, the largest in the country, up to 150 inmates were placed in cells designed to hold 24. Prisoners complained of having to sleep in bathrooms due to lack of space. The media reported a riot at a prison in Moca, provoked by the death of a neglected inmate, by lack of medical care, and by overcrowding. During the year, other prisoners died due to negligence. The press and human rights groups also reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors. The DNCD reported finding significant amounts of crack cocaine, heroin, marijuana, and weapons in a cell at Rafey prison in Santiago.

Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or to obtain it from family members. Visitors often had to bribe prison guards in order to visit prisoners. Female visitors often were forced to strip naked prior to entering the prison and were harassed sexually by prison guards.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

Female inmates were separated from male inmates. In general, conditions in the female prison wings were better than those in male prison wings. There were some reports of guards abusing female inmates physically and sexually. There were also reports that in the Najayo prison, guards forced women into prostitution in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them for 1 year.

The law requires that juveniles be detained separately from adults; however, juveniles often were mixed with the general population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers. The press reported a high incidence of juveniles detained with adult prisoners being forced into sexual servitude in return for protection.

The Government permitted prison visits by independent human rights observers and by the press.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention were problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the police continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police typically detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merit release, and whom they should continue to hold. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

The National Police, numbering more than 27,000, serve throughout the country; there are no separate municipal forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. Chief of Police General Jaime Marte Martínez assumed control in January 2002 with an emphasis on professionalism and a mandate to reduce police abuses of human and civil rights. As of October,

more than 1,800 members of the National Police had participated in human rights and dignity workshops.

Police officers were fired for violent attacks, extortion, and drug use. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. It was alleged that many persons with prior criminal records were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to the extrajudicial or unwarranted killings (see Section 1.a.).

Detainees at police headquarters in Santo Domingo, known as “the palace,” reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 24-hour limit for minors, which was attributed to delays by the Juvenile Defender—the Public Ministry official in charge of interrogating minors—in sending them before a Juvenile Court judge. The law prohibits interrogation of juveniles by the police or in the presence of police.

Most detainees and prisoners could not afford adequate defense services. Several nongovernmental organizations (NGOs) offered limited legal services free of charge. The program of the Commissioner for the Reform and Modernization of Justice, which had lawyers to defend persons at no charge, ceased operation in February due to lack of funds from the central government’s budget. In May 2002, the Supreme Court created a National Office of Judicial Defense to provide legal advice and representation to indigent persons. Foreign donors supported this program. As of January, 14 lawyers had completed the office’s training program; they were the only public defenders in the country and served only Santo Domingo and Santiago. The Supreme Court paid the public defenders’ salaries without additional funding from the Government. The Supreme Court also paid 100 part-time defense lawyers; these lawyers rarely communicated with defendants prior to scheduled court appearances and were not properly trained.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. In general, few defendants were granted bail.

Police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property including motorcycles, other vehicles, and weapons. The armed forces carried out similar sweeps, in which they closed down major routes into Santo Domingo, searched cars for weapons and drugs, and detained individuals thought to be criminals. Following the indiscriminate arrests, police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Human rights organizations reported that individuals detained in these roundups frequently were beaten. Police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make the cases (see Section 1.c.). Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect’s parents, siblings, or spouse were all vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested. For example, in June, police officers detained the sister and female friend of a man accused of hotel robbery in the Villa Consuelo sector of Santo Domingo, allegedly to elicit a confession. The victims reported the incident to the Dominican Center for Legal Advice and Investigations (CEDAIL).

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or “Haitian-looking” individuals to empty buildings soon after they were paid, in order to extort money from them (see Section 5).

Many suspects endured long pretrial detention. According to the General Directorate of Prisons, 70 percent of the national prison population were “prisoners without sentences,” an increase of 3 percent from 2002. The average pretrial detention throughout the country was well over 6 months. Time served in pretrial detention counted toward a sentence.

The failure of prison authorities to produce the accused for court hearings was slightly less pronounced during the year but still caused a significant percentage of



trial postponements (see Section 1.e.). Prisoners often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witness did not appear. The authorities held some prisoners even though there were no formal charges against them.

A large backlog of criminal cases remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting prisoners to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances, a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately discriminated against a defendant who complied with the law.

In 2002, the Supreme Court began a pilot program to bring the courts to the jails to expedite the processing of inmates, since transporting inmates to the courts was one of the biggest obstacles to the administration of justice. The program, which should help relieve prison congestion, began at San Cristobal Najayo jail and expanded to La Victoria prison, the largest jail in the country, and to the prison in Monte Plata. From January to September, these courts decided 622 of the 758 cases presented, leaving only 136 cases pending. The Supreme Court also established mobile courts of instruction.

The law prohibits forced exile, and there were no reports of its use. However, some persons who asserted that they were citizens were expelled to Haiti (see Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, public and private entities persisted in attempts to undermine judicial independence. The judiciary received training funded by foreign donors, designed to improve its ability to resist outside interference, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle contentious administrative, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The Government has established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The revised Code for Minors, signed into law in August, outlines the judicial system for criminal cases involving juveniles and family disputes. The new code also sanctions juveniles who commit crimes with penalties of 1 to 3 years' detention in a juvenile prison for adolescents who were 13 to 15 years old at the time of infraction and 1 to 5 years for adolescents who were 16 to 18 years old (see Section 5).

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, many cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see Section 1.a.). The judiciary was slow to adjudicate these cases despite continuing donor-assisted judicial reform programs. Nonetheless, human rights groups agreed that the practice of remanding cases involving human rights abuses committed by members of the security forces to civilian courts was becoming established.

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. The investigative process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution requires that arrests be made on judicial warrant except when the suspect is caught in the act. It establishes the citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

The most serious and common violations of these rights occurred when police detained suspects, sometimes for many days, without allowing them to contact family members, while subjecting them to frequent questioning (see Section 1.d.). Although accused persons were entitled to have an attorney present, police often did not permit them to contact legal counsel. If an attorney was engaged, a police officer might not permit him or her to be present during questioning. Torture frequently was used to coerce a confession during questioning (see Section 1.c.). Under these circumstances, suspects might confess under duress to acts that they had not com-

mitted. The results of these interrogations often constituted the only evidence presented at the trial.

The remedy of “amparo,” an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, has been applied in accordance with the terms of the American Convention on Human Rights. The Military Human Rights Institute published a book for its students about the military’s role in protecting human rights and the traditional use of an amparo. Alternative dispute resolution is used in some criminal matters, but without any legal basis.

In 2002, the Government adopted a new Criminal Procedures Code intended to replace the Napoleonic system. The new code supports an accusatory system that should accelerate the processing of criminal cases. The code also can be interpreted as providing that any crime may be tried in civilian court; this would imply that military or police tribunals should be used only for disciplinary actions. In November, the Attorney General’s Office and the Supreme Court each issued resolutions to effectuate changes required by the new code. The changes include a system under which police and prosecutors are required to read defendants their rights upon arrest; creation of an alternative dispute resolution mechanism to deal with certain crimes; the requirement that judges issue public oral dispositions on petitions for bail and in cases in which the maximum penalty is less than 3 years of incarceration; and the physical relocation of the defendant and defense counsel within the courtroom so that they are collocated with the prosecutor. The Attorney General’s office and the judiciary also instituted “on-call” judges to provide 24-hour support to police who require immediate attention in the issuance of arrest warrants. The new code is scheduled to be fully implemented in September 2004.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution contains provisions against arbitrary entrance into one’s home except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. All other entrances require a judge to issue an arrest or search warrant; however, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

Although the Government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active but illegal private wiretapping industry.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were instances of official intolerance of the media.

Newspapers and magazines presented a diversity of opinion and criticism. At the beginning of the year, there were eight daily and seven weekly newspapers and three weekly magazines. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The Government controlled one television station.

The Inter-American Press Society criticized the judicial takeover of the media outlets owned by defunct bank Baninter, including *Listin Diario*, *El Expreso*, television channels 13 and 27, and radio station RCC. All of the editors of these outlets resigned and were replaced by government-appointed personnel. Ramon Baez Figueroa, majority shareholder of Baninter and *Listin Diario*, was the subject of an ongoing criminal investigation for fraud and money laundering. Baez Figueroa, arrested but freed on bail, petitioned the courts to return the media outlets to him, but the case was pending in the courts at year’s end.

In July, the DNI detained two radio broadcasters for slander against the President. During their radio program broadcast in Monte Cristi, located in the far northwest corner of the country, the hosts asked their listeners to rank the chances of the leading contenders in the 2004 presidential election in a race with the devil. President Mejia lost to the devil in the radio poll. The radio hosts were released after several days. The Inter-American Press Society criticized the arrest and accused the Government of official intolerance toward the press.

In November, a television broadcaster with close ties to the opposition PLD party lost his job after he reported that the Secretary of the Armed Forces was handing out money to potential PRD voters. According to the broadcaster and the Dominican

School of Journalists, the Government pressured the broadcaster's employer to fire him. The employer confirmed the dismissal but said it was simply an internal company decision not to retain his services.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually granted; however, police officers used force to break up demonstrations on several occasions during the year, sometimes causing deaths and injuries.

In September, many persons were injured during protests against extensive power outages. A 15-year-old boy was shot and killed when police attempted to disperse crowds in a Santo Domingo neighborhood. In November, during a national general strike, at least 8 persons were killed and 34 wounded; police arrested over 500 protesters, most of whom were released within 48 hours. Prior to the general strike, police arrested approximately 100 persons for attending organizational meetings.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed with the Government in 1954. For example, the Cardinal has the rank of a military officer, and there is a Catholic church at the Presidential Palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities. However, a complete waiver of customs duties on imports is extended to all religious denominations.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence or for police regulations pertaining to immigration and health, and the Government generally respected these provisions in practice; however, there were some exceptions. For example, human rights groups alleged that many Haitians were not allowed to leave the sugar cane plantations where they worked. Police officers occasionally blocked roads to search cars for weapons and drugs (see Section 1.d.). Local and international human rights groups cited discrimination against Haitian migrants, who were subject to arbitrary and unilateral action by the authorities. According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to accept bribes from Haitians attempting to cross illegally.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, some legally but the vast majority without legal documents. The Ministry of Labor estimated that 47 percent of Haitians in the country had arrived by walking across the border. According to the Socio-Cultural Movement of Haitian Workers (MOSCTHA—a human rights NGO), 98 percent of Haitians in the country were undocumented. Government officials assisted some illegal migration in return for payments. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The Directorate of Migration repatriated more than 12,000 Haitians during the year; more than 180 were officially deported. Many NGOs and international organizations believed the number of repatriations was higher. In some cases, the Government denied those repatriated the opportunity to demonstrate that they were legal residents or to make arrangements for their families or property. Some human rights groups reported that mass deportations occurred less frequently but that abuse of Haitians worsened.

Although the Constitution provides that anyone born in the country is a citizen, except those in transit (which is interpreted to include Haitian migrants) or children born to diplomats, NGOs and Catholic priests familiar with the process protested that children born of Haitian parents in the country generally were denied registration as citizens and were among those deported as illegal Haitians (see Section 5).

In December 2002, a judge ordered the Central Electoral Board (responsible for registering births and providing national identification cards) to grant Dominican nationality to two sons of illegal Haitian immigrants on the grounds that the children were born on Dominican soil. On October 16, the Court of Appeals for Civil

Matters upheld the lower court's decision. By year's end, however, the board had not provided the birth certificates, and the lawyers petitioned the Supreme Court to intervene.

NGO representatives working in rural areas alleged that decisions to deport often were made by lower-ranking members of the security forces in conjunction with sugar cane consortium owners, sometimes based upon racial characteristics. Such officials approached persons who looked like Haitians, including persons who had very dark complexions and fairly poor clothing, and engaged them in conversation. If the officials considered that these individuals spoke Spanish poorly or with a noticeable accent, they might detain and deport them. Many NGOs reported that random deportations continued to occur at the end of the sugar cane harvest in order to avoid paying full wages to deportees (see Section 6.e.). Sugar cane companies permitted security guards in work camps to work with military contacts to "round up" and deport Haitian laborers.

While the Government had a policy of strictly enforcing documentary requirements and repatriating those found lacking documents, it appeared to have a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. An individual stopped as a suspected illegal Haitian migrant might be allowed to remain in the country despite lack of documentation, either through bribery or if an account of employment satisfied the official.

NGOs and Catholic priests reported corruption among the military, migration authorities, and other border officials and noted that these government representatives sometimes allowed illegal Haitian workers into the country. For example, one Catholic priest alleged that members of the armed forces along the border allowed more than 20,000 workers to cross the border each harvest season to be "sold" to sugar cane companies at \$20 (1,000 pesos) per person.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol. Although there is legislation and a structure to process refugee claims, the system for implementing the law and determining refugee status did not function properly. The Government did not apply standards agreed upon with the U.N. High Commission on Refugees (UNHCR) to improve receipt and adjudication of refugee claims. To help the Government in this regard, in July the UNHCR strengthened its protection activities in the country by re-establishing its presence in Santo Domingo.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees (CONARE), which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the President and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of December, the Migration Directorate said that there were 235 pending applications awaiting decision, nearly all by Haitians. Some of these cases have been pending since 2000, when the UNHCR stopped processing cases. According to the UNHCR, there were potentially 600 recognized refugees in the country, most of whom lacked sufficient documentation that would allow them to legally work and access other rights.

Individuals who have gained access to the refugee process and have been issued proof that they are refugees or have applications pending are generally protected from refoulement; however, at least two cases of potential refoulement occurred in 2002. The UNHCR reported the cases to CONARE but never received a response.

### *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, and citizens exercised this right in practice in generally free and fair elections held on the basis of universal suffrage, most recently in congressional elections in May 2002.

The President and all members of the Senate and the Chamber of Deputies are elected freely on 4-year cycles by secret ballot, as well as mayors and city councils. There is universal adult suffrage; except that active duty police and military personnel may not vote nor may they participate in partisan political activity. However, during the year senior military officers publicly expressed their support for President Mejia's reelection.

Voting is restricted to documented citizens. The Central Electoral Board conducts all elections. In 2002, the legislature adopted constitutional reforms affecting the electoral system, including a provision that the President may be reelected one time.

Congress provided an open forum for the free exchange of views and debate. The main opposition party was the Dominican Liberation Party, which held 1 of 32 seats in the upper house and 42 of 150 seats in the lower house. A third major party, the PRSC of the late President Balaguer, held 2 seats in the upper house and 36 seats in the lower house. Various smaller parties were certified to contest provincial and national elections.

The nation had a functioning multiparty system. Opposition groups of the left, right, and center operated openly. The President exercised his authority through the use of the veto, through presidential decrees, and through influence as the leader of his party. The President appoints the governors of the 32 provinces.

Women and minorities confronted no serious legal impediments to political participation. By law, parties must reserve for women 33 percent of positions on their lists of candidates for city councils; in practice, the parties often placed women so low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch, was Vice President and Minister of Education. One woman served in the 32-member Senate; women held 24 seats in the 150-member Chamber of Deputies; and a woman presided over the Chamber until August. Women served in a limited number of appointed positions, including two other cabinet positions. Women filled 5 of the 16 seats on the Supreme Court.

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

Nongovernmental human rights organizations generally operated freely without government interference, and government officials were responsive to their views. Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the Narciso Gonzalez case). In addition, several Haitian groups existed, representing church, women's, and labor interests.

A 2001 law created a human rights ombudsman's office, but selection of a person to fill the position was still pending at year's end. According to the law, the Chamber of Deputies nominates three individuals for Senate approval. The Senate did not approve any of the three nominations submitted by the Chamber early in the year and instead nominated its preferred candidates. In August, leadership of both houses changed and the process stalled. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection.

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

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

*Women.*—Domestic violence was considered to be worse than in previous years. Several newspaper articles reported a more violent society, and many government officials publicly denounced the problem. NGOs estimated that 40 percent of women and children were victims of domestic violence. It was estimated that at least 15 women died monthly from domestic abuse; however, many cases were unreported. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from \$10 to \$2,000 (500 to 100,000 pesos). The Secretariat of Women, as well as various NGOs, had outreach programs on domestic violence and legal rights. The Government's center for the legal support and forensic examination of abused women in Villa Juana (Santo Domingo) received 13,111 domestic violence cases during the year; the Secretariat of Women received 4,602 complaints during the first 6 months of the year. There were no shelters for battered women.

According to government statistics, 129 women were killed in "crimes of passion" by their spouses or lovers, compared with 119 victims in 2002. NGOs estimated that spouses or lovers killed more than 200 women during the year. The Department of Family and Children in the Prosecutor's Office processed 11,600 domestic violence complaints, compared with 5,906 cases in 2002.

Rape was a serious problem and was widely underreported. The Santo Domingo District Attorney's office received 2,000 rape or sexual violation complaints during the year. The penalties for committing rape are 10 to 15 years in prison and a fine of \$2,000 to \$4,000 (100,000 to 200,000 pesos). The State may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges

against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is illegal; however, the Government usually did not enforce prostitution laws. Sex tourism grew throughout the country as the number of international visitors increased. Several human rights groups reported increased prostitution in sugar cane work camps. NGOs conducted programs on HIV/AIDS and sexually transmitted disease for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. The Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government used the law to prosecute third parties who derived profit from prostitution. Trafficking in women was a problem (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, the law was not enforced and sexual harassment was widespread. The International Labor Rights Fund estimated that 40 percent of female workers in the free trade zones were victims of sexual harassment by supervisors or coworkers. Labor unions criticized the Ministry of Labor for lack of training about sexual harassment and nonimposition of penalties.

Either spouse may obtain a divorce, and women may hold property in their own names. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired, and that female employees who became pregnant were sometimes fired (see Section 6.a.).

*Children.*—The Government was committed to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. In August, the Government modified and republished the Code for Minors. The new law recognizes the National Council for Children and Adolescents (CONANI) as the non-Cabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the new code. The new law stipulates CONANI is to receive 2 percent of the national budget and that 5 percent of municipal government budgets must be devoted to projects to benefit children.

Although the Code for Minors mandates a minimum of 8 years of formal education, there were no legal mechanisms to induce parents or guardians to send children to school after primary schooling. Children of Haitian descent experienced difficulties gaining acceptance to schooling due to their lack of official status.

The new code contains strengthened provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see Sections 6.d. and 6.f.). It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse received increasing public attention.

Abuse, including physical, sexual, and psychological abuse, was a serious human rights violation against children. The Department of Family and Children in Santo Domingo reported receiving at least five child abuse complaints daily, half of which were abuses against children under age 12. More than 27,000 minors were victims of sexual abuse, domestic violence, or psychological abuse. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, and lack of knowledge regarding available legal assistance. In 60 percent of the cases, the accused was a person close to the child, such as a family member or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a penalty of 10 to 20 years' incarceration and a fine of \$2,160 to \$4,320 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

The Ministry of Health estimated that there were 403 births to adolescents under age 15 during the year; 5,790 births were reported to adolescents between the ages of 15 and 19. Some undefined portion of these resulted from rape or incest. The ministry believed these numbers were underreported due to deteriorating economic conditions and lack of focus on intrafamily issues.

In the National District, the Department of Family and Children in the Office of the Prosecutor arranged counseling and mediation for family conflicts, the execution of court decisions with respect to child protection, and interviews with children whose rights had been violated. The new code outlines detailed procedures for tribunals and courts regarding family law and adolescents who have committed crimes

(see Section 1.e.). The new code also obliges public institutions to respect the human rights of children.

Trafficking and sexual exploitation of children was also a serious problem, especially in popular tourist destinations (see Section 6.f.). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing; sometimes they were forced into unsafe relationships with strangers by the need for money. Some of these minors were lured from their parental homes; others were already on the street.

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.). It was common for minors to be put on the street to fend for themselves as parents used meager resources to care for younger siblings. Homeless children called "palomas" (doves) were frequently at the mercy of adults who collected them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they were given basic housing. The ages at which these children worked, the hours they worked, and their failure to comply with compulsory school attendance all violated the law.

*Persons with Disabilities.*—Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. Of their own volition, some business owners provided physical access for persons with disabilities. There was a Department for Rehabilitation under the Ministry of Public Health, a recreation center for persons with disabilities in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for such persons. However, there was little consciousness of the need to make the daily lives of persons with disabilities safer and more convenient. Virtually no effort was made to design public works so as to accommodate persons with disabilities.

The Dominican Rehabilitation Association, which received an estimated 30 percent of its budget from the Government, had 17 affiliates throughout the country and provided services for 2,000 persons daily. Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

*National/Racial/Ethnic Minorities.*—Many Dominicans hold strong prejudices against Haitians, a fact which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made it more difficult for those Haitians already in the country to live peacefully or legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

Approximately 650,000 Haitian immigrants—or 7.5 percent of the country's population—lived in shantytowns or sugar cane work camps known as bateyes, in harsh environments with limited or no electricity, running water, or schooling. This estimate was confirmed in the International Organization for Migration's (IOM) Haitian Population Survey completed in July. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions as modern-day slavery. Medical assistance was not readily available in most bateyes. Housing in the bateyes was poor; most individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of five or more shared living quarters that measured as little as 10 feet square.

Some individuals estimated that as many as 1 million Haitians lived in the country, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti with their offspring born in the Dominican Republic. Human rights groups regularly charged the Government with unlawful deportations of these immigrants and police brutality toward them. Most of these immigrants resided in the country illegally and received little or no protection under the law (see Sections 1.c., 1.d., and 2.d.).

The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children. The Movement of Dominican-Haitian Women (MUDHA) reported that nationals of other countries were allowed to present driver's licenses or passports as identification when seeking to reg-

ister births or to obtain nationality, and that Haitians were the only nationals required to present a Dominican identity card.

Lack of documentation sometimes deprived children of Haitian descent of the opportunity to attend school, even where there was one available. When permitted to attend primary school, the children of Haitian parents rarely progressed beyond sixth grade. In 2001, the Secretary of Education announced that all children would be allowed to enroll in school through the eighth grade, whether or not they had a birth certificate. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards in order that all children would have birth certificates to enroll in school; however, this did not help children whose parents had no documentation or only Haitian identification papers. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children. According to MOSCTHA, 40 percent of Haitian children never attended school.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange, the birth parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude, at least until the young person reached majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to organize. Organized labor represented an estimated 10 percent of the work force and was divided among four major confederations and a number of independent unions. There were 3,560 registered unions in the country, but an estimated 75 percent were inactive. The Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within 30 days. In practice, the Government facilitated recognition of labor organizations.

The Government generally respected association rights and placed no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws was sometimes unreliable, inhibiting employees from freely exercising their rights.

Unions were independent of the Government and generally independent of political parties. The law forbidding companies to fire union organizers or members was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of widespread intimidation by employers in an effort to prevent union activity, especially in the FTZs (see Section 6.b.). The International Confederation of Free Trade Unions asserted that in the Santiago free trade zone, black lists of labor activists were circulated to discourage companies from hiring union workers.

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) continued to report significant anti-union activity at the FM company in Santiago, 1 of 22 production facilities belonging to apparel manufacturing firm Grupo M, the largest private sector employer in the country. FEDOTRAZONAS reported instances of violence and intimidation against workers seeking to organize Grupo M to the International Finance Corporation, and Grupo M agreed to meet with FEDOTRAZONAS to discuss problems at the FM company. As of year's end, the FM company still refused to allow its employees to unionize, but its parent company had begun talks with FEDOTRAZONAS. An FM company supervisor, Miguel Andres de Leon, brutally beat an employee for attending labor union organizing meetings. The Ministry of Labor investigated the allegations; the investigation's outcome was pending.

According to the Dominican Solidarity Center, in 2002 the FTZ company Ramsa in Santiago fired approximately 140 employees without cause when they sought a collective bargaining agreement. Four women alleged Ramsa fired them because they became pregnant. The Secretariat of Labor cited Ramsa for violating the Labor Code, including maternity rights violations, and charged the company with violating the Penal Code. The initial hearing on the matter was held in January; the case was still pending in a labor court at year's end.

Labor unions could and did affiliate freely regionally and internationally.



*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is legal and must take place in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, some workers were fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable. The Ministry of Labor claimed that several disputes were settled out of court.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Government workers and essential public service personnel are not allowed to strike. Brief work stoppages and unofficial strikes were more common.

A few labor unions, such as the Autonomous Labor Confederation (CASC), represented a small number of Haitian workers. According to CASC, Haitian laborers in the rice and coffee industries were better protected than those involved with sugar cane or construction and earned wages equal to those of local citizens. CÉDAIL acknowledged that the Labor Code protects foreigners, including Haitians, regardless of legal status. Some NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights under the Labor Code, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 190,000 workers. According to the National Council of Labor Unions, only 15 of the 180 unions registered in FTZs were active; 6 had achieved collective bargaining agreements. In August, Loadway Enterprises in the Bonao FTZ signed a collective bargaining agreement; this was the first one signed in an FTZ since 1997. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (see Section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see Section 6.a.). FENATRAZONAS estimated that only 3 percent of the workers in the FTZs were unionized. In recent years, employer resistance to union organization, especially in the FTZs, has increased in response to increased competitive pressure from firms in Central American countries and China.

Many of the major manufacturers in the FTZs had voluntary “codes of conduct” that included worker rights protection clauses; however, these were not necessarily aligned with the ILO’s Fundamental Principles and Rights at Work. Workers rarely had heard of such codes or the principles they contained. There was no indication that workers received training about the codes, that workers had any effective means of asserting their rights under them, or that any of the codes were subject to credible independent monitoring.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits all forms of forced or bonded labor, including by children; however, such practices still existed, affecting both adults and children. Young children “adopted” by families worked under a kind of indentured servitude, and homeless children were made to beg by adults (see Section 5). Trafficking in women and children, particularly for purposes of prostitution, existed (see Section 6.f.).

The FENATRAZONAS noted that mandatory overtime in the FTZ factories was a common practice. Some workers reported that their employers locked factory doors with chains so they could not leave, and took incentive pay away from or fired those who refused to work overtime. For example, many companies used an incentive system in which a team of 12 to 15 persons was given a quota to fill by the end of the week, in order to receive extra benefits. Most teams were unable to fill the quota

to receive the benefits and were not paid overtime pay for the extra time they put in to attempt to fill the quota. Union officials stated that newly hired workers were not informed that overtime was optional.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code and the new Code for Minors prohibit employment of children less than 14 years of age and place restrictions on the employment of children under the age of 16; however, child labor was a serious problem. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugar cane fields, and prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. The Government attempted to eliminate the use of children for cutting sugar cane; however, there were still some reports that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with tacit approval of sugar companies. Human rights groups reported Haitian 14- and 15-year-olds working in the cane fields. A priest working in the sugar cane producing province of San Pedro de Macoris reported that undocumented Haitian 7- and 9-year-olds also worked planting seeds and were paid \$0.40 (20 pesos) per day. The Ministry of Foreign Affairs estimated that more than 60,000 Haitian children worked in agriculture.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, the agricultural province of Constanza, and a new program against the commercial sexual exploitation of minors in popular tourist destinations. In September, the Ministry of Labor launched the Time Bound Program, which aims to reduce child labor significantly by 2007. An ILO-Ministry of Labor program in Boca Chica against the commercial sexual exploitation of minors, implemented by an NGO, the Institute for the Family, is to provide psychological support and medical assistance, return children to classrooms, and reunify children with their families and communities whenever possible. The program, which began in October, also provides legal assistance to child victims in order to arrest and convict exploiters.

There were no confirmed reports of forced child labor in the formal sector.

*e. Acceptable Conditions of Work.*—The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress enacts minimum wage legislation. The minimum monthly salary was approximately \$58 (2,877 pesos) in the FTZs and \$78 (3,890 pesos) outside the FTZs. The minimum wage did not provide a decent standard of living for a worker and family. In response to the economic downturn, in September the National Salaries Committee approved a 25 percent increase in minimum wages, which will be implemented in January 2004.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs (see Section 6.c.).

Conditions for agricultural workers were poor, especially in the sugar industry. Most sugar cane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Approximately 83 percent of sugar cane workers were Haitian or of Haitian descent. However, the Ministry of Labor estimated that sugar cane companies contracted only 3 percent of the Haitians living in the country.

Several construction companies carrying out government contracts solicited cheap labor from illegal migrants. Participacion Ciudadana, an NGO, estimated that 40 percent of construction projects operated without proper permits. Many Haitians reportedly worked 15–20 hours a day on construction projects, and it was not unusual to see them living temporarily in the buildings they were constructing.

To address the problem of undocumented workers, the Directorate of Migration began an outreach program in May to issue temporary work permits, which cost \$23 (1,150 pesos) per migrant, available even when migrants had no proof of legal status. Construction and agricultural associations were contacted to implement the program. As a result, more than 16,000 temporary residence permits were issued to employ Haitians. The permits are valid for 6 months and are renewable by the Directorate of Migration. Several Haitians who had lived in the country for 20 years or more used this permit to maintain a quasi-legal temporary work status, even though it precluded them from obtaining legal permanent residency. According to the Director of Migration, if the employer decides not to renew a contract, the employee is required to report that decision to Migration officials. All Haitians seeking temporary residency must undergo a health screening. If a contagious disease is diagnosed, deportation proceedings begin. The Director of Migration reported that the Department of Health determined that many Haitians were infected with Hepatitis B and HIV/AIDS. The Director of MUDHA stated that, according to an official at Migration, more than 30,000 Haitians were repatriated during the year for the following reasons: Diagnosis of Hepatitis B, HIV/AIDS, or failing to provide evidence of a work permit.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers often did not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and weighed less. Many cane cutters earned \$1.60 (80 pesos) per day and were paid in tickets that were redeemable for cash every 2 weeks. Some cane cutters reported earning as little as \$1.00 (50 pesos) per day. Because workers earned so little and sometimes could not wait until payday to redeem their tickets, an informal barter system evolved in which the tickets also were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer as a "service charge."

In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving. Employers also withheld wages to keep workers in the fields. Workers were paid less, worked longer hours, and had fewer benefits than workers in other industries, according to the Dominican Human Rights Committee. A priest working in the region reported that Haitian workers in his parish worked 14–16 hours per day—a violation of the Labor Code. The Dominican Center for Counsel and Legal Investigations, an NGO, reported that many older Haitians, who had lived in sugarcane shantytowns for 50 years and longer, had not received pensions. Several NGOs asserted that the privatization of the sugar cane industry is the reason the Government does not enforce protection laws for cane cutters' rights.

As a result of meetings with sugar cane company owners to discuss worker rights in the bateyes, in 2001 the San Pedro de Macoris Diocese submitted a proposed model work contract (recognizing ILO standards) to the Vicini Consortium and other companies. The diocese, in cooperation with local NGOs, continued its dialog with the Vicini family to promote Haitian worker rights in the bateyes and to obtain a work contract for Haitian sugar cane cutters.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 175 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors often took bribes from businesses. In practice, workers could not remove themselves from hazardous working situations without losing their jobs.

*f. Trafficking in Persons.*—In August, President Mejia signed into law a comprehensive Law Against Trafficking in Persons and Alien Smuggling; however, trafficking in women and children from, to, and within the country remained a serious problem.

Several laws may be applied to prosecute those who traffic in persons. The new law against trafficking is most comprehensive and includes penalties for traffickers of 15 to 20 years' imprisonment along with a fine of 175 times the minimum wage. The law also includes a provision against alien smuggling, which carries a 10- to 15-year prison sentence and a fine of 150 to 250 times the minimum wage. The revised Code for Minors penalizes sexual abuse of children with 20 to 30 years' imprisonment and fines from \$2,000–\$10,000 (100,000–500,000 pesos).

During the year, the Government created units at the National Police and Attorney General's office targeted against trafficking in persons. The Inter-institutional Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two NGOs, and a religious order, remained

the lead organization with respect to fighting trafficking. The Ministry of Foreign Affairs assumed a more active role by coordinating seminars on implementing the new law for agencies and organizations responsible for combating trafficking. The Foundation for Institutionalism and Justice, an NGO, also began training for prosecutors and judges on how to implement the new law.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. Not all illegal migrants were trafficked; many traveled willingly for economic motives. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as UNICEF and the IOM were able to provide general numbers through interviews with individuals and extrapolation.

Women 18 to 25 years of age were at the highest risk of being trafficked. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curaçao, San Martin, Aruba, Panama, Venezuela, and Argentina. A number of women brought from the Dominican Republic to work in Argentina in the mid- to late-1990s were coerced into prostitution, and an investigation encompassing nearly a dozen such women continued. Within the country there was a serious problem of prostitution of minors, primarily in the tourist areas. Newspaper reports indicated that as many as 30,000 children and adolescents may be involved in the sex industry. The Foreign Ministry reported as a new trend the trafficking of 14- to 16-year-old children to Haiti to work as prostitutes.

The Directorate of Migration estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to COIN and the IOM, trafficking organizations were typically small groups. Usually there was a contact in the destination country and a few persons in the Dominican Republic who recruited the persons to be trafficked and handled obtaining identification and travel documents.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Foreigners overseas marketed tours by suggesting that boys and girls could be found as sex partners. The Inter-Institutional Commission against the Commercial Sexual Exploitation of Children and Adolescents estimated that 65 percent of child sex abusers in tourist areas were foreigners; 35 percent were Dominicans. In nontourist areas, the statistics reversed; 70 percent of sex abusers were Dominicans and 30 percent were foreigners.

The Government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a "control record" that went into their official police record, and they were interviewed by a Migration Inspector. According to COIN, most victims were too embarrassed or afraid to seek legal action against traffickers. The Government continued specialized training for Dominican consular officials posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

The Government made efforts to investigate, fire, and prosecute when appropriate public officials that facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. The Director of Migration reported that since 2001, 345 inspectors and supervisors had been fired for trafficking or smuggling activities; 107 individuals were terminated during the year. A former consul in Cap Haitien was indicted on smuggling charges and was put on trial in October (see Section 1.c.). NGOs alleged corruption among the military and migration border officials and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.c.).

The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities, including those of their own countries. The Government sought to protect children from being victimized by those who would adopt them by making such adoptions more difficult.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citi-

zanship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

During the year, the Ministry of Education trained 3,000 schoolteachers in high-risk areas on preventing child sexual exploitation. In August, the Inter-Institutional Commission launched mass media campaigns warning potential violators of penalties for sexual abuse of children. The campaigns were launched in cooperation with the National Association of Hotels and Resorts, which was expected to train tourism employees about exploitation of minors and post billboards about the law.

## ECUADOR

Ecuador is a constitutional republic with a unicameral legislature that was chosen in free and fair elections in October 2002. The National Congress is composed of four major parties, six minor parties, and three independents spanning the spectrum from center-right to extreme left. In November 2002, voters elected Lucio Gutierrez President, and he assumed office on January 15. The judiciary is constitutionally independent but in practice was inefficient and susceptible to outside pressure.

The civilian authorities generally maintained effective control of the security forces; however, the military continued to receive independent revenues generated from civil aviation, shipping, and other commercial sectors. The civilian Ministry of Government is in charge of the National Police, which is responsible for domestic law enforcement and maintenance of internal order. Throughout the year, the military supplemented the police, in some cases forming joint street patrols as an anti-crime measure. Some members of the security forces committed serious human rights abuses.

The economy is based on private enterprise, although there continued to be significant government involvement in key sectors such as petroleum, utilities, and aviation. The country's population was estimated at 12.2 million. Following a severe economic crisis, the country adopted the U.S. dollar as its official currency in 2000. The principal exports were oil, bananas, shrimp, and cut flowers, which, together with emigrant remittances and tourism, were the country's leading sources of foreign income. Most citizens were employed in the urban informal sector or as rural agricultural workers; rural poverty was extensive, underemployment was high, and there was severe maldistribution of income. The annual real economic growth rate was 3 percent, and inflation was 6 percent. A U.N. Development Program report estimated that 71 percent of the citizens lived in poverty in 2001, of whom 30 percent were indigent, with an almost total lack of resources.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were credible reports that security forces committed killings using unwarranted lethal force; however, the number of killings by security forces declined significantly. Members of the security forces faced prosecution and prison sentences for some violations. Although there were reports of occasional mob violence, no vigilante killings were reported during the year. Police tortured and otherwise mistreated prisoners and detainees. Prison conditions remained poor. Persons were subject to arbitrary arrest, and prolonged detention was a problem. Once incarcerated, persons without lawyers may wait up to a year before being tried or released. Nearly half of the detainees in jail had not been sentenced formally. The Government prosecuted a few human rights abusers; however, in most cases there was no prosecution or punishment. There was some self-censorship in the media. The police used tear gas and other nonlethal methods to quell demonstrators. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians remained problems. Child labor remained a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, there continued to be credible reports that security forces used excessive force and committed killings. During the year, the Ecumenical Committee for Human Rights (CEDHU) reported 11 killings by security forces using unwarranted force, compared with 23 killings during 2002.

On June 7, 12 members of the military tortured 4 men, killing 1 of them, Julio Cesar Habil. The four men were detained on suspicion that they were involved in the robbery of a soldier's house. Habil's body showed evidence of torture, and he ap-

parently died while submerged in a pool at a military base. The military turned the soldiers over to civilian authorities, and the soldiers were charged with killing Habil and held in prison.

On November 19, police shot and killed eight people in a drugstore in Guayaquil. Police responded to an attempted robbery of the drugstore and claimed they returned fire when robbers shot at them. However, the forensic report stated that the guns collected from the robbers had not been fired and that bullets from police guns had killed the eight victims.

Three persons allegedly disappeared while in police custody (see Section 1.b.). A preliminary internal police investigation stated that the police involved in the incident had not followed proper procedures and used excessive force. Twenty policemen and a former policeman remained in jail pending conclusion of the investigation. Three high-level officers who did not participate in the incident were replaced.

Security forces killed one person during demonstrations (see Section 2.b.).

In January, five policemen were found guilty in the January 2002 killing of David Delgado and Carlos Luna and sentenced to between 2 and 18 years of prison. The policemen appealed their case and, after spending more than a year in prison without a sentence, were released pending a hearing on their appeal.

There were no developments in the case of the January 2002 killing of Damian Pena during a demonstration. Prosecutors investigated the incident, but did not determine who was responsible for his death.

A policeman was charged in the February 2002 killing of Marcelo Zambrano during a demonstration, and the case remained in the court system.

There were no further developments in the case of Luis Pachacama, who according to one witness, was killed by security forces during demonstrations in 2002.

In August, Fausto Bosquez, a policeman who shot and killed Congressman Eduardo Vasconez in March 2002 during an altercation, escaped from custody. His trial had been in process prior to his escape. By the end of the year, there was a police investigation into his escape.

There were no new developments in the case of Rodrigo Ron, who died in prison in June 2002, and whose body showed evidence of a beating.

The case against a policeman for the July 2002 killing of Klever Abad remained in the police court system without a final decision.

There were no new developments in the case of the 2001 killing of Joffre Aroca.

In May, prosecutors filed charges against three military officers in the 2001 death of Lieutenant Julio Robles during a military hazing event. In December, a military court found the three guilty of involuntary homicide and sentenced them to between 6 months and 3 years in prison.

In September, an appeals court upheld the conviction of four policemen for illegal detention in the case of the 2001 killing of Elias Elint Lopez Pita. Lopez's family appealed the decision to the Supreme Court, where the case awaited a decision. In the related case of Luis Alberto Shinin Lazo, a separate court handed down prison sentences to three policemen. One received 16 years for the killing while the others received 8 years as accomplices. Five other defendants in the case fled, and the court did not sentence them. The three convicted policemen appealed their case to the Supreme Court and were released pending the appeal.

There were cases of mob violence against suspected criminals; however, there were no reports of deaths due to lynching (see Section 1.e.). These occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence. In June, in a town near Quito, more than 100 policemen were summoned to prevent the lynching of 5 suspected criminals. There were no arrests or developments reported in the cases against those involved in lynching deaths in 2002.

There was no update in the case against vigilantes for the 2001 killing of Patterson Manzano. The case remained stalled in the court system.

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

On November 19, three men, Johnny Gomez, Cesar Mata, and Erwin Vivar, disappeared, according to their families, after being detained by police during a drugstore robbery in Guayaquil. Although police denied holding the men, newspaper photographs showed a policeman and a former policeman leading a man away from the scene with his face covered. Prosecutors requested a warrant for the arrest of the three missing men as suspected accomplices in the attempted robbery.

Criminal kidnapping for profit continued to be a problem throughout the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the northern border with Colombia. Police registered 34 reported kidnappings during the year; however, there were no reliable estimates of the total number of such extortions or kidnappings—often attributed to Colombian armed gangs—since many victims did not report the crimes for fear of retribution.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and similar forms of intimidation and punishment; however, the police continued to torture and abuse suspects and prisoners, usually with impunity.

The CEDHU published detailed accounts of suspects who reported being tortured by specific police officers or members of the military. During the year, CEDHU registered 11 cases of torture involving 24 victims. In most cases, the security forces appeared to have abused such persons during investigations of ordinary street crime or because of a personal grudge. The victims reported that the security forces beat them, submerged them in cold water, applied electric shocks, or threatened them. In some cases the victims' bodies had bruises they claimed were the result of the torture.

There were no new developments in the investigation of four policemen for the torture of five persons in the city of Cuenca in May 2002.

There were no new developments in the 2001 alleged torture case of warehouse clerk Jose Ramires by members of the National Police and the Air Force Combat Command in Guayaquil.

In July, the press reported that a military conscript, Carlos Paredes, had been subjected to military hazing in 2002. Military officers forced him to carry a tire around his neck for several days and then box several other soldiers consecutively. Paredes suffered permanent head injuries. In August, the military reported they had penalized those responsible but did not make the penalties public.

Two groups, the Peoples' Revolutionary Militia and the Popular Combatant Group, claimed responsibility for several small pamphlet bombs during the year in both Quito and Guayaquil, causing minor damage to buildings and injuries to several people. Police arrested a university student for the March 18 pamphlet bombing of the Ministry of Agriculture office in Guayaquil. In December, a judge decided there was insufficient evidence to convict the suspect.

Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands. Overcrowding was a chronic problem in most facilities. According to the National Social Rehabilitation Board (NSRB), during the year there were 13,045 prisoners nationwide in facilities built to hold 6,800. A number of prisons experienced serious outbreaks of disease, and medical care was often inadequate. The daily amount allocated for prison rations was \$0.75 per inmate.

Pretrial detainees were not held separately from convicted prisoners. There were no separate facilities for repeat offenders or dangerous criminals, nor were there effective rehabilitation programs. Women constituted 8 percent of the total prison population. Women were held separately from men, and conditions were notably better in the women's prison in Quito than in other facilities. Children of female inmates often lived in prison with their mothers. There also were separate facilities for juveniles. Children in these facilities often faced abuse, although the National Police Directorate Specializing in Children served as a monitoring group intended to prevent abuse of children in prisons.

In December, the NSRB reported that 26 prisoners died during the year; however, these figures were preliminary and did not include all prisons. Eight of the deaths resulted from injuries, while the other deaths were attributed to illness or drug overdoses.

In a widely publicized case in April, a gang in prison repeatedly sexually abused a 20-year-old man who was arrested on robbery charges. The man was released and received medical and psychiatric treatment. Prosecutors began an investigation, but there were no further developments in the case at year's end.

During the year, inmates in a number of prisons protested the new detention law, the length of their sentences, and prison conditions. In April and July, inmates at the Litoral prison in Guayaquil, the largest prison in the country, clashed with guards and police and staged hunger strikes. In April, the prison had its water supply reduced by half because the prison owed the water company approximately \$1 million.

In December, prison workers went on strike for 2 days to demand payment of back wages and increased government funding of infrastructure and worker training.

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 observed these prohibitions; however, the authorities often violated these legal protections in practice. Arbitrary arrest and detention remained problems.

The National Police are under the authority of the Ministry of Government. The effectiveness of the National Police was uneven, in part due to insufficient resources

to deal with a high crime rate in many parts of the country. Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. Some human rights nongovernmental organizations (NGOs) argued that the metropolitan police had no constitutional authority to carry guns or detain suspects. The police have an office that investigates complaints against police officers and can refer cases to the police courts. In October, NGOs claimed that members of the metropolitan police used excessive force and arbitrary detentions in recent years. Police corruption was sometimes a problem. In July, a court sentenced four policemen to 25 years in prison for drug trafficking.

The National Police contracted with NGOs to provide human rights training. In October, Amnesty International (AI) issued a report criticizing the use of the police court system in cases involving possible human rights violations by police. AI argued that the design of the police court system and the appointment of active and retired police officials as judges prevented the courts from acting impartially and independently and resulted in impunity for police officers who commit human rights violations.

The law requires authorities to issue specific written arrest orders within 24 hours of detention, and authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions were brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period before being released. Bail generally is not available, and the law prohibits it in cases of narcotics and major offenses (i.e., offenses that "affect or put at risk" the public, punishable by 3 to 35 years' imprisonment). Indigenous leader Humberto Cholango was briefly, but arbitrarily, arrested in December for his public criticisms of President Gutierrez (see Section 2.a.).

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Investigative detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The Criminal Procedures Code limits immediate detention to 48 hours for suspicion of committing a crime and establishes investigative detention of 6 months for minor offenses and 12 months for major offenses. However, in January, Congress passed a law that allows prisoners to be held for an indefinite period after their trial has begun, but before they have been sentenced.

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; however, in practice the judiciary was susceptible to outside pressure and corruption.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicature Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervised the selection by open competition of all appellate judges.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court did not always announce verdicts or punishments, reinforcing the strong impression that police were immune from prosecution. The Constitution places both police and military justice under the regular judicial system. However, the three systems have not yet been integrated, although weak efforts to do so continued.

Despite continuing efforts to depoliticize and modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure, or in some cases, the payment of bribes. In June and again in December, the President of the Supreme Court publicly de-



nounced political pressure on the court and threats against himself. In July, the Government began a corruption investigation of Supreme Court Justice Olmedo Bermeo, who had allegedly acquired more than \$1 million worth of property since being appointed to the court. In October, prosecutors initiated investigations into allegations that two other Supreme Court justices had not properly declared all of their assets.

There are more than 55,000 laws and regulations in force. Many of these are conflicting, and judges have been known to pick and choose from archaic legislation in an arbitrary or capricious manner. The resulting lack of clear rules contributed to what widely was referred to as "juridical uncertainty."

The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals (see Section 1.a.).

The law provides due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty, and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there were only 32 attorneys available to defend the large number of impoverished suspects.

Investigation of crimes is supposed to begin within 90 days of the initial arrest of a suspect. The investigation phase can take up to 2 years before the initiation of a trial. The majority of the accused were in prison while the investigation phase took place. Nearly half of all incarcerated persons had not been tried and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

In 2001, a new Criminal Procedures Code went into effect and fundamentally changed the criminal justice system from an inquisitorial system to an accusatorial system. Under the new system, the Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to become neutral arbiters presiding over oral trials. Prosecutors have wide discretion in deciding which cases can proceed. The National Police continued to work as investigators under the direction of the judicial police. There were no juries in the justice system. The new code was intended to strengthen the justice system by improving due process and enhancing the rights of the accused through measures such as habeas corpus and limits on preventive detention (see Section 1.d.). In January, the Government created an organizing committee headed by the President of the Supreme Court to coordinate implementation of the abrupt change in roles, functioning, and procedures for the criminal justice system. This committee met regularly and continued to develop a national plan to improve the implementation of the reform measures. The supplies and training available remained inadequate to meet the newly expanded role of the prosecutor's office.

The Constitution also explicitly recognizes the indigenous communities' right to exercise their own system of justice, based on their traditions and customs. However, the law does not yet specify how this is to work in practice. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respected these prohibitions, and violations were subject to effective legal sanctions. Wiretapping by the national police to investigate crimes is legal with a court order; however, there is no specific procedural guidance for obtaining such approval. Therefore, when members of the police did conduct wiretapping in the course of criminal investigations, it was not officially sanctioned.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some significant exceptions. There were criminal charges of slander and libel brought by public figures against journalists and other public figures. The law criminalizes slander and libel, and defendants who are found guilty could serve jail sentences for their public comments.

Individuals generally criticized the Government publicly and privately without fear of reprisal. The most notable exception during the year was the December arrest and detention of indigenous leader Humberto Cholango for his public criticism of President Gutierrez. Cholango was released after less than 24 hours. His arrest was widely criticized by human rights groups and in numerous editorials. The government official who reportedly ordered his arrest was later forced to resign.

There was a free and vigorous press. Ownership of the media was broadly based, and editorials represented a wide range of political views and often criticized the Government. However, some degree of self-censorship in the print media occurred, particularly with respect to politically sensitive issues or stories about the military and its related industries. In addition, most elements of the media were influenced by economic considerations and tended to reflect the narrow, regional interests of their owners.

All of the major media organs—newspapers, radio, and television—were locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government required television and radio to broadcast programs produced by the Government featuring the President and other top administration officials.

In August, President Gutierrez went to the Supreme Court, accompanied by cabinet members and military and police commanders, to file slander charges against Guillermo Haro, a member of Congress who had accused the President and members of the military of corruption. Traditionally, the speech and activities of members of Congress have been protected by parliamentary immunity. However, at year's end, President Gutierrez's political party and the Armed Forces attempted to build support in Congress for a vote to lift Haro's immunity.

In September, a judge ruled that a newspaper columnist, Rodrigo Fierro, had slandered former president Leon Febres Cordero in a column published in one of the country's largest newspapers. The judge sentenced Fierro to 6 months in prison, and Fierro's lawyer appealed the decision. The judge's decision led to domestic and international criticism. In December, an appeals court reduced the sentence to 1 month in prison and a \$6 fine. Fierro's lawyer again appealed the decision, and the case remained unresolved at the end of the year.

Also in September, the Supreme Court sentenced Ricardo Noboa, former head of the National Modernization Council, to 3 months in prison for slandering a politician in 2002.

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 the right of free assembly for peaceful purposes, and the Government generally respected this right in practice; however, there were some limits, and security forces used force to quell some violent demonstrations, resulting in one death and several injuries (see Section 1.a.). Public rallies require prior government permits, which generally were granted, although exceptions occurred.

On January 6, demonstrators in an area outside of Quito protested the location of a trash dump. Security forces killed Jose Tonguino during a confrontation with the demonstrators. No member of the security forces was charged with the killing.

Numerous labor, indigenous, and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads (see Section 2.d.). In general, the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not require religious groups to be licensed or registered unless they engaged in commercial activity.

The majority of the population considered themselves to be Roman Catholic, although many citizens either did not regularly practice the religion or followed a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allowed missionary activity and religious demonstrations by all religions. The Government did not permit religious instruction in public schools; private schools were permitted to teach religion, as are parents in the home. There were no restrictions on publishing religious materials in any language.

For a more detailed discussion, see the 2003 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, frequent military and police roadblocks often presented problems for travelers using public transportation, especially at night. Protesters often blocked roads (see Section 2.b.). The Government requires all

citizens to obtain permission to leave when traveling abroad, which was granted routinely. Military and minor applicants must comply with special requirements.

The law provides for granting refugee and asylum status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

During the year, the Foreign Ministry reported that there were 11,463 applications for refugee status. By year's end, the authorities denied 4,392 applications, granted 3,270, and had yet to process the remainder. During the year, 99 percent of the refugee applicants were Colombians; according to the UNHCR, the majority of displaced Colombians were impoverished peasants fleeing fighting, but some were adolescents escaping forced recruitment by illegal armed groups in Narino and Cauqueta.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In October 2002, a new Congress was elected, and, in November 2002, voters selected Lucio Gutierrez in the second-round presidential election. Election observers from the Organization of American States, the European Union, the NGO Citizen Participation, and other international groups termed the elections peaceful, free, and fair. On January 15, President Gutierrez assumed office, succeeding Gustavo Noboa. The President's term is 4 years, and the President may not serve consecutive terms.

Deputies are elected to Congress for 4-year terms. Several parties were represented in the 100-member Congress, and no party dominated. The Social Christian Party had the most seats (26). There were also three other major parties and six smaller parties represented in Congress. Eighteen members of Congress ran on an alliance of two or more parties.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to Congress, the presidency, or the vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, it must be eliminated from the electoral registry. In July, the Electoral Court eliminated 9 of 21 registered political parties. Six of those parties failed to win the minimum 5 percent of votes. The other 3 parties failed to field candidates in a minimum of 10 provinces.

In August, former president Gustavo Noboa voluntarily fled the country and obtained asylum in the Dominican Republic. A prosecutor filed charges against Noboa related to his renegotiation of debt while president. Government auditors cleared Noboa of wrongdoing, leading some observers to believe that the prosecutor's actions were politically motivated and instigated by Noboa's opponents. The charges were still pending at year's end.

No specific laws prevented women or minorities from attaining leadership positions in government. However, few women, indigenous persons, or Afro-Ecuadorians occupied senior positions in government. A 1998 law required that at least 30 percent of the candidates for Congress and some local positions in 2000 be women, and that in each subsequent election an additional 5 percent of the candidates be women (for example, 35 percent in 2002), until 2008, when 50 percent of the candidates are to be women. During the 2002 elections, the method used to calculate the percentage of women candidates created some controversy, but the election lists appeared generally to follow the law. Women held 17 of 100 seats in Congress, the largest proportion in the country's history. President Gutierrez initially named four female cabinet ministers, including the first female Minister of Foreign Affairs. At year's end, there were two female cabinet ministers, following turnover in the cabinet.

The indigenous movement formed the Pachakutik electoral movement and has run candidates for national, provincial, and local office in all elections. In the 2002 elections, Pachakutik formed an alliance with President Gutierrez and participated as a partner in his government until ending the alliance in August. Pachakutik had 10 members in Congress and was associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). Indigenous leader Humberto Cholango was arrested and detained for less than 24 hours in December for public criticism of President Gutierrez (see Section 2.a.). Indigenous members of the National Constituent Assembly and their supporters won important constitu-

tional protections for indigenous rights in the 1998 Constitution. The Cabinet initially included two indigenous cabinet members—the ministers of foreign affairs and agriculture; however, both ministers resigned when Pachakutik’s alliance with the Government ended.

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

A number of domestic and international human rights groups operated without restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government’s record on specific cases. The Government has contracted with the ALDHU to provide mandatory human rights training to the military and the police.

In the case of the three human rights groups’ offices that were broken into in 2002, police investigations appeared to be superficial, and no arrests were made.

The office of the Ombudsman (“Defensor del Pueblo”) was created in 1998 to ensure attention to human rights problems; however, some observers criticized its lack of independence in practice. Claudio Mueckay continued as acting Ombudsman.

In 1998, the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsmen’s office and a number of NGOs, contributed to development of this plan, and the U.N. contributed funds to support it. In 2002, the Government released its “Human Rights Operative Plan” that described possible mechanisms for implementing the National Human Rights Plan. The Gutierrez Government continued to implement various aspects of the National Human Rights Plan, including training of the Congress on human rights matters, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the Government’s lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee’s role particularly significant.

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

The Constitution prohibits discrimination based on race, sex, or social status. In addition, the 1998 constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. Congress has been only partially successful in carrying out this mandate. Women, indigenous people, and Afro-Ecuadorians continued to face significant discrimination.

*Women.*—Although the law prohibits violence against women, including within marriage, abuses were widespread. The Law Against Violence Affecting Women and Children criminalizes spousal abuse, including physical, sexual, and psychological abuse; creates family courts; and reforms the Penal Code to give courts the power to remove an abusive spouse from the home. The law also provides legal support to the Government’s Women’s Bureau in cases of sexual harassment in the workplace.

The Office of Gender, in the Ministry of Government, reported 28,131 cases of sexual, psychological, or physical mistreatment of women in 2002, although the numbers were not complete for all provinces. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Some communities have established their own centers for counseling and legal support of abused women. The Government addressed such problems through its Women’s Bureau; however, although the Bureau can accept complaints about abuse of women, it has no authority to act on the complaints but refers cases to the prosecutor’s office. The Women’s Bureau had projects in all provinces.

Many rapes were not reported due to the victims’ reluctance to confront the perpetrators. The penalty for rape is up to 25 years in prison. In cases of statutory rape involving “amorous” sex with a minor, if the rapist marries the victim, the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. In 2001, Congress increased the penalty for rape where death occurred to 35 years in prison.

Women’s rights organizations described sexual harassment in the workplace as common. However, cases of sexual harassment did not appear in the press during the year.

Adult prostitution is legal so long as the businesses are registered with the Government and follow health regulations.

Discrimination against women was pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades, and pay discrimination against women was common.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provided support for approximately 500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operated in 22 provinces, promoted similar themes relating to women's rights, with emphases on political participation and human rights. It also focused on young women and Afro-Ecuadorian women.

*Children.*—The Government did not take effective steps to provide for the welfare of children. The Constitution requires that children achieve “a basic level of education,” defined as 9 years of school; however, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the economic needs of families, the Government rarely enforced this requirement in practice. The National Statistics Institute reported in 2001 that one out of six citizens between the ages of 13 and 20 had not completed the sixth grade. Education was free. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount was spent. The Government has programs that provided families with educational subsidies as an incentive to keep children in school, which assisted approximately 50,000 children. In rural areas, many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers (see Section 6.d.).

There was no societal pattern of abuse against children.

Government resources to assist children traditionally have been limited. According to a study by the Government's Integrated System of Social Indicators in 2000, approximately 30 percent of children under the age of 5 were malnourished. In September, the Government unified its various nutrition programs in an attempt to better focus assistance on the poorest children. Government spending on education declined during the economic crisis of 1999–2000, but then increased in subsequent years.

More than 20 NGOs promoted child welfare. Several private organizations were very active in programs to assist street children, and UNICEF also ran a program in conjunction with the Central Bank. The children of the poor often experienced severe hardships, especially in urban areas.

*Persons with Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, or the provision of other state services. The Constitution recognizes the rights of persons with disabilities. In 2001, Congress passed legislation to promote the rights of persons with disabilities, including access to education, employment, transportation, and communication. However, the Government had few resources to ensure access to these services in practice.

*Indigenous People.*—While at least 85 percent of all citizens claimed some indigenous heritage, estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the total population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces, and most lived in varying degrees of poverty. A 2000 government study found that 79 percent of indigenous children lived under the poverty line. Land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon region, indigenous groups lobbied the Government, enlisted the help of foreign and domestic NGOs, and mounted protests, including kidnapping oil workers in past years, in attempts to win a share of oil revenues and a voice in natural resource and development decisions. The Government tended to consult indigenous

communities on natural resource matters, although their wishes were not always met. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continued to face criticism from indigenous groups that environmental damage continued.

The Ombudsman's office established ombudsman representatives in indigenous communities throughout the country. In August, these representatives were officially registered and assumed responsibility for promoting human and indigenous rights among indigenous communities, and providing specific advisory services to these groups.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the Government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale. Indigenous leader Humberto Cholango was briefly but arbitrarily arrested in December for his public criticism of President Gutierrez (see Section 2.a.).

*National/Racial/Ethnic Minorities.*—The population of the rural, northern coastal area included large numbers of Afro-Ecuadorian citizens. They suffered widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There were no special government efforts to address these problems.

Five major Afro-Ecuadorian organizations were active in the country; the largest was the National Afro-Ecuadorian Confederation, with headquarters in Quito. It estimated that Afro-Ecuadorians accounted for more than 1 million persons, or approximately 9 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continued to be limited.

The press focused on lingering racism among all strata of society. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they asserted that the police stop Afro-Ecuadorians for document checks more frequently than they stop other citizens.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and Labor Code provide most workers with the right to form trade unions. Approximately 5 percent of the workforce was organized. The Labor Code explicitly prohibits employers from interfering in the establishment or functioning of worker organizations. The code also explicitly prohibits employers from dismissing workers while they are forming a union or negotiating a collective contract; however, the penalties for violations were relatively minor and not enforced in practice. Members of the police, the military, and most public sector employees are not free to form trade unions.

The 1991 Labor Code reforms set the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's (ILO) Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. In 2002, the ILO again criticized the 30-worker minimum and called for the Government to take the necessary measures to amend the code. In its 2002 Annual Survey of Violations of Trade Union Rights, the International Confederation of Free Trade Unions reported that 60 percent of the enterprises in the country employed fewer than 30 workers, with approximately 1 million workers excluded from organizing a union.

Some companies have taken advantage of the law that prohibits unions from organizing at companies that have less than 30 employees by sub-contracting with several shell companies, each of which has less than 30 workers. Under the Labor Code, these subcontracted workers have no legal right to freedom of association or right to bargain collectively with the companies that ultimately benefit from their labor, nor do they have legal protection against anti-union discrimination.

Labor laws intended to protect workers' rights to freedom of association and to form and join trade unions were inadequate and failed to deter employers from retaliating against workers for organizing. Neither the Constitution nor the Labor Code requires reinstatement of workers fired for union activity. The Government's failure to enforce its labor laws and its lack of sufficient legal protection for worker rights allowed employers to violate workers' rights with impunity.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintained membership in some labor organization.

The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board that consists of one representative of the Ministry of Labor, two from the union, and two from management.

Under the law, unions may join federations or confederations, and three of the large labor centrals maintained international affiliations.

*b. The Right to Organize and Bargain Collectively.*—The labor market was highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium-to-large industries. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized.

Although the labor confederations were politically independent, the two largest single labor unions, the National Union of Educators and the Union of Social Security Workers, were allied with the Democratic Political Movement, a far-left party. There were five large labor confederations or centrals; no central was connected firmly to any one political party. President Gutierrez appointed the former president of the largest labor confederation as an official presidential advisor.

The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests; however, collective bargaining agreements covered only one-quarter of the work force that was organized. A 2000 labor law allows businesses to hire workers on “individual contracts.”

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by only one labor union. It prohibits discrimination against unions and requires that employers provide space for union activities upon the union’s request. If the Ministry of Labor rules that a dismissal of an employee is unjustified, it can require the employer to pay indemnities or separation payments to the worker of 125 percent of a month’s salary for each year worked, although the reforms set a cap on such payments. These payments were relatively low for workers earning the minimum wage (i.e., payments of \$400 or less), and the law does not require reinstatement of workers fired for anti-union activity. Workers generally were protected against anti-union discrimination only by pressure from the union. The ILO Committee of Experts found that the imposition of a fine “provided for by law in all cases of unjustified dismissal, when the real motive is . . . trade union membership or activity” was an inadequate protection against anti-union discrimination.

Employees also worked on temporary contracts, especially in the agricultural sector. While the Labor Code establishes a cap of 180 consecutive days for each contract, it does not prohibit the use of consecutive 180-day contracts. Some “temporary” workers may work for the same company (often for different sub-contractors of the same company) for an extended period of time under a series of short-term contracts. In practice, it was difficult to organize temporary employees on short-term contracts. Since the Labor Code does not recognize temporary workers, they do not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code limits solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The Labor Code provides that “the employer may contract substitute personnel” only when striking workers refuse to send the number of workers to provide the minimum necessary services. The Labor Code prohibits an employer from contracting substitute workers during a strike, although in practice this law was not enforced. The law does not explicitly prohibit the hiring of strikebreakers by subcontractors or other third parties that are not legally the striking workers’ employer. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

The law does not provide public workers with the right to strike and includes a provision that striking public sector workers are liable to between 2 and 5 years in prison; however, there were frequent “illegal” strikes. In September, Congress passed a civil service reform law that creates a unified salary structure for some public workers (it excludes the police, military, teachers, and healthcare workers). The law reiterates the prohibition against strikes by most civil service employees.

In June, employees of the public petroleum company went on strike for 8 days. The strike was illegal, and the Government ordered striking employees back to work and fired several union leaders. The union leaders claimed the process of their firing was illegal and filed suit to regain their jobs. The Government claimed the firings were legal, because the union leaders had led an illegal strike and had been absent from work for more than 3 days without approval. The employees' legal suit had not been decided by the end of the year.

An appeals court dismissed the prosecution of those who allegedly committed violence against workers at the Los Alamos banana plantation in May 2002. In June, approximately 70 unionized workers at the Los Alamos plantation requested negotiation of a collective contract and were fired by the three subcontracting companies that employed them. The Government requested that the companies rehire the workers, but the companies refused. The workers settled with the companies for severance pay.

Public school teachers went on strike four times during the year, including for 5 weeks in May and June and 6 weeks in November and December. Teachers returned to work in June after the Government agreed to pay salary increases. A government commission later postponed the salary increase, and the teachers went on strike again in November. At the end of December, the teachers accepted the Government's new offer. In July, August, October, and December, public health workers, including doctors and nurses, went on strike to demand higher wages. At the end of the year, the labor dispute remained unresolved.

The law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order. Many such "zones" have been established; most were relatively small and were dedicated to textiles and fish processing.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the Labor Code prohibit forced or bonded labor, including by children; however, there were reports that children were trafficked for labor (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In July, a new law went into force that includes a section on child labor; however, child labor remained a problem. The new law raises the minimum working age for minors from 14 to 15 for all types of labor and reduces the maximum hours a minor may work to 6 hours per day and 5 days per week. The law prohibits minors from working in hazardous conditions, including in mines, with toxic or dangerous substances or with dangerous machinery. Employers are required to pay minors at least 80 percent of the wages received by adults for the same type of employment. The law also increases the penalties for illegal child labor. The parents or guardians can be fined \$50 to \$300 and the employers \$200 to \$1,000 for participating in child labor. In cases of repeated infractions, the employer's business can be closed.

The Government formed the National Committee for the Progressive Eradication of Child Labor in 1997, with a membership including government agencies, business, and labor organizations. The Committee formulated a national plan for 2003 to 2006. In practice, the Ministry of Labor and the Minors' Tribunals failed to enforce child labor laws, and child labor was prevalent. However, in August, the Ministry of Labor, working with UNICEF, began a program of systematic child labor inspections of banana and flower plantations. Urban child labor increased with the migration of the rural poor to the cities. A 2000 UNICEF report estimated that almost half of the children between the ages of 10 and 17 worked. The National Statistics Institute (INEC) reported that in 2001 more than 130,000 children aged 14 years or younger worked. A separate INEC study in 2001 reported that 455,000 children under the age of 15 worked.

In rural areas, young children often left school at an early age to assist on the family's plot of land. More than 40 percent of all children lived in rural areas, and many did unpaid agricultural work for their families.

A report commissioned by the ILO estimated that there were 5,200 minors engaged in prostitution (see Section 6.f.).

The Ministry of Labor designated a "Social Service Directorate" to monitor and control child labor in formal sector businesses such as factories; however, enforcement in most sectors of the economy remained limited. In urban areas, many children under 15 years of age worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and beg-



ging. Children as young as 5 or 6 years often sold newspapers or candy on the street to support themselves or to augment family income.

The Government, through the National Children's and Family Institute (INNFA), spends approximately \$3.5 million per year on the Program for the Schooling and Protection of Child Workers. The Ministry of Social Welfare provided a "school bonus" of \$6 per month to poor families for school entry fees, books, supplies, and other school costs. The program covered approximately 50,000 students in 2002. The Central Bank ran the Child Worker Program with funds of approximately \$255,000 per year, supplemented by private funds.

*e. Acceptable Conditions of Work.*—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust the minimum wage. As of September, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$157, or \$0.85 per hour in the case of contract workers. The statutory minimum wage was not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers worked in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor did not deploy sufficient resources to enforce labor laws. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities.

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranged from a few days in major cities to much longer in the countryside.

The Social Security Institute enforces health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector, and in practice there was no enforcement of safety rules in the small mines that make up the vast majority of the mining sector.

*f. Trafficking in Persons.*—The Constitution prohibits slavery and trafficking in persons in all forms; however, there are no anti-trafficking penal laws that support the constitutional prohibition, and there were reports that citizens were trafficked out of the country. A misdemeanor law addresses alien smuggling. While this and other laws could be used to prosecute traffickers, they have yet to be applied.

A report commissioned by the ILO estimated that there were 5,200 minors engaged in prostitution. The Government did not have adequate programs to address this problem.

The law prohibits alien smuggling, including creating or selling fraudulent documents. Alien smugglers or traffickers can receive sentences from 3 to 6 years imprisonment; the penalties range from 6 to 9 years if victims are injured, and up to 12 years if a death occurs. The law specifically exempts smuggling victims from prosecution. Other laws dealing with kidnapping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. The immigration police, a division of the National Police, are charged with combating alien smuggling. At year's end, no case had yet reached a verdict under these laws.

There was no reliable estimate of the extent of the trafficking problem in the country. Two specific cases were reported during the year. In March, three indigenous minors were reportedly returned to the country after having worked in Colombia as domestic servants. In March, Spanish authorities arrested six Ecuadorians for allegedly mistreating five Ecuadorian minors and requiring them to work long hours making craft items. In past years, trafficking victims had been identified in Spain, Guatemala, Uruguay, Venezuela, and the United Kingdom. Although there were credible allegations that some government officials were involved in alien smuggling, there was no evidence that such officials facilitated or condoned trafficking in persons. There were no specific government programs aimed at assisting trafficking victims.

Since the beginning of its economic crisis in 1999, the country has had a high rate of emigration: Between January 2000 and April, the country registered a net emigration of approximately 500,000 persons. Citizens emigrated primarily to the United States and Spain, most of them illegally. Illegal emigrants paid between \$8,000 and \$12,000 per person to criminal organizations to be taken to the United

States, usually through Central America. Due to the extreme poverty of most of the emigrants and the high cost of such trips, some emigrants were vulnerable to traffickers.

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## EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president, a unicameral legislature, and an independent judiciary. In 1999, voters elected President Francisco Flores of the Nationalist Republican Alliance (ARENA) to a 5-year term. In free and fair elections in March, the Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA negotiated with the conservative National Conciliation Party (PCN) to maintain a working majority. Two other political parties also hold seats in the Assembly. The judiciary is constitutionally independent; however, many judges were still susceptible to political influence.

The National Civilian Police (PNC) maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities, including anti-narcotics efforts and reform-school training for juvenile convicts. Civilian authorities maintained effective control of the security forces. Some members of the police committed human rights abuses.

The free-market, mixed economy is based largely on services, agriculture, and manufacturing. The country's population was over 6.5 million. Although agriculture accounts for only 8.7 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 20 percent of the country's total work force (which is estimated at over 2.5 million persons). Coffee and sugar are the principal export crops, and were formerly the main sources of foreign exchange. The sustained decline in coffee prices has depressed activity in this sector, and the largest sources of foreign exchange are now family remittances and maquila exports. According to the Salvadoran Coffee Council, as of the 2003-04 coffee season, the decline in coffee prices since the 1999-2000 harvest has reduced employment by approximately 135,790 jobs. The manufacturing sector, which contributes 24 percent of GDP, employs 18 percent of the work force. The textile sector, particularly the maquila (in-bond assembly or processing) plants in free trade zones (EPZs), represents about 20 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth reached 2 percent during the year, with inflation at 2.5 percent. The official unemployment rate averaged 6.3 percent for the year; however, the rate of underemployment (less than full-time work, or total income below the minimum wage) was estimated at about 36.6 percent. In January and February of 2001, 2 earthquakes killed over 1,100 persons, left more than 1.2 million homeless, and caused over \$1.9 billion in damage. According to the Ministry of Economy's statistics and census office, during the year approximately 36.1 percent of the population lived below the poverty level, compared to 38.8 percent in 2002. In 2001, the dollar became an official currency.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. Some alleged politically motivated killings were under investigation at year's end. There were no reports of politically motivated disappearances. Some police officers used excessive force and mistreated detainees; at times police arbitrarily arrested and detained persons without adequate cause. Prison conditions remained poor, and overcrowding was a continuing problem. Lengthy pretrial detention remained a problem. The judiciary remained generally inefficient and hampered by corruption, although the Supreme Court and the Attorney General's office took some steps during the year to address inefficiency and corruption in the judiciary. The Court dismissed 39 judges who had not fulfilled the requirements for their degrees. Some of the dismissed judges alleged that some of their colleagues had retained their positions in the judicial branch due to their political, economic, and other ties. Impunity for the rich and powerful remained a problem. Violence and discrimination against women remained a serious problem. Discrimination against disabled persons also remained a problem. Abuse of children, child labor, and forced child prostitution were also problems. The Government did not adequately protect workers rights to organize and bargain collectively. 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 some reports of political killings by agents of political parties. The PNC Inspector General's office (IG) received allegations of police involvement in 57 killings, compared to 12 allegations of involvement in homicides during 2002. At year's end, authorities were adjudicating whether police officers had acted criminally or in the line of duty. During the year, the Ombudsman for Human Rights (PDDH) found that PNC agents were responsible for 1 unlawful killing, 1 attempted murder and 17 cases of physical abuse.

In January, Alvaro Centeno Calvio, a member of the FMLN, died in Ahuachapan during the legislative and municipal election campaign. According to an FMLN Deputy, Centeno Calvio died after having been hit in the head with a rock during a confrontation between the FMLN and ARENA, the governing party. According to the Forensic Institute, Centeno died of multiple injuries. In February, police arrested Francisco Zarcen Rodriguez, Jose Ernesto Martinez Rios, and Jose Guillermo Solito Escobar, all of whom were members of gangs. The police and the AG contended that 15 or 20 gang members unaffiliated with ARENA killed Centeno. The Court acquitted Francisco Zarceno because the facial injury he inflicted on Centeno was not the cause of death. The Court sentenced nine persons, including Jose Ernesto Rios and Jose Guillermo Solito Escobar.

There was no information available from government sources regarding the trial of persons for the September 2002 shooting death of Darwin Lopez.

In July 2002, an unidentified assailant shot and killed Nelson Alfonso Argueta Amaya, president of the National Federation of Demobilized Members of the Civil War Era Militia. The prosecutor initially identified several possible motives for the crime, including a personal dispute over the victim's leadership of the organization. Despite press speculation, there was no evidence of a political motive. The investigation continued at year's end.

The PDDH received 16 complaints of attempted and/or completed unlawful killings by police during the year.

In August, the Criminal Chamber of the Supreme Court announced it was reviewing the March 2002 conviction for second-degree murder and sentencing of Air Force flight school cadet Carlos Mauricio Melara to 10 years and 8 months in prison for the 2001 beating and killing of fellow cadet Erick Mauricio Pena Carmona to establish if the crime was first- or second-degree murder. In November, the Criminal Chamber directed that a criminal court should try Carlos Mauricio Melara and Cesar Humberto Dorat, previously exonerated by the courts, for first-degree murder.

A total of 28 inmates died in prison due to violence or illness during the year, compared to 19 inmates in 2002.

The trial of police captain Mariano Rodriguez Zepeda for the 1998 shooting of Jose Antonio Navidad Villalta was rescheduled for July 2004.

In January, the Supreme Court refused to grant a writ (amparo) to attorneys who presented a complaint for illegal delay of justice on behalf of six Jesuit priests, a housekeeper, and her daughter, who were murdered in 1989. The attorneys alleged that the Court's decision was contrary to the jurisprudence of the Constitutional Court, and in November, they presented the case to the Inter-American Human Rights Commission.

*b. Disappearance.*—There were no reports of politically motivated disappearances or of police involvement in kidnappings during the year.

Most disappearances were kidnappings for ransom. According to police statistics, 8 persons were kidnapped during the year, compared with 19 kidnappings in 2002 and 49 in 2001.

At year's end, the Supreme Court had not agreed to review the ruling regarding the August 2002 acquittal by a PNC disciplinary tribunal of PNC sergeant Tomasa Reyes Alvarado. According to the Court, the petitioners had not presented the request for review as legally required; the appeals court verdict of acquittal was upheld. In addition to Reyes Alvarado, former PNC sergeant Jose Azcunaga Segura and a civilian had been charged for the 2000 kidnapping of a couple in Sonsonate.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) investigated 150 cases (out of 450) of disappeared children and located 13 children living in El Salvador, the United States, France, and Italy, whom they helped reunite with their biological parents. In July, Pro-Busqueda met with the Family Committee of the Legislative Assembly and re-introduced a bill for the creation of a national commission to look into the cases of children who disappeared during the civil war 1980-92. At that meeting, the Public Defender committed to study the constitutionality of the bill, and in August, presented a favorable opinion. Additionally, the Family Committee of the Legislative Assembly

ordered its legal department to present an opinion. At the end of the year, the legal department had not done so.

In July, Pro-Busqueda presented the case of sisters Ernestina and Erlinda Serrano Cruz, who disappeared in 1982 during an armed forces operation known as "La Guinda de Mayo," to the Inter-American Court of Human Rights.

In October, Amnesty International accused the Government of not assuming its responsibilities under the Peace Accords to investigate the cases of children who disappeared during the war and whose whereabouts remained unknown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices. During the year, the PDDH received one complaint alleging torture by a police officer. There were allegations that some members of the PNC used excessive force or otherwise mistreated detainees.

In October, the PDDH reported that a minor was tortured in a PNC station in Apopa. According to the PDDH, the PNC agents tortured the minor in retaliation for his having previously accused the police of beating him during arrest. According to the IG, there was insufficient evidence to consider the case as torture; it was instead classified as an irregular law enforcement procedure.

In October 2002, the police detained a local PNC deputy inspector, Abel Hernandez Cortez, on charges of committing torture and serious injury to Jose Antonio Dominguez. In March, the PNC IG reported that it had closed the case after a criminal court exonerated Abel Hernandez Cortez in February. The Court based its decision on lack of evidence.

At year's end, the PNC IG had closed a case against PNC officers accused of detaining and beating seven members of the Salvadoran Association of Municipal Workers, who were illegally blocking traffic in support of a strike in November 2002. The IG ruled that riot police had used only necessary force against the protesters.

In December, the IG exonerated two PNC officers in the non-lethal shooting of Domingo Yanez Villatoro. The IG determined that the PNC officers had acted according to regular police procedures in response to being threatened with firearms.

During the year, the PDDH received a total of 863 complaints against the PNC for all categories of human rights violations, compared with 1,095 in 2002. Of the 2,479 total complaints received, 778 were for violation of the right of personal integrity committed by government authorities during the year and in prior years, compared with 766 in 2002. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and inhuman treatment of detainees. The vast majority of these complaints involved the PNC and were categorized as mistreatment.

A special board continued to review appeals by former PNC employees who were dismissed under expedited procedures authorized by the Legislative Assembly in 2000 (Decree 101).

By year's end, a prominent women's rights organization that had asserted in 2001 that sexual harassment was a widespread problem within the PNC and that female officers were subject to violence, had trained 150 police agents regarding women's rights.

Human rights awareness is a standard component of police officers' basic training program.

Prison conditions remained poor. The prison system has the capacity to hold 7,312 prisoners in 21 penal facilities. Overcrowding in individual facilities continued as the prison population increased for the fourth consecutive year. At year's end, 10,822 prisoners were held in 18 prison facilities with a combined capacity of 7,050, and there were 27 men and 6 women in 2 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often were sent to regular prisons, where they may be placed together with violent criminals. At year's end, 6,606 out of 11,451 detainees had been sentenced. During the year, the prison authorities instituted a new system for rewarding with weekend ambulatory privileges, for example, prisoners who exhibited good behavior and fulfilled all legal requirements. On the other hand, those prisoners who displayed dangerous or violent behavior were restricted to maximum security. In August, the authorities inaugurated a maximum-security prison with a capacity of 400. At year's end, the prison held 210 inmates.

Gangs continued to exercise influence within the prisons and judicial system, and prisoners reportedly continued to run criminal activities from their cells. Prison authorities reported that there were 28 deaths in the prison system during the year. Legislative Assembly Advisors reported that the FMLN used gangs for political purposes, such as painting walls for the presidential elections, during the year.

In March, the Attorney General (AG) dismissed charges against the Director of the PNC and the Director of Prisons for the deaths of two PNC officers and one prisoner during a December 2002 riot at a major metropolitan prison.

There are 3 separate women's penal facilities with a capacity for 262 persons. At the end of year, there were 578 women in the female prisons, with 51 additional women incarcerated in primarily male facilities, compared to 562 and 87 in 2002, respectively. Conditions in the women's facilities were adequate but overcrowded.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government generally observed this requirement in practice; however, from June 2001 through April 2002, the PDDH found nine juveniles in pretrial detention facilities that also housed adults. At year's end, 125 minors were housed in a juvenile prison under the supervision of the Salvadoran Institute for the Full Development of Children and Adolescents (ISNA). Gang violence in juvenile holding facilities was a problem. Members of the Armed Forces provided reform school training for juvenile convicts. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permitted prison visits by independent human rights observers, nongovernmental organizations (NGOs), and the media.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest; however, there were complaints that at times the PNC arbitrarily arrested and detained persons.

The PNC maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities, including anti-narcotics efforts and reform-school training for juvenile convicts.

In June, authorities arrested 27 PNC Officers on alien smuggling charges; the officers had connections with airport personnel who facilitated the smuggling. In July, an initial hearing judge released the officers. Only 6 of the 27 officers could be apprehended when an appeals court revoked the decision; the remainder had fled. At an initial hearing in December, a judge initiated criminal proceedings against the six officers in custody.

At the request of a judge, police conducted a disciplinary investigation into the April 2002 arrest and detention for 30 days of Esteban Ortiz Vasquez under an arrest warrant for similarly named Esteban Benito Ortiz. The judge found that the police had used flawed procedures.

From 2001 to November, the Supreme Court of Justice had received a total of 142 complaints from former PNC employees who alleged they were illegally dismissed. As of November, the Supreme Court had issued 17 favorable sentences, dropped charges in 23 cases, and considered 5 cases unacceptable. The remaining sentences were not admitted due to lack of formal petitions.

During the year, the PDDH received 778 complaints alleging violations of personal liberty, compared with 205 complaints in 2002. The courts generally enforced a ruling that interrogation without the presence of counsel is coercion, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender or an attorney arrived.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often were sent to regular prisons, where they could be placed together with violent criminals (see Section 1.c.). The law permits a judge to take up to 6 months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor or either party may ask the appeals court to extend the deadline for 3 to 6 months, depending on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. The Penitentiary Directorate reported that 4,514 inmates were in pretrial detention at the end of 2003 (see Section 1.c.). According to the Supreme Court, during the year the judicial system received an average of 19 criminal cases per day, compared to an average of 111 per day in 2002.

The Penal Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observed this prohibition.

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

the judiciary suffered from inefficiency and corruption. During the year, the Supreme Court (SCJ) took some steps to address these problems.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the entire court system. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ). The CNJ is an independent body provided for in the Constitution to nominate, train, and evaluate justices. The Legislative Assembly elects, by a two-thirds majority, Supreme Court magistrates from lists provided by the CNJ and the National Association of Lawyers.

In February, the CNJ President reported that the selection of more than 300 judges by the SCJ was illegal because they were not on the list of nominees proposed by the CNJ. The SCJ countered that the selections were legal because they involved transfers and exchanges of (mostly alternate) judges. The CNJ presented a petition before the Legislative Assembly to establish that every judge must be selected from a CNJ list of nominees; however, the legislature did not pass the petition, and the Supreme Court of Justice ruled it unconstitutional. The CNJ and SCJ then announced that the CNJ would take primary responsibility for the administration of judicial careers, although the SCJ will name judges and determine their courts of appointment. The National Judicial Council evaluates all judges twice a year; during the year, the evaluations took place in June and September. According to the CNJ President, the evaluation tools had been improved.

The President of the CNJ lobbied the Supreme Court to accept the recent graduates of a special judicial program in which attorneys receive 2 years of practical and academic training (including ethics) to eventually become judges. Sixteen out of 34 graduates of this program were working as judges at year's end.

Magistrates serve for periods of 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The system also has criminal sentencing courts and penitentiary oversight courts. The former consider the evidence and testimony that have been gathered throughout the trial proceedings, judge innocence or guilt, and determine sentences. The latter monitor the implementation of sentences. Through its Department of Judicial Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the CNJ, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. Juries are used in particular phases of the prosecution. Most cases start with a preliminary hearing by a justice of the peace court, then proceed to the trial court, which determines if there is enough evidence to continue the prosecution, and decides whether a jury or a sentencing court should hear the case. Justice of the peace courts provide an opportunity for conciliation as an alternative to trial proceedings for some types of cases. Almost all cases involving homicide, kidnapping, fraud, environment, drugs, or private property issues go to sentencing courts. Juries hear only those cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence. A jury verdict cannot be appealed. However, the defendant may appeal a sentence to the Supreme Court for reduction if certain requirements are fulfilled. A jury verdict may be overturned by a mistrial determination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

During the year, the Supreme Court of Justice, acting as the maximum tribunal, held 69 sessions, compared with 64 sessions in 2002. It issued 133 decisions, resolved 345 conflicts of competency, 5 cassations, and 158 petitions coming from foreign courts.

The Juvenile Legal Code requires that minors from 12 to 17 years of age be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors. In October, the Legislative Assembly approved a temporary anti-gang law, against which several parties presented constitutional petitions before the Supreme Court, including the PDDH. This law establishes that a child aged 12 to 18 can be tried as an adult and receive adult sentences of up to 30 years of prison. At year's end, few judges had applied the new law, and none had enforced the sentencing provision.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. In practice, compensation for damages due to judicial error was seldom applied. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the

Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity from the country's civil and criminal laws continued, particularly for persons who were politically, economically, or institutionally well connected. According to the U.N. Secretary General's December 2002 addendum to his report on Central America, "the justice system is often slow and many judges are still susceptible to political influence . . . many crimes go unpunished and effective access to due process is seriously limited, in fact, if not legally, for a large number of Salvadorans." Corruption in the judicial system contributed to impunity; however, the Supreme Court took some steps to address these problems. In 2003, the attorney investigation unit of the Supreme Court received 329 claims against private lawyers. The SCJ disbarred attorneys in three cases for periods not exceeding 5 years. There were few, if any, reports of corruption in the Attorney General's office during the year.

In June, authorities arrested National Judicial Branch Security Chief Carlos Adolfo Flores Hernandez, Regional Security Chief Ramael Armando Chorro Enrique, Security Supervisor Gerbert Heriberto Munoz Chicas, and Judicial Protection Agent Fredy Alvarado on charges of facilitating the escape of 14 members of an organized crime group named Banda Tacoma, which operated in Guatemala, Belize, and El Salvador, perpetrating homicides, kidnappings, bank robberies, and other crimes. At year's end, a criminal judge had opened a trial process against Fredy Alvarado, Gerbert Heriberto Munoz Chicas, and Ramael Armando Chorro Henriquez, all of whom were under house arrest. The criminal judge had dropped charges against Carlos Adolfo Flores Hernandez.

The CSJ has not acted on an October 2002 request by the AG to lift the immunity of two of the three judges whom he intended to prosecute.

In November, the AG formally charged Judge Ricardo Canales Herrera with misappropriation, through negligence, of approximately \$20,000 and 500 grams of heroin. Before the AG presented formal charges, Canales Herrera stated that he would present an interpellation petition against the AG because of the delay in presentation of charges. In 2002, 13 out of 15 Supreme Court Justices voted to dismiss Canales Herrera because of the loss of the drug in the court warehouse for which Canales had responsibility. Canales then presented a petition before the Administrative Dispute Chamber of the Supreme Court of Justice, charging that his dismissal was illegal. At year's end, the Administrative Dispute Chamber had not issued a decision.

In late September, an initial hearing was held in Ahuachapan for Narciso Ramirez, charged with alien smuggling. The initial hearing magistrate ruled that the case involved organized crime elements and therefore, according to Salvadoran Law, should be heard by a tribunal composed of three judges (one of whom would be the initial hearing judge). However, the two other magistrates on the tribunal ruled that the case did not involve organized crime and should instead be tried as a common case by jury trial. The initial hearing magistrate later recused himself from the case. In October, the tribunal transmitted the case to the Criminal Chamber of the Supreme Court of Justice due to the conflict between the three judges. As of the end of year, the Criminal Chamber had not issued a decision.

In April, the University of Central America Institute for Human Rights (IDHUCA) presented a petition to the AG to investigate all relatives—including a PNC officer—who were present during the rape and murder of Kattia Miranda on April 4, 1999. The AG designated two of its most elite prosecutors for the investigation, but by the end of the year there were no new developments in the case.

During 2002, the Attorney General's office reported that, as a result of the expedited dismissal process for unqualified staff authorized by a 2000 law, it had dismissed 44 prosecutors, of whom an appeals board exonerated and reinstated 24. By the end of 2002, the Attorney General had implemented more than half of the recommendations a review board had made in conducting an institutional review of his office in 2001, such as using new personnel selection and contracting procedures. The decree that authorized this procedure expired in February 2002. The Attorney General did not dismiss any prosecutors for corruption during the year.

At the end of the year, the Supreme Court of Justice was studying 140 cases of irregular diplomas. The Supreme Court drafted a decision in 50 cases out of 140. However, a final decision needs evaluation by the entire body of 15 Justices. The Attorney General must present formal requests in 90 cases to continue the legal process.

In August, the CSJ disbarred 39 attorneys upon formal notification by the Ministry of Education that they had not completed requirements for their degrees. In September and October 2002, the Supreme Court dismissed 38 judges on similar grounds after which a group of the dismissed judges released a list of judges whom they alleged did not meet requirements but retained positions because of political

or economical influence or because of their relationships with the Justices of the Supreme Court. The dismissed judges appealed to the Inter-American Commission on Human Rights and the PDDH. In May, the PDDH asserted that the Supreme Court had violated due process and the principle of equality before the law in dismissing the judges and found that the Court should have used a regular process rather than a brief process in dismissing the judges. All but one of the judges dismissed by the Court appealed the dismissals, insisting that they had fulfilled all of the requirements in place at the time and that it was wrong for the Ministry of Education to impose new standards retroactively.

NGOs and observers knowledgeable of the judicial system claimed that the Court was doing the minimum necessary to respond to public criticism, but it was not making a comprehensive effort to remove unqualified and corrupt judges. The Supreme Court emphasized that its Department of Judicial Investigation and the CNJ performed that function by scrutinizing judicial performance on an ongoing basis. Regarding the questionable degrees, the Court maintained it could only act on information provided by the Ministry of Education, which was the institution authorized to determine the validity of academic credentials.

In practice, the Court imposed few sanctions upon judges based upon the recommendations from the CNJ and the Department of Judicial Investigation.

In December, a San Salvadoran judge granted a sentence reduction and released a well-known organized crime figure, Bruno Ventura. The judge released Ventura, based on a joint decision of the Ministry of Governance and the Supreme Court of Justice. The Ministry of Governance previously had ruled against Ventura's release. The judge who issued the release order was accused of granting unusual privileges to Ventura in the past, but she asserted that she had acted within the law. According to the Salvadoran Press Association (APES), Ventura's mother injured a journalist covering the Ministry of Governance's initial ruling against Ventura's release.

Police, prosecutors, public defenders, and the courts continued to have problems in crime investigation. Inadequate police coverage (due to limited resources) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system. In July 2002, witnesses in the trial of accused alien smugglers Edgar Campos and Blanca Rivas reported that defense lawyers had harassed them in an effort to deter their testimony. Prosecutors informed the judge hearing the case, and the information served as an important justification for keeping the defendants incarcerated during the trial.

In August, a criminal court exonerated Colombians Rynel Ardila Vasquez, Julio Lele Farfulla Caise, and Miller Suarez Salas, accused of trafficking 1,920 kilograms of cocaine. In September, an appeals court revoked the decision, and on October 2, the judge opened criminal proceedings before a sentencing tribunal, in accordance with the law. The suspects remained in custody at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for a right to privacy, and government authorities generally respected this right in practice. The law requires the police to have a resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed before entering a private dwelling.

Police can use undercover agents with the permission of the Attorney General and enter legally private property without a warrant when criminal activity is suspected. With a judge's order, samples of blood and other bodily fluids can be taken without the consent of the accused.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Print and broadcast journalists from all major media outlets regularly and freely criticized the Government and reported opposition views. Opposition figures were interviewed routinely in the press and on television and radio. However, according to APES, the Government asked the Mexican Government to intervene with a local subsidiary station of a Mexican company to stop political reporting that posed an embarrassment to the Government. Some television stations continued to complain that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy. In January, two political parties (the CDU and PCN) presented a petition before the Legislative Assembly to remove the exemption that newspapers have from paying taxes. This initiative was not supported by the two largest political parties (ARENA and the FMLN) and failed. In February, CINTEC Environment Inc., a waste-treatment enterprise, announced it would file a suit



against two major newspapers that had reported that CINTEC might be laundering money in cooperation with organized crime. An NGO expressed its concern to the PDDH regarding the potential chilling effect on free press of the lawsuits, in view of the judicial system's past unresponsiveness to freedom of press issues and less-than-desirable respect for social communicators, media, and informers.

On April 8, Derechos Humanos para las Americas, a domestic NGO, and APES presented a bill before the Legislative Assembly to strengthen freedom of speech in accordance with international law. Although all political parties supported the proposal, time limitations prior to the seating of the newly elected Legislative Assembly precluded modification of the Constitution. The new Legislative Assembly, seated in May, did not revisit the issue prior to year's end.

In January, supporters of protesters, who seized the National Cathedral to protest the Government's healthcare system policies, injured TV journalists whom they accused of reporting the Government's point of view. The AG reported that neither the victims nor the witnesses have cooperated in the investigation, and at year's end the AG had not identified or charged the perpetrators.

In August, the Central American University (UCA) reported that two UCA newscasters received phone death threats after they criticized the Central America Free Trade Agreement and President Flores's anti-gang law on August 12. According to UCA authorities, on August 13 the Ministry of Governance asked for a copy of the editorial. The AG indicated that no investigation could be initiated until UCA filed a formal complaint; an attorney for UCA advised that the University had declined to do so.

Some newspaper editors and radio news directors practiced self-censorship, according to practitioners and observers, by discouraging journalists from reporting on topics or presenting views that the owners or publishers might not view favorably. El Diario de Hoy, a major newspaper, requires that anyone placing an advertisement on a controversial topic must leave a deposit to pay for a reply by an opponent, should a court order it. If no one claims the right to reply within 30 days, the newspaper returns the deposit to the individual or group who placed the original ad.

In September 2002, the legislature approved reforms to the Organic Law of the Court of Accounts, the national auditing agency, including a provision on public access to the agency's audits that required that the institution make the audits public only after appeals are exhausted. Critics maintained that, because appeals often drag on for years, the measure will unnecessarily delay public access to information.

In 2002, the Inter-American Press Association (IAPA) identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources. In October, the IAPA reported that both political and government organizations blocked journalists from having access to information of public interest.

There are 5 daily newspapers, with a combined daily circulation of more than 250,000 copies, and 16 television stations. Five independent and one government-owned and operated VHF television stations reach most areas of the country. Eight independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital and the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major national stations and a wide range of international programming. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the IAPA have claimed that the provision abridges press freedom.

There were no instances of censorship of books, other publications, films, or plays. The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for peaceful assembly for any lawful purpose, and the Government generally respected this right in practice. Public demonstrations were common and generally peaceful.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

A 1996 law governing the registration, regulation, and financial oversight of NGOs and non-Catholic religious groups remained in effect. However, a 2001 Supreme Court decision prohibits any official or judge from denying legal status to an NGO for behavior that violates social norms, morality, or public order as long as there are no violations of the criminal code. Some NGOs asserted that the Ministry of Governance delayed approval of legal status for controversial NGOs with human rights or political agendas. In August 2002, the Ministry of Governance refused to grant legal status to the Independent Monitoring Group of El Salvador, an NGO

that monitors respect for labor rights in maquilas, although in late 2003 the case appeared to be nearing resolution (see Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The president and vice president are elected every 5 years. The Constitution bars the president from election to consecutive terms. Voting is by secret ballot.

In May 2002, the Supreme Court ruled unconstitutional an article of the electoral code that assigned a specific number of legislators to each department of the country, saying it violated the constitutional requirement for representation proportional to the population. One day before the Court announced its decision, the Legislative Assembly modified the law by allocating the number of legislators based on ranges of population; for example, a department with 300,000 to 400,000 citizens is entitled to 4 legislators. A political party and an NGO protested that the change did not satisfy the constitutional requirement, and they noted that the timing of the vote showed that someone in the Court had leaked the information before the decision was made public.

Ten political parties, representing the full political spectrum, fielded seven candidates in the 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March, the country held legislative elections that observers generally reported to be free and fair although the BBC reported some minor irregularities. The FMLN won a plurality of 31 legislative seats. On two occasions in November, FMLN activists attacked caravans of ARENA party workers visiting FMLN-majority municipalities; television news videos showed a San Salvador metropolitan area FMLN mayor pummeling ARENA campaign workers with rocks.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems. Women accounted for 51 percent of the population; however, they represented 54 percent of registered voters in the March elections. Eight of the 84 legislators elected in March were women, with 16 women elected as alternate legislators. The Board of Directors of the Legislative Assembly is composed of six persons; two were women. In the Judicial Branch, 2 out of 15 Supreme Court justices were women. Of the 11 executive branch ministries and 3 constitutionally independent agencies, women headed 2, the Ministry of Foreign Affairs and the Human Rights Ombudsman's office. Women held a substantial number of vice- and sub-ministerial jobs. An estimated 40 percent of the country's judges were female; however, the majority held positions in the lower-level courts.

Minorities, including indigenous people, are not barred from voting or participating in government and politics. In practice, only a few hundred Salvadorans identified themselves as ethnic minorities, and no one who identifies himself or herself as a minority holds a leadership position in the Government or the Legislative Assembly.

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

Numerous domestic and various international NGOs operated freely, and the Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGOs. However, it was sometimes reluc-

tant to discuss worker rights issues with NGOs, and it refused to discuss the topic with the PDDH. Domestic and international NGOs are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties (see Section 2.b.).

By year's end, the Ministry of Governance had not decided whether to grant legal status to the Independent Monitoring Group of El Salvador, an NGO that monitors respect for labor rights in maquilas.

The principal human rights investigative and monitoring body is the Office of the Human Rights Ombudsman, who is elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the Constitution that defined its role. Attorney Beatrice Carillo has held this post since 2001.

During the year, the Ombudsman expressed frustration with the Government's unwillingness—particularly the Attorney General's Office—to respond to her agency's requests for information, as required by law, and to implement its recommendations. Government officials responded that the institution undermined its credibility by pronouncing on a wide range of issues that exceeded its mandate and by issuing resolutions on politically charged cases that had occurred many years ago. The Ombudsman insisted that all of the work performed by her institution fit within the 14 duties assigned to it by the Constitution. She explained that, because the PDDH had not issued resolutions on the old cases at the time they were submitted, the institution had to issue them now to close out the cases.

In January, a proposal in the Legislative Assembly to impeach the Ombudsman was defeated quickly in an ad hoc committee. Legislators noted that there were no grounds for the proposal after the Attorney General's office announced that its investigations showed the Ombudsman's actions did not contribute to police officers' deaths in a December 2002 prison riot (see Section 1.c.).

During the year, the PDDH accepted 2,479 complaints of human rights violations, compared with 3,303 in 2002 (see Sections 1.a. and 1.c.). The rights most frequently alleged to have been violated included personal integrity, due process of law, and labor laws—778, 286, and 270 complaints, respectively. During the year, the PDDH issued 164 resolutions involving 235 complaints filed during the year and in previous years. Some of the resolutions addressed multiple complaints with similar characteristics such as mistreatment by police. It upheld the charges in 107 resolutions, found the accused not to have been responsible in 45 resolutions, and resolved 12 cases using its good offices. In the remaining cases received during the year, the PDDH had not determined whether the facts substantiated the allegations.

The Centro de Intercambio y Solidaridad (CIS), an NGO involved in election monitoring, worker rights, and other human rights issues, reported that volunteers arriving July 17 and August 19 at Comalapa Airport had been denied entry on the grounds of “administrative restriction” by order of the Ministry of Governance. The entry refusals appear to hinge on the interpretation of Article 97 of the Constitution, which prohibits foreigners from participation in the internal politics of the country. The CIS Director also reported that police entered her office September 9 and took copies of lists of 23 students planning to come to the country as CIS volunteers.

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

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, or sex. In practice, discrimination against women, persons with disabilities, and indigenous people occurred in salaries and hiring. There were some instances of violence against homosexuals.

In June, before a Sexual Diversity Celebration, which commemorated people who had died from attacks associated with their sexual orientation or from HIV/AIDS, members of the municipal and National Civilian Police detained and harassed homosexuals and transvestites when they were out at night, although they were not engaged in criminal activity. The police countered that they monitored transvestites out at night because they had repeatedly been involved in crimes including prostitution, public nudity, and robbery. No formal charges were filed either against the homosexuals and transvestites or the police.

Since June, the NGO, Entre Amigos, had trained 402 police officers to respect the rights of homosexuals in a program sponsored by the Netherlands. The program ends in February 2004.

Entre Amigos reported that in July, unknown persons killed three transvestites, Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz, as they walked on the principal street in Santa Tecla, La Libertad department. Entre Amigos presented a petition before the AG's office; investigations were ongoing at year's end.

In October, an unknown assailant killed Douglas Ademir Vasquez, a Soyapango transvestite known as "Giselle." Vasquez died from two gunshots to the head at close range. The PNC suspected that Vasquez was the victim of gang violence. The investigation continued at year's ends.

At year's end, Entre Amigos was preparing to present a formal complaint before the Ministry of Education on behalf of a 17-year-old student at a private academy who alleged she suffered discrimination from school authorities because of her sexual orientation.

In October 2002, the Legislative Assembly removed from the 2001 Law on Prevention and Control of Infection caused by the Human Immunodeficiency Virus a provision requiring job applicants to have their blood tested. During the year, NGOs, UNAIDS, and the Ministry of Health expressed concern that this provision facilitated discrimination against infected persons and, in so doing, made it difficult for them to obtain employment. Removal of this provision made pre-employment HIV tests optional, rather than mandatory. According to media reports, through late November 2002 the Atlacatl Foundation, an NGO, had received six complaints from persons who alleged that their employment had been terminated after it was learned that they were HIV positive. In addition, in 2002, the Foundation maintained that three institutions of higher education required students who wished to pursue health-related careers to have their blood tested.

*Women.*—Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly was recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the AG's office, the CSJ, the Public Defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through the Salvadoran Institute for the Development of Women (ISDEMU), defines policies, programs, and projects on domestic violence and maintains a hotline as well as a shelter for victims of domestic abuse. The ISDEMU received 4,706 complaints of domestic violence as of June, compared to 3,786 complaints in 2002. Incidents of domestic violence and rape continued to be underreported for several reasons: Societal and cultural pressures against the victim, a fear of reprisal, poor response to victims by the authorities, fear of publicity, and the belief that cases are unlikely to be resolved. However, the Criminal Code permits the AG to prosecute in the case of a rape, with or without a complaint from the victim, and as of 2001, a victim's pardon may not nullify the criminal charge. The penalties for rape are 6 to 10 years in prison. The law does not address specifically spousal rape; however, it may be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 652 complaints of sexual aggression as of June, compared to 464 in 2002.

In May, the decapitated bodies and severed heads of two young women were found at separate locations; the murders fit the pattern of Central American gang ritual slayings. No suspects had been charged at year's end. According to PNC reports, as of June, gangs killed, tortured, and mutilated 16 women.

The law does not prohibit a person from working as a prostitute. However, it prohibits any person from inducing, facilitating, promoting, or giving incentives to a person to work as a prostitute. Prostitution was common, and there were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Trafficking in women and girls for purposes of sexual exploitation was a problem (see Section 6.f.).

The law prohibits sexual harassment; however, workers in EPZs reported sexual harassment (see Section 6.b.).

In January, a prominent women's rights organization, CEMUJER, reported that spouses and partners motivated by jealousy killed 238 women, aged 16 to 54 years, in 2002. At year's end, CEMUJER reported that spouses and partners motivated by jealousy had killed 311 women. CEMUJER also reported that 9 women had presented sexual harassment complaints against PNC officers and 47 complaints against employers of industrial services, including maquilas. CEMUJER received a total of 3,144 complaints during the year.

As of June, CEMUJER had trained 150 women police officers; in September, CEMUJER began providing legal counsel to 4 female employees who alleged harassment by PNC chiefs. During 2002, the NGO assisted three female employees of the PNC in bringing sexual harassment charges against superiors; the courts dismissed

the charges against the defendants in all three cases. (A 2001 report by CEMUJER asserted that sexual harassment was widespread within the PNC.)

Some factories in the EPZs required female job applicants to present pregnancy test results, and they did not hire pregnant women (see Section 6.b.).

The Constitution grants women and men the same legal rights, and the Penal Code establishes sentences of 1 to 3 years in jail for public officials who deny a person's civil rights based on gender. The law prohibits pregnant women from performing strenuous activities in the workplace after the fourth month of pregnancy (see Section 6.e.). All women are entitled to 84 days of maternity leave, usually taken after the baby is born.

Women suffered from cultural and societal discrimination and had reduced economic opportunities; men often received priority in available jobs and promotions. In particular, women were not accorded equal respect or stature in traditional male-dominated sectors such as agriculture and business. A 2002 UN Development Program (UNDP) study reported an illiteracy rate of 79 percent for women and 85 percent for men. A combined school attendance rate showed that 64.3 percent of women have registered for school versus 65.4 percent of men. One of the factors that contributed to girls' leaving school was teenage pregnancy. The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate in labor relations; however, it was difficult for employees to report such violations by their employers because they feared reprisals. A UNDP study showed that women earn on average \$3,350 per year, compared to \$7,381 for men. The one sector in which there was an exception to this practice was in the EPZs and maquilas, the largest source of new jobs, where women made up 85 to 90 percent of the workforce (see Section 6.b.). However, even in this sector, men held the majority of positions in management and in departments where employees received higher wages such as cutting and ironing. Training for women generally was confined to low-wage occupational areas where women already held most positions in fields such as teaching, nursing, home industries, and small businesses.

According to the same UNDP study, women held 25.7 percent of higher-level positions and 19.7 percent of municipal seats.

Women's organizations such as CEMUJER, Las Dignas, and the Melida Anaya Montes Movement were engaged in promoting women's rights and conducted several rights-awareness campaigns during the year.

*Children.*—A May report coordinated by International Program for the Elimination of Child Labor (IPEC) experts and sponsored by the International Labor Organization (ILO), World Bank, and others determined that overall, 1 out of 10 children worked, with approximately 13 percent of children aged 10 to 14 years in the workforce. The portion of the country's population aged 5 to 17 years represented 30 percent of the nation's total population. Child labor was more common in rural areas (15.7 percent) than in urban areas (7.7 percent). Approximately 60 percent of children worked in the informal sector in micro-agricultural and non-agricultural family enterprises, for which they did not receive monetary compensation.

Working children completed an average of 5.6 years of school, while nonworking children finished 8 years of school. Among families surveyed, 23.3 percent of respondents indicated that children cannot attend school due to economic problems.

At year's end, ISDEMU had 1,639 cases of child abuse and mistreatment on file. The ISNA reported 143 cases of child sexual abuse during 2002, compared to 173 in 2001. A majority of the victims were female.

In July 2002, the Ministry of Education, the PNC, and ISNA instituted a program to address the problem of student violence in San Salvador. The police delivered students, who were out of school unsupervised (often in bars, pool halls, or video game stores) during school hours, to ISNA. ISNA gave them psychological counseling about violence and supervised them until their parents or guardians took custody. Government officials reported that the measures reduced street violence and fights among students. At year's end, the police brought 169 youths to ISNA under this program.

The Government concentrated more on reducing poverty and promoting family stability through economic growth than in making direct expenditures on children's programs. With the encouragement of UNICEF, in September 2002, the National Secretariat of the Family submitted to the Legislative Assembly a new national policy of comprehensive attention for children and adolescents; the policy had not been approved at year's end.

Education is compulsory through the ninth grade. Public education is nominally free through high school. The Constitution prohibits persons from impeding children's access to school for failure to pay fees or wear uniforms. In practice, some schools continued to charge students fees to cover budget shortfalls, and the inability to pay these fees or pay for required books, uniforms, and activities prevented

some poor children from attending school. In September, the Legislative Assembly modified the law so that schools are prohibited from charging students any fees. The Ministry of Education continued to operate a hotline for the public to report school administrators who violated these laws. As of August, the Ministry had received 895 complaints of illegal school fees. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents often withdrew their children from school by the sixth grade to work. According to the Ministry of Education, during 2002, 14 percent of primary school-aged children (ages 7 to 11) and approximately 32 percent of sixth- to eighth-grade aged children (ages 12 to 14) in urban areas did not attend classes. Meanwhile, primary school attendance in rural areas was oversubscribed by almost 14 percent, because older children attended classes below grade level. Only seven percent of children in rural areas attended school in grades six through eight.

Infant malnutrition continued to be a problem, particularly in the coffee-producing zones of Ahuachapan and Sonsonate. Where the incidence of malnutrition is high, the World Food Program, foreign donors, and UNICEF are helping to address this issue with targeted feeding programs. A 2000 study on child growth showed that 19 percent of children suffered from chronic malnutrition. The Ministry of Health listed malnutrition as 1 of the 10 principal causes of infant mortality in the country. The Government had a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients and encourage breast-feeding, but progress was slow, particularly in rural regions.

The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights. However, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The ISNA, an autonomous entity, has responsibility for protecting and promoting children's rights. As of September, the ISNA reported that over 1,173 children, some abandoned and others victims of mistreatment, were staying in its shelters.

Substance abuse (glue, paint thinner, and crack cocaine) was a problem among urban street children. FUNDASALVA, an NGO, provided drug counseling and treatment to minors. Another NGO, the Olaf Palme Foundation, reported that it registered 68 cases of police abuse and mistreatment of street children during the year. Olaf Palme reported 9 cases of corrections-system abuse, 5 cases of school abuse, 1 case of mistreatment by ISNA, 11 cases of sexual abuse (including rape), 4 cases of domestic violence against children, and 4 cases of unpaid child support orders. All cases were reported to the PDDH and to the Attorney General's office. (The NGO reported that in previous years children feared reprisals if they reported the abuse.)

The PNC incorporated PDDH human rights training into programs for police units that deal with juveniles.

Child prostitution was a problem. Between 10 and 25 percent of visible prostitutes were minors, and an estimated 40 percent of the hidden prostitutes who cater to upper-class clients were believed to be minors, according to a UNICEF study released in 2000.

Children, especially those living on the streets, have been trafficked to other countries and then forced into prostitution (see Section 6.f.).

Child labor remained a problem (see Section 6.d.).

*Persons with Disabilities.*—In February, the Legislative Assembly debated and let stand a previously enacted special statutory law authorizing persons with disabilities to be members of a municipal board of directors.

The National Secretariat of the Family estimated in 2000 that at least 8 percent of the population had some form of disability. A 2000–2001 study by the World Health Organization in conjunction with local and international partners found that the majority of persons with disabilities were young, lived in rural areas, and had little access to rehabilitation services. It found that many of the causes of disability were preventable.

A significant number of the country's population of persons with disabilities consisted of former combatants and civilians wounded during the conflict. Government and international funding provided rehabilitation programs for these persons. During the year, the Government accepted few new registrations of persons wounded and disabled as a result of the 1980–1992 armed conflict, as mandated by legislation passed in 2001. From 2002 to the end of the year, a total of 5,413 former combatants asked for re-registration. The re-registration opened the way for more than 11,000 additional persons with disabilities to receive government benefits. As of July, the Government had accepted 1,053 new beneficiaries and disqualified 1,204 disabled former combatants from receiving benefits. According to Jesus Avalos of

the Association of Wounded Combatants of El Salvador, some former beneficiaries were experiencing psychological and drug problems.

Efforts to combat discrimination and increase opportunities for those whose disabilities are unrelated to the war were growing but remained inadequate. The Ministry of Labor promoted voluntary compliance with a 2000 law that requires businesses to employ 1 person with a disability for every 25 employees, an increase from the pre-existing requirement of 1 for 50. The Ministry's limited resources and decentralization of its records meant that there were no reliable data on the number of persons with disabilities who were employed; however, the unemployment rate was significantly higher than that in the general population.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Only a few of the Government's community-based health promoters have been trained to treat persons with disabilities, and they rarely provided such service.

There were several organizations dedicated to protecting and promoting the rights of persons with disabilities, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of persons with disabilities. The Government and national and international nongovernmental organizations provided funding for the Salvadoran Rehabilitation Institute for the Disabled, which has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses.

*Indigenous People.*—The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights. According to research done during the year by the Native Land NGO, Jose Matias Delgado University, the Environmental Ministry, and National Geographic, the country has three different classes of indigenous people: Nahua-Pipiles (western and central areas of the country), Lencas (eastern region), and Cacaoperas (eastern region). This research concluded that indigenous people had lost their traditional relationship with the land, that people of the capital believed that the country did not have an indigenous population, and that in general indigenous people were considered peasants.

During 1930–40, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they now are generally indistinguishable. There are a few very small communities whose members continue to wear traditional dress and maintain traditional customs to a recognizable degree; they do so without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups existed in the poorest parts of the rural countryside where employment opportunities were few and domestic violence was a problem.

Indigenous people reportedly earned less than other agricultural laborers. Indigenous women in particular had little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land was a problem for indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The best known is the National Association of Indigenous Salvadorans.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the rights of workers and employers to form unions or associations, and workers and employers exercised these rights in practice; however, there were some problems. There were repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. In May, the CFA asked the Government to obtain a prompt judicial resolution in an anti-union case; however, at year's end the company had not responded to the Ministry of Labor's order that they respect workers' right of association. The case was still pending at year's end.

The organized labor sector has approximately 133 unions, 16 federations, and 3 confederations representing 142,500 workers in the private sector. In addition, there are 24 public employee associations and 26 campesino organizations that, together, had an estimated membership of 150,000 persons. Unions generally were inde-

pendent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

Union leaders asserted that the Government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers.

Public agencies that provide essential services have the right to form unions but not to strike. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. None of these professional and employee associations have a collective bargaining agreement. Some of the most powerful labor groups are public employee associations, with which the Government negotiates. The Labor Code provides for mandatory arbitration of public services such as those provided by autonomous organizations or private companies. The Labor Code does not establish a procedure to solve conflicts in public administration. The Government has not amended legislation to recognize government workers' right to strike, as recommended by the CFA in 2000.

The law prohibits anti-union actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application.

Unions may strike only after the expiration of a collective bargaining agreement. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, a strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The union must name a strike committee to serve as a negotiator and send the list of names to the MOL, which notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

Public workers who provide vital community services are not allowed to strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

On May 7, workers at the Anthony Fashions factory presented a petition to the Legislative Assembly asking for the impeachment of the Minister of Labor, the Minister of Economy, and the Attorney General for their failure to use due process to protect labor rights. In December 2002, Anthony Fashion announced that it was suspending production due to lack of orders from abroad; the company did not pay legal benefits, health security, pension contributions, and mandatory annual bonus for almost 15 months, and owed over \$1,000,000 to workers, pension agencies, private companies and the Salvadoran Social Security Institute (ISSS). The Public Defender Office (PGR) and NGOs tried to obtain redress for the workers, but the PGR concluded that under the law, to pursue such legal redress, it was necessary to determine the defendants' (owners') foreign address of record, for service of relevant documents and instruments. Although the company owners are believed to be residing in the United States, the country's Embassy and consulates were unsuccessful in determining the owners' address of record.

The ISSS, an autonomous government institution funded by payroll taxes and mandatory employer contributions, provides health care to people employed in the formal sector. ISSS workers continued a strike, begun in September 2002, to pressure the Government to stop purchasing health-care-related services from private companies. From September through the end of 2002, dozens of strike leaders and their family members reported receiving phone calls threatening that harm would come to them if they did not cease their activities. The AG's office interviewed victims and attempted to trace the calls. In January, the AG's Office closed all cases based on lack of evidence. In April, the Legislative Assembly approved a reinstatement decree for ISSS and Ministry of Labor employees; however, in May President Flores announced that he would veto the decree. A new mediation committee composed of three center party leaders, working with the Government and the strikers, structured a short-term agreement, and in July, ISSS workers returned to their jobs.

The Labor Code establishes that unions must be independent from political parties, but it does not prohibit partisan political activity per se. Although some unions are very closely and publicly associated with partisan political platforms, the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such



as utilities and the port authority. However, both private sector unions (by law) and public service associations (in practice) used collective bargaining.

The MOL oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiated with labor organizations directly, relying on the MOL only for such functions as officially certifying unions. The Ministry often sought to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry was biased against labor. Labor leaders asserted that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.)

Corruption among labor inspectors and in the labor courts continued to be a problem, although the MOL has received an increased budget to hire more inspectors, offer increased training to existing inspectors, and perform more labor inspections.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for one year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. However, the Labor Code does not require the employers to reinstate them, but requires the employers to provide a severance payment. In practice, some employers dismissed workers who sought to form unions. The Government generally ensured that employers paid severance to these workers. However, in most cases the Government did not prevent their dismissal or require their reinstatement. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to unions.

In May, Human Rights Watch (HRW) reported on the obstacles that prevent workers from exercising their labor rights. Among these were inadequate labor laws that provided weak protection against anti-union suspensions and dismissals, that forced workers to go through excessively burdensome requirements to register a union, and that permitted employers to legally suspend workers as a way to circumvent labor law protections. In addition, the report accused of the MOL of failing to enforce labor laws and described complicated labor court procedures that prevent judicial enforcement of labor laws.

On December 4, HRW published a further report that found that workers rights were systematically violated by employers while the Government disregarded or even facilitated the abuses. The report called on the Government to strengthen its labor laws by requiring reinstatement for workers illegally fired or suspended for legitimate trade union activity, banning anti-union hiring discrimination, and streamlining union registration requirements according to ILO recommendations.

In March, the communications union, SITCOM, presented a legal status petition before the MOL. In May, the MOL denied the petition based on the fact that SITCOM did not meet the minimum number of affiliated employees (35). MOL argued that radio station workers affiliated with SITCOM were not part of the communications industry. MOL also argued that one of the companies considered two union-affiliated workers to be management employees, and therefore ineligible for union membership. In April, according to a SITCOM representative, a major telephone company forced SITCOM President Angel Moreno to present his resignation by retaining his salary. The company attempted the same with the union secretary, Jose Ayala, and prevented Ayala from entering the workplace. At the end of May, SITCOM presented a review petition before the MOL. In July, union-affiliated leaders met with the Minister, but at year's end, the union still had no legal status. In December, five SITCOM-affiliated workers lost their positions and were reassigned to lower-level jobs. This action violated Article 47 of the Constitution.

In May, the CFA announced that the Labor Ministry had no authority to declare illegal the May 2002 work stoppage by SELSA, the labor union at the LIDO bakery products company. In view of a court ruling that no strike had occurred in May 2002, the CFA found plausible the charge that the company had retaliated against the locked-out workers to block the union and asked the Government to obtain prompt judicial determination whether the lock-out was illegal, and to investigate the union's claim that its members had been pressured into dropping their legal claims. Finally, the Committee requested that the Government allow the union leaders access to the workplace. In September, SELSA asserted that the bakery company was negotiating with them. In November, SELSA elected a new union leader—an individual who had suffered discrimination at the bakery. The Ministry of Labor designated one of its highest-level advisors to follow this case. However, there were

no concrete developments toward resolution of the case at year's end, and all 11 union leaders remained locked out.

During the year, members of the Salvadoran Electrical Industry Union alleged that management at the electrical distribution company Delsur had been uncooperative during negotiations to renew the union's collective bargaining agreement, and that management was trying to break the union's representation of workers. At year's end, negotiations were at a stalemate, and the case was headed for arbitration.

In November 2002, Tainan, a major foreign-owned textile assembly factory that had closed permanently the previous April, signed an agreement with the Textile Industry Union in which the company committed to open a unionized plant and to establish a compensation fund for workers affected by the closure. The new company, named Just Garments, planned to initiate operations with 150 workers. In August, the Ministry of Economy provided the factory special authorization to operate. In October, Just Garments signed the first collective bargaining agreement in the country's maquila industry.

At year's end, none of the members of the Union of Electrical Sector Workers (STSEL) dismissed in 2001 and 2002 by the electricity companies CEL and ETESAL had received severance pay from the company.

In February 2002, the semiautonomous port authority (CEPA) and the airport union, SITEAIES, signed an agreement resolving their dispute over the 2001 suspension without pay of approximately 150 security and cargo personnel at the San Salvador international airport. The Government replaced these workers with police and soldiers as part of its efforts to strengthen border security. The airport union charged that CEPA targeted union members for suspension to break the union and privatize some of CEPA's functions. Prior to the February agreement, all but 64 of the airport workers had accepted a voluntary retirement package offered by CEPA. In accordance with the settlement, the company paid severance to the 64 remaining suspended workers; the affected workers formed a cooperative; and in April, the cooperative began providing cargo services at the airport. In June, the ILO called for the Government to carry out an investigation and determine the reasons for the "militarization" of the airport and the extent to which it interfered with union activities. During 2002, the airport union repeatedly expressed concern to the MOL that CEPA management was pressuring other airport employees to renounce their union affiliation and was firing workers without notifying the union in advance, as required by the collective bargaining agreement. In addition, it criticized the Government for not having completed the formal registration of the 2001 collective bargaining agreement between CEPA and SITEAIES.

There are approximately 240 maquila plants, the majority of which are located in the country's 15 EPZs. The Labor Code applies in the EPZs; there are no special EPZ labor regulations.

Most businesses in the EPZs are subject to a growing number of private codes of conduct, which also include some worker rights protections. In addition, two EPZs have their own codes of conduct for all tenants. Some companies in the EPZs provided salaries and on-site benefits (for example, clinics and cafeterias) competitive with the best private sector enterprises (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 18 unions active in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its 2000 report that some EPZ workers also received low pay, endured health and safety risks, worked 12- to 14-hour days, and had minimal toilet and rest breaks. The Government contended that the workers often preferred not to use safety equipment, and they had time for toilet and rest breaks.

During the year, there was no progress in the 2001 labor court case of a pregnant woman fired by the apparel factory Amitex, allegedly for participating in the formation of a union.

The MOL has branch offices in EPZs to make its services more accessible to its users; the Ministry provides the staff, and the EPZs covered other costs. Workers in a number of plants reported verbal abuse, sexual harassment and, in several cases, physical abuse by supervisors. The MOL had insufficient resources to cover all the EPZs, much less the much larger national private sector. Allegations of corruption among labor inspectors continued to surface (see Section 6.a.).

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there were no instances in which this has been used or even threatened publicly. The ICFTU reported persistent problems facing female employees in EPZs, including mandatory pregnancy tests and firing of workers who are pregnant (see Section 5).

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or compulsory labor, except in the case of natural catastrophe and other instances specified by law, and the Government generally enforced this provision; however, trafficking in persons, primarily women and children, was a problem (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children is covered by the general prohibition. There were no reports that such practices occurred in the formal sector; however, there were reports that minors were forced into prostitution, and trafficking in children was a problem (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices, and Minimum Age for Employment.*—The Constitution prohibits the employment of children under the age of 14; however, child labor was a problem. According to IPEC research, more than 220,000 children between the ages of 5 and 13 worked, with 30,000 children employed in hazardous activities. IPEC and MOL programs have helped over 5,000 children depart the workplace and re-enroll in school. In September, the Minister of Labor asserted that 67 out of 100 children were engaged in some form of work, including family household work. According to the annual household census conducted by the Directorate General of Statistics and Census in 2001, more than 75,000 children between the ages of 5 and 13 worked, as did almost 147,000 minors between the ages of 14 and 17. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous (see Section 6.e.). The law limits the workday to 6 hours (plus a maximum of 2 hours of overtime) for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. The constitutional provisions apply to all sectors of the economy. However, there is a large informal sector where it was difficult to monitor practices or enforce labor laws. Orphans and children from poor families frequently worked for their own or family survival as street vendors and general laborers in small businesses, mainly in the informal sector. Children in these circumstances often did not complete schooling. There were no reports of child labor in the industrial sector.

In May, the ILO's IPEC published a research paper entitled *Understanding Child Labor in El Salvador*. According to the IPEC data, 1 out of 10 children worked. Children's participation in work activity increased with age; while less than 2 percent of children aged 5 to 9 work, approximately 13 percent of children aged 10 to 14 worked. Child labor was more common in rural areas (15.7 percent) than in urban areas (7.7 percent). Approximately 60 percent of children worked in the informal sector in micro-agricultural and non-agricultural family enterprises, and they did not receive a salary.

In September, a Ministry of Labor report on the eradication of child labor indicated that 5,000 child laborers had been removed from work situations and re-enrolled in school since 1999. The MOL is responsible for enforcing child labor laws; in practice, labor inspectors focused almost exclusively on the formal sector, where child labor was rare, and few labor inspectors have dealt with child labor cases. The MOL has a mandate to monitor employers' observance of labor laws; however, there were no employers as such in most of the sectors identified as worst forms of child labor by a national committee. In 2001, the committee, composed of seven government agencies and representatives of labor, employers, and NGOs, identified commercial sexual exploitation, work in garbage dumps, fishing/shellfish harvesting, sugarcane farming, and fireworks as the worst forms of child labor. IPEC research revealed that in the fishing industry, for example, most child workers worked 7 to 8 hours per day. About 20 percent also attended school, but only 4 percent completed the ninth grade. They were hired on daily contracts, usually verbal, and the majority were paid cash and/or a share of the catch at the end of the day. As of September, IPEC and MOL had taught 200 persons to read and write, including children in sugarcane farms. The MOL received few complaints of violations of child labor laws, because many citizens perceived child labor as an essential component of family income rather than a human rights violation.

According to IPEC, 17,000 children are at risk to start working. IPEC expects to rescue 9,300 children who already work from 2002 to 2005.

The Labor Code does not prohibit specifically forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The minimum wage is set by executive decree based on recommendations from a tripartite committee (which includes government,

labor, and business). In May, the tripartite committee agreed to raise the minimum daily wage to \$5.28 for service employees, \$5.16 for industrial laborers, and \$5.04 for maquila workers. The agricultural minimum wage remains \$2.47, with \$3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The MOL is responsible for enforcing minimum wage laws and generally did so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime, and did not pay legally mandated contributions to health and pension programs.

There were no developments in the case of Laitex, a foreign-owned maquila, which ceased operations in January 2002 without paying its workers two weeks' salary, mandatory annual bonus payments, or severance.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law, a full-time employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum; some were paid overtime but others were not.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and pool halls; the prohibition also applies to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the fourth month of pregnancy. Health and safety regulations were outdated, and enforcement was inadequate. The MOL attempted to enforce the applicable regulations but had restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms and eating facilities, and inadequate ventilation (problems with dust and heat). Some of the largest plants had dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

There were no new developments in the July 2002 case when hundreds of workers showing classic signs of airborne contamination by a toxic substance were evacuated from several maquilas in a free trade zone.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country for sexual exploitation. Although trafficking was a problem, there was no evidence government officials participated in, facilitated, or condoned trafficking in persons.

The two laws that dealt most specifically with trafficking assessed criminal penalties ranging from 4 to 8 years' imprisonment and, for international trafficking, 5 to 15 years' imprisonment. There were no civil penalties for trafficking. During the year, the Government arrested no one for trafficking, prosecuted no accused traffickers, and sentenced no one for trafficking. The government agencies directly responsible for combating trafficking are: The Women and Children Protection Unit of the Attorney General's Office (FGR), the PNC, the child welfare agency (ISNA), and the Directorate General of Immigration (DGM). However, these units were new and poorly funded. Other governments did not request the Government's assistance on any international trafficking investigation or extradition of traffickers during the year.

El Salvador was a country of origin and destination for international trafficking in women and children, mostly the harboring of child prostitutes. Anecdotal information suggested it was also a transit country for international trafficking for the same purpose. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which the commercial sex act was induced by force, fraud, or coercion. Neither the Government nor NGOs had reliable estimates on the extent of trafficking. Most international trafficking victims came from Nicaragua, Honduras, and South America. Most of these were trafficked to Guatemala and Mexico, and it was often assumed that the ultimate destination of the majority of these victims was the United States. Salvadoran victims came mainly from the east and were trafficked to Guatemala, Mexico, and the United States, as well as the ports of Acajutla and La Libertad. Particular groups at special risk for trafficking were: Girls and young women from 12 to 19 years of age; persons from rural and poor areas; single mothers in poor areas, adolescents without formal schooling, adolescent mothers, and unemployed young men; and foreign girls. According to newspaper reports of uncertain reliability, girls and young women worked as prostitutes. The commercial sexual exploitation of children was a problem.

The most common methods of recruitment were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers, according to police. There was no information about how victims were transported.

There was no evidence the Government or individual members of any government agency facilitated, condoned, or were otherwise complicit in trafficking. There was no evidence government authorities received bribes from traffickers or otherwise assisted in their operations. The Government did not condone trafficking-related practices such as sham marriages, clandestine employment and immigration, or false adoptions.

The Government provided legal, medical, and psychological assistance to detained illegal migrants, including those who might have been trafficking victims. The Government funded foreign and domestic NGOs that provided services to illegal migrants who might also have been trafficking victims. ISNA provided protection, counseling, and legal assistance to abused, homeless, and neglected children, including those who might also have been trafficking victims. Repatriated Salvadorans, including those who might have been trafficking victims, received government assistance through the Welcome Home program, which helped newly arrived deportees (including possible trafficking victims) reintegrate into society. Administered by the Catholic Relief Services, this program was highly successful.

Three NGOs worked with trafficking victims: ECPAT International, the Stone Flower Association, and Doctors Without Borders. ECPAT International worked on the prevention and reduction of child prostitution, pornography, and trafficking of children for sexual purposes. The Stone Flower Association provided health and education services to prostitutes, some of whom might have been minors or trafficking victims. Doctors Without Borders provided assistance to children that have been victims of involuntary servitude or debt bondage. Furthermore, in San Salvador, the municipal police, the mayor's office, and Doctors Without Borders sponsored a program for victims of forced prostitution.

The Government detained illegal migrants, including those who might have been trafficking victims. There was no information of whether foreign victims of trafficking were jailed, deported, or fined. The police encouraged Salvadoran trafficking victims to press charges against traffickers. A foreign trafficking victim may file a criminal case. However, in practical terms, illegal migrants, including foreign victims of trafficking, were deported so quickly they did not have the opportunity to do so. The Government deported non-Salvadoran victims of trafficking; however, victims could obtain temporary residency or refugee status if they were likely to face persecution in the country of origin. Access to legal, medical, and psychological services was provided to the victims. Victims of trafficking were not treated as criminals. The Government did not provide assistance to its repatriated citizens who were victims of trafficking, nor did it support the NGOs that assist them.

The Government sponsored televised-public service announcements showing the actual living conditions of women who were promised jobs in the United States and warned that these women ended up spending a portion, sometimes the rest of their lives as prostitutes in brothels, bars, and nightclubs in Guatemala or Mexico.

## GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. On November 27, Prime Minister Keith Mitchell's New National Party (NNP) won 8 out of 15 seats in Parliament. Observers found the elections to be generally free and fair, and they were free of violence. The judiciary is independent.

The only security force, the Royal Grenada Police Force, is responsible for maintaining law and order. It was controlled by and responsive to civilian authorities. Some members of the security force committed occasional human rights abuses.

The free-market economy was based on agriculture and tourism. Grenada and 2 smaller islands, Carriacou and Petit Martinique, had a population of approximately 103,000. The projected annual real economic growth rate was 2.5 percent.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, including violence against women and instances of child abuse.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of 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 reported incidents of torture. Flogging, a legal form of punishment, was rare but has been used as punishment for sex crimes and theft cases. The Police Commissioner continued to speak out strongly against police use of unlawful force. No charges were brought against the police for brutality, although individual allegations of it were cited on radio call-in talk shows.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides the police with the right to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours. The police generally adhered to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The 830-person national police force had a hierarchical structure and was generally effective in responding to complaints; however, lack of resources was a problem. While individual cases of corrupt or abusive police have been reported, there has not been a generalized problem of police corruption. The police investigated allegations of police brutality internally. The Police Commissioner could discipline officers (up to the rank of sergeant) in valid cases of brutality with penalties that include dismissal. Only the Public Service Commission can discipline officers with the rank of inspector or above.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There was a functioning system of bail, although persons charged with capital offenses were not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

The Constitution does not address exile, but the Government did not use it.

*e. Denial of Fair Public Trial.*—The judiciary, a part of the Eastern Caribbean legal system, was independent. Final appeal may be made to the Privy Council in the United Kingdom. Those arrested on criminal charges are brought before a judge to determine whether there is sufficient evidence to substantiate the charges; if there is, the judge remands the defendant for trial.

The law provides for the right to a fair public trial, and the authorities generally observed this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously or reappoints earlier counsel if the appellant no longer could afford that lawyer's services. Due to the backlog of cases caused by a shortage of judges and facilities, those charged with serious offenses must wait from 6 months to 1 year before coming to trial in the High Court. However, the Organization of Eastern Caribbean States appointed an extra judge to clear the backlog in civil cases, which was accomplished. Assizes are held three times a year for a 2-month period. With the exception of persons charged with murder and foreign-born drug suspects, the courts granted most defendants bail while awaiting trial.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the authorities generally respected these prohibitions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The law contains other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtained warrants in the majority of cases before conducting any search.

#### *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.

There were three weekly newspapers, and several other newspapers published irregularly. One of the weeklies was affiliated with an opposition political party, but the three most widely circulated newspapers were independent and often critical of

the Government. The newspapers routinely carried press releases by the opposition parties, including regular weekly columns expressing the opposition parties' views.

There were 10 radio stations. The main station was part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government held a minority share. The principal television station was also part of the GBN, and there was a privately owned television station. A cable television company operated in most areas of the country. All newspapers, radio, and television stations enjoyed independence from the State and regularly reported opposition views. The television news often carried reports on opposition activities, including coverage of political rallies held by various political parties and candidates, public forums featuring political leaders of each of the major parties, and other public service broadcasts.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly for any peaceful purpose and for freedom of association, and the Government generally respected these rights in practice. Supporters of political parties met frequently and held public rallies; the authorities require permits for the use of a public address system but not for public meetings themselves.

*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 2003 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, and all citizens had the right to enter and leave the country, except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of the country by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal. The Chief Justice appoints an accredited lawyer to preside over such a tribunal.

No formal government policy toward refugee or asylum requests existed. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years. On November 27, the incumbent NNP administration of Prime Minister Keith Mitchell retained power by winning 8 of the 15 seats in Parliament; however, 1 of the NNP's seats was being contested in court at year's end. The opposition National Democratic Congress Party won the other seven seats. An electoral observation team from the Organization of American States (OAS) assessed the elections as generally free and fair but noted some irregularities. The OAS team found that the large list of registered voters included many persons who actually resided abroad but who were registered for years.

There were no legal or other impediments to the participation by women in government or politics. Voters elected 4 women to Parliament; there were 4 women among the 12 appointed Senators. Women filled 8 of the 13 permanent secretary posts, the highest civil service position in each ministry.

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

Local human rights groups generally operated without government restriction, and the Government cooperated with visits from international human rights organizations.

In September 2001, the Government inaugurated a Truth and Reconciliation Commission to investigate the period between the mid-1970s and the late 1980s. At year's end, the Commission's final report had not yet been presented to the Government. Former Deputy Prime Minister Bernard Coard and 16 other leaders of the former People's Revolutionary Government convicted for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues remained in jail. In October, Amnesty International called for a further judicial review

of these cases, stating that the initial trial and sentencing had been seriously flawed.

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

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex, and the Government generally enforced these provisions.

*Women.*—Women’s rights monitors believed that violence against women remained a serious problem. The police stated that most cases of abuse were not reported, and others were settled out of court. The law stipulates a sentence of 15 years’ imprisonment for a conviction of any nonconsensual form of sex. Sentences for assault against a spouse varied according to the severity of the incident. There was a shelter for battered and abused women and their children in the northern part of the island, with medical and psychological counseling personnel on its staff. The home accommodates 20 persons.

Prostitution is illegal.

Sexual harassment in the workplace was a problem.

There was no evidence of official discrimination in health care, employment, or education. Women frequently earned less than men performing the same work; such wage differences were less marked for the more highly paid jobs.

*Children.*—The Social Welfare Division within the Ministry of Housing, Social Services, and Cooperatives provided probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children’s homes run by private organizations.

Education is compulsory until the age of 16.

Government social service agencies reported a further increase in the number of child abuse cases, including sexual abuse. Abused children were placed either in a government-run home or in private foster homes. The law provides for harsh penalties against those convicted of child abuse and disallows the victim’s alleged “consent” as a defense in cases of incest.

*Persons with Disabilities.*—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility to public buildings or services. The National Council for the Disabled, St. George’s University, and a New York-based group called International Group for Home Living formed a coalition to advocate for the rights of persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers are free to organize independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 45 percent of the work force was unionized. Union leaders played a significant role in the political process, and one labor leader serves in the Senate on behalf of the Grenada Trades Union Council (GTUC).

The law prohibits discrimination by employers against union members and organizers. Mechanisms exist to resolve complaints of discrimination. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers who are found guilty of anti-union discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of anti-union discrimination reported to the Ministry during the year.

All unions were technically free of government control, and none received government financial support. However, all of the major unions belonged to one umbrella labor federation, the GTUC, which was subsidized by the Government. The GTUC held annual conventions and determined some policies for member unions.

The GTUC and its unions freely affiliated with regional and international trade union groups.

*b. The Right to Organize and Bargain Collectively.*—Workers are free to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business.

Workers in the private and public sectors are free to strike, once legal and procedural requirements were met. There were several strikes or other types of industrial action during the year, including those by the Grenada Teacher’s Union and Call Center Grenada.



There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution specifically prohibits forced or bonded labor, including by children, and it was not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is illegal; however, children sometimes worked in the agricultural sector. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector by periodic checks; however, enforcement efforts in the informal sector were lax. The Government has endorsed but not yet ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There is a tripartite Wages Advisory Committee, composed of union, business, and government representatives. The Labor Ministry prescribes minimum wages, which took effect in September 2002. Minimum wages were set for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were \$1.85 (EC\$5.00) per hour, and for women \$1.75 (EC\$4.75) per hour; however, if a female worker performed the same task as a man, her rate of pay was the same. All agricultural workers must be paid for a minimum of 5 hours per day. The minimum wage for domestic workers was set at \$148.14 (EC\$400) monthly. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. Most workers, including nonunionized workers, received packages of benefits from employers set by collective bargaining agreements between employers and labor unions. Many families received remittances from relatives abroad and also helped support themselves through garden-plot agriculture.

The Constitution stipulates that the maximum number of hours per week workers may work is 40. The law does not prescribe a standard workweek, except for the public sector, which is expected to work a 40-hour week Monday through Friday. The normal workweek in the commercial sector included Saturday morning work but did not exceed 40 hours.

The Government sets health and safety standards, but the authorities enforced them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—There were no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

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## GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The Constitution provides for universal suffrage to elect a one-term president and a unicameral congress. Elections for president, considered by international observers to be free and fair, were held in November and December, and Oscar Berger of the three-party coalition Grand National Alliance (GANA) won a 4-year term. The judiciary is independent; however, it suffered from inefficiency, corruption, and intimidation.

The Minister of Interior oversees the National Civilian Police (PNC), which has primary responsibility for internal security. There are no active members of the military in the police command structure; however, the Government occasionally ordered the army to support the police. The law subordinates military personnel to police control during joint patrols or operations. The army is responsible for external security, and the Constitution requires that the Minister of Defense be a military officer. A number of retired military officers with ties to violent, organized crime continued to have significant influence within the army, police, judiciary, and executive branch. Some members of the security forces committed human rights abuses.

The economy is market-based, and the population was approximately 11.5 million. Textile and nontraditional agricultural exports grew rapidly, while coffee, sugar, and bananas were the leading traditional exports. Remittances from citizens abroad constituted the largest source of foreign exchange and more than 30 percent of the population depended on remittances to raise the family income above the poverty line. The economic growth rate was approximately 2 percent. Almost 40 percent of the work force and 60 percent of the poor were engaged in some form of agriculture. Inflation was 6.3 percent. Land distribution is highly skewed: 1 percent of farms contained more than one-third of all cultivated land. There was a marked disparity in income distribution, and poverty was pervasive, particularly in the large indigenous community. Approximately 57 percent of the total population and 72 percent

of persons in rural areas lived in poverty. Combined unemployment and underemployment reached 18.2 percent, and 70 percent of the population was employed in the informal sector. Foreign aid is an important part of national income.

The Government's human rights record was poor; although there were improvements in some areas, serious abuses persisted. There were credible reports of killings by individuals linked to security forces and of politically motivated killings by nonstate actors. There were reports of violent deaths, killings, and "social cleansing" in which persons deemed socially undesirable (for example, gang members, local delinquents, street children, prostitutes, and homosexuals) were killed by unknown assailants. There were no reports of politically motivated disappearances. The Constitutional Court confirmed the 2001 conviction of three former military members and one priest for the 1998 killing of Bishop Gerardi. An appeals court overturned the 2002 conviction of Juan Valencia Osorio for the 1990 murder of anthropologist Myrna Mack Chang. In October, the President completed the disbanding of the Presidential Military Staff (EMP).

There were credible reports of individual police officers' involvement in kidnappings. Security forces tortured, abused, and mistreated suspects and detainees. Prison conditions remained harsh. In most cases, the prosecutorial and judicial systems did not ensure full and timely investigations, fair trials, or due process. Arbitrary arrest and lengthy pretrial detentions were problems. Judges and other law enforcement officials were subjected to intimidation and corruption. Impunity was pervasive, although efforts to reform the judiciary continued. There were reports that private communications were monitored. Members of the media were targets of attacks, threats, and intimidation. Attacks on nongovernmental organizations (NGOs) and human rights workers by unidentified persons decreased during the year. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against persons with disabilities and indigenous people, which the Government took some steps to address. There were reports of retaliation by employers against workers who sought to form unions and participate in union activities, and the Government did not effectively enforce laws to protect workers who exercised their rights. There was widespread employment of minors in the informal sector. Trafficking in women and children was a problem.

The Government accepted the Human Rights Ombudsman's proposal for a U.N.-led commission to investigate possible links between illegal clandestine groups or security forces and attacks on human rights defenders and organized crime; at year's end, the agreement was scheduled to be submitted to the Congress for ratification in January 2004. The U.N. Verification Mission in Guatemala (MINUGUA) continued to monitor peace accord implementation and human rights problems, and the U.N. extended its mandate to the end of 2004, at the Government's request.

#### 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 political killings by state actors; however, security forces committed a number of killings. The Government arrested and prosecuted some of those responsible; however, in many cases, the weak investigative, enforcement, and prosecutorial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators (see Sections 1.c. and 1.e.).

In July, Auxiliary Human Rights Ombudsman for Chimaltenango Province, Josue Israel Lopez, was killed; investigators suspected personal rather than political motives for the crime. No one had been arrested by year's end. The Special Prosecutor for Human Rights, Thelma de Lam, who is investigating the case, reported receiving death threats and a lack of cooperation from the local police.

MINUGUA reported that it had confirmed 7 extrajudicial killings between July 2002 and June 2003, compared with 13 such killings in the previous year. (MINUGUA considers extrajudicial any killing by a state actor, whether by or not by orders of the Government.) There were no confirmed cases of persons killed by orders of the Government or with its complicity.

MINUGUA's report noted a number of killings by members of the police. Many of these cases involved the accidental discharge of weapons, drunken misbehavior by on- or off-duty officers, questionable crowd control techniques, or poor judgment by officers who lost control of unstable situations involving angry crowds or persons resisting arrest. In some of these cases, there was effective investigation by both the police Office of Professional Responsibility (ORP) and the prosecutors. In others, there was credible evidence of a cover-up by police officers, the ORP, or both, and frequently, inadequate investigations by the prosecutor's office. While the number

of lynchings decreased, MINUGUA reported that a larger percentage of the incidents involved municipal officials, particularly auxiliary mayors.

In April, human rights activist and Mayan priest Diego Xon Salazar was killed in Chichicastenango, Quiche. Xon Salazar had reportedly received multiple death threats related to his work denouncing the resurgence of the Civilian Defense Patrols (PACs) in the Quiche. PACs were paramilitary elements conscripted by the military during the internal conflict, which were responsible for many of the summary executions, disappearances, instances of torture, and other serious human rights violations. In May, Mayan priest Gerardo Camo Manuel was killed during a religious ceremony in Rabinal, Baja Verapaz, after reportedly receiving death threats from one or more members of his community. On December 9, the prosecution arrested two police officers for Camo Manuel's killing; a trial was pending at year's end.

On April 9, 16 agents of the PNC's former Department of Anti-Narcotic Operations (DOAN) were convicted and sentenced to 25 years in prison for the January 2002 murder of Leonel Diaz Valenzuela and Abinail Cerna, and on August 21 an appeals court confirmed the sentences.

There were no developments and none were expected in the February 2002 shootout between members of the Criminal Investigative Service (SIC) of the PNC and military intelligence personnel that killed two members of the military, and injured three police officers.

There was no further progress in the April 2002 killing of Rudy Castillo and Erick Garcia in Sumpango, Sacatepequez, allegedly by the police. The case against a police officer charged in the killing was closed after investigation; two other PNC suspects remained at large.

There was no progress in the April 2002 killing of William Ruano Mayen, the son of Pascual Ruano, a witness in the Bethel Route case in which some 18 individuals were killed in 1997–99 by a group of former military and PAC members. Evidence suggested links between Mayen's killers and the Bethel Route killings.

During the year, there were several reports of deaths of detainees or prisoners during riots at two different federal prisons. Most cases from previous years went unresolved. In the case of the 2000 death of Luis Armando Colindres while in police custody, the courts released the three policemen implicated in his death and detained by the prosecution after they paid \$126 (1,000 quetzals) each.

Most cases of political killings from past years remained unresolved, such as those of former presidential candidate Jorge Carpio in 1993 and, in 2001, of Luis Garcia, a witness to the 1998 Gerardi killing. There was some progress in cases of past extrajudicial killings by members of the security forces; however, in many other cases, there was little or no progress, often due to the tactics of defense attorneys who frequently took advantage of a legal system that tolerates the filing of dilatory motions to derail impending trials against their military clients.

On May 7, an appeals court overturned the October 2002 conviction of Juan Valencia Osorio for the 1990 murder of anthropologist Myrna Mack Chang. On June 19, Helen Mack requested the Supreme Court to annul the appeals court decision, and the request remained pending at year's end. In February, the Inter-American Court of Human Rights heard the Mack case. During the trial, the Government admitted state responsibility for Myrna Mack Chang's killing. On December 19, the Court found the state responsible for Myrna Mack Chang's death and the denial of justice in her case. The Court ordered the Government to pay \$779 thousand (6 million quetzals) in compensation and to take other steps to recognize its responsibility.

On October 1, the Constitutional Court confirmed the 2001 conviction and sentencing of three military officers to 30-year, noncommutable sentences for the 1998 murder of Bishop Juan Gerardi, the Coordinator of the ODHAG. On August 20, at the ODHAG's request, the Attorney General named Jorge Antonio Garcia the new prosecutor for the case. MINUGUA continued to confirm multiple reports of threats, acts of intimidation, and surveillance by those involved with the case; the body of a key witness, who was reportedly killed in December 2002, was found on January 21, and on October 5, Erick Urizar, a defense witness in the case, was shot to death, although it was unclear that Urizar's killing was politically motivated (see Sections 1.e. and 4).

In August, Public Ministry prosecutor Mario Leal reported that at least 20 of the 183 individuals listed in the "Military Diary" (an alleged military record of civilians subjected to forced disappearances between 1983 and 1985) were still alive. Leal indicated his intent to call 6 witnesses to give testimony in connection with 75 criminal cases filed by the victims' families against the military and police but claimed many of the witnesses were reluctant to participate for fear of retribution.

Progress in some massacre cases dating to the 1980s remained stalled. The Inter-American Court of Human Rights has not set a date for a trial in the case of the

1982 massacre in Plan de Sanchez, Baja Verapaz, in which the army and PAC members allegedly killed 268 people. The Government still has not complied with a settlement, including economic reparations, which the President's Commission on Human Rights (COPREDEH) promised in 2000 after admitting state responsibility for the massacre.

Despite a 2001 Supreme Court order to proceed with the trial of 5 guerrillas for the 1988 massacre of 22 civilians in El Aguacate, Chimaltenango, there was no progress in the case.

On June 3, the regional sentencing court in San Pedro Carcha, Alta Verapaz, reopened the 1995 Xaman massacre case. The trial charged the 16 defendants (all soldiers) with the murder of 11 civilians in Chisec, Alta Verapaz. Approximately 30 members of the Aurora 8 de Octubre victim community testified in August and September. A verdict was pending at year's end.

The case of the 1982 military massacre of 250 civilians at Dos Erres, Peten, remained stalled in court by 34 motions of appeal by the defense. In February, the Families of the Disappeared in Guatemala (FAMDEGUA) filed a motion with the Inter-American Commission on Human Rights Commission (IACHR) requesting the Commission to reopen the case if the Government did not comply with its unfulfilled commitments. On April 25, COPREDEH and San Carlos University signed an agreement to launch the Project for Psychological Assistance for the Victims of the Dos Erres Massacre, in compliance with part of the reparation commitments. The 10th Court of Appeals continued analyzing a series of appeals requesting that the defendants be granted amnesty under the National Reconciliation Law, while MINUGUA, FAMDEGUA, and the prosecutors, stated that the assassination of civilian population should not be considered a military action but rather a heinous crime that must be punished.

Prosecutor Mario Leal completed witness interviews in connection with lawsuits filed in 2000–2001 on behalf of communities where civilians were massacred by government security forces. Leal compared the declarations of the witnesses with the forensic reports from the exhumations in 22 different communities, which form the Association for Justice and Reconciliation, the private plaintiff in the case. The suits allege crimes, including genocide, committed by the high command of former President Fernando Romeo Lucas Garcia and that of former de facto president and President of Congress, General (retired) Efraín Ríos Montt. The cases were transferred from the metropolitan courts to the regional court in Nebaj, Quiché. Human rights lawyers working on the case formally requested that the regional Quiché judge recuse himself, since the cases encompassed crimes committed throughout the country. Many believed the transfer of the cases was a stalling tactic.

Exhumations of secret mass graves continued throughout the year but occasioned death threats. Exhumation teams reported that some communities had lost their resolve to participate (see Section 4). Forensic scientists have exhumed more than 2,335 remains from more than 280 sites since exhumations began in 1992. Between January and December, forensic scientists exhumed 363 remains from 79 different sites. Exhumation teams increased their productivity tenfold in the last decade, but noted that demand for exhumations increased and the work could continue for several decades to come. Most of the bodies recovered were those of civilian victims of military or paramilitary killings in the early 1980s. Forensics groups used the information obtained from the exhumations to verify eyewitness reports of massacres—of which the Commission for Historical Clarification recorded 669—and to assign, at least in general terms, responsibility. Forensic research and DNA testing identified some of the remains and were used in some criminal cases.

In June, family members of victims of the Rabinal, Baja Verapaz, massacres participated in a reburial of approximately 70 bodies after the examination of the forensic evidence had been made by the Guatemalan Forensic Anthropology Foundation and the Public Ministry. The group collided with a Guatemalan Republican Front (FRG) campaign rally for presidential candidate Ríos Montt, planned by the regional FRG congressman for the same day as the reburial. The reburial participants threw stones at Ríos Montt, who was forced to leave the scene abruptly. Human rights activists operating in Rabinal reported increased death threats and surveillance after the incident.

In March, the Spanish Supreme Court ruled that it had jurisdiction over the human rights abuses committed against Spanish citizens involved in the massacre at the Spanish Embassy and the five Spanish priests killed in Guatemala in the early 1980s. The case was filed in 1999 by Nobel Peace Prize-winner Rigoberta Menchú against Ríos Montt, former President Fernando Lucas Garcia, and former de facto President Oscar Humberto Mejía Victores for human rights abuses, including genocide, torture, and terrorism, committed during the 36-year internal conflict. A trial date had not been set at year's end.

On March 20, the Government announced that 250,000 former members of the former PACs would receive approximately \$660 (5,241 quetzals) each for their services during the internal conflict and distributed the first payment of \$216 (1,710 quetzals) in April. The Government's agreement to provide indemnification prompted protest from civil society groups and international human rights observers, who noted that some ex-PACs were implicated in human rights abuses and that families of their victims had not yet received compensation.

On May 9, the law creating the National Reparations Plan went into effect, providing for a National Reparations Commission with a budget of \$388 million (3,081 million quetzals) over 11 years to identify the victims of the war and award them reparations payments.

There were plausible allegations of politically motivated killings by nonstate actors during the year, with only limited willingness on the part of prosecutors to investigate such killings. In the period leading up to the November national elections, there were at least 29 killings of opposition political candidates, although the Organization of American States (OAS) Mission reported that only 2 of the killings were clearly election related (see Section 3). In some of these cases, evidence was not sufficient to conclude whether the killing was politically motivated. On October 19, National Unity of Hope (UNE) party member Hugo Garcia was shot by two individuals while attending a political meeting at the UNE headquarters in Jalapa. Two suspects were arrested and awaited trial at year's end. On May 13, FRG mayor Hugo Cal reportedly shot Unionista party member Byron Vladimir Jom in San Cristobal Verapaz, Alta Verapaz as Jom was posting campaign propaganda. Cal was in police custody, awaiting trial, at year's end.

There was no progress in the case of the February 2002 killing of Cesar Rodas, a witness in the 2001 Government Printing Office case. Despite a 2002 IACHR order that the Government provide police protection to five of the witnesses, who reported being followed and threatened by unknown individuals, several of them reported assassination attempts during the year.

There was no progress in the March 2002 killing of Jorge Rosal, a regional leader of the Patriot Party, and none was likely.

Ever Lopez Gomez and Billy Rene Barrios, suspected in the April 2002 killing of Menchu Foundation accountant Guillermo Ovalle, remained in prison awaiting trial (see Section 4).

There were several killings characterized as acts of "social cleansing" in which persons deemed as socially undesirable were killed. In February, Casa Alianza Director Bruce Harris called for a thorough investigation into the murder of street child Oscar Garcia; Harris said that only 5 percent of the cases of murdered street children reported to the Public Ministry ever went to trial. Street children continued to be the victims of violence by unknown persons (see Section 5). There were multiple reports of women tortured, disappeared, and killed (see Sections 1.c. and 5).

There was no progress in the investigation of the 2001 killing of Sister Barbara Ann Ford. The prosecutor had not established a motive.

The police reported that between January and August there were 18 attempted lynchings in which 14 victims died, compared with 61 such attempts resulting in 25 deaths in all of 2002. MINUGUA continued to verify cases that were planned or premeditated events, some of which included the participation of municipal officials, local leaders, or former members of Civil Defense Patrols. The large majority of the attacks took place in heavily indigenous, rural areas where the justice system is least accessible. MINUGUA concluded that the Government's weak response to crime fueled partial public acceptance of lynchings.

On August 3, fighting broke out between the two towns of Ixchiguan and Tajumulco, San Marcos, over a land conflict. When police and army personnel entered the area in an attempt to quell the fighting, the villagers turned their weapons against them. At least two policemen and one soldier were killed.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, there were credible allegations of individual police involvement in kidnappings. Between January and November, the Public Ministry opened seven cases of kidnapping against three female and four male police officers. Six of the kidnappings took place in the department of Guatemala and one in the department of San Marcos. The investigations remained pending at year's end.

There were no developments and none were expected in the January 2002 case in which DOAN agents, conducting a drug raid in Chochon, Izabal, illegally detained Humberto Orellana Sis, who subsequently disappeared and whose whereabouts remained unknown (see Section 1.a.).

Disappearances in high-profile cases from past years remained unresolved at year's end. In the case of the 2000 disappearance of University of San Carlos professor and social activist Mayra Gutierrez, the Public Ministry identified a primary

suspect and requested the police to apprehend him; however, the suspect was believed to have fled the country.

On March 19, the Government formally recognized the National Commission for the Search for Disappeared Children, which is now headed by the Human Rights Ombudsman's Office. The Commission was created by civil society organizations in 2001. In June, the Commission released its second annual report, which documented 575 cases of disappeared children and reported 43 family reunifications since June 2002; in the last 2 years, the Commission has documented 1,000 cases and performed 60 reunifications. The Commission reported that the primary obstacle to its work was the military's refusal to provide access to its records on captured children.

In January, the Government complied with part of the February 2002 IACHR order to award \$498,000 (3,859,500 quetzals) in damages to the survivors of disappeared guerilla leader Efraim Bamaca Velasquez and publicly acknowledged state responsibility for his death; however, the Government has yet to locate his remains.

The appeal of the 2001 court decision to dismiss the case against retired general and former de facto President Oscar Mejia Victores for his alleged role in the 1984 disappearance of Fernando Garcia remained pending at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the integrity and security of the person and prohibits physical or psychological torture of prisoners; however, there were credible reports of torture, abuse, and other mistreatment by members of the PNC during the year. These complaints typically involved the use of excessive force during arrests, interrogations, or other police operations. Criminal Investigative Service (SIC) detectives continued to torture and beat detainees during interrogation to obtain confessions. The Government and the PNC showed little willingness to investigate, prosecute, or otherwise punish officers who committed abuses. The PNC transferred some cases of alleged torture to the Prosecutor's Office. The bodies of a significant number of victims showed signs of torture or cruel treatment (see Section 1.a.).

In August, MINUGUA reported that it had investigated 83 complaints of torture and cruel, inhuman, and degrading treatment and confirmed 79 of them between January and August. The police, particularly the SIC, committed most of the violations. The police sometimes punished the use of excessive or illegal force by officers; however, they more often merely transferred offenders to a different location. In several cases, there was credible evidence that police officers and their superiors altered documentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct.

In March, members of the Anti-narcotic Analysis and Information Service, the SIC, the Public Ministry, and the army unlawfully detained and tortured Salvador Hernandez Duarte, Vicente Atilio Mejia Alvarez, and Victor Hugo Gil Pena in a counter-narcotics operation in Military Zone 5, Rio Hondo, Zacapa. According to MINUGUA, security forces attempted to gain information about the location of a narcotics shipment by using electric shock treatments on the detained subjects. No action was taken against the perpetrators.

There were multiple reports of women tortured, disappeared, and killed (see Sections 1.a. and 5).

In the 2002 torture and killing of Manuel Garcia de la Cruz, a member of National Coordinator of Widows (CONAVIGUA), a human rights group, in Joyabaj, Quiche, the investigative team arrested the primary suspects and were preparing for the trial at year's end.

Casa Alianza, an NGO, reported that the number of incidents of killing and abuse of street children increased (see Sections 1.a. and 5).

During the year, groups of peasants continued forcible occupation of more than 60 farms. In most cases, eviction orders were not enforced; in some cases, evictions were carried out peacefully. There were also isolated reports of excessive force by the police.

Prison conditions remained harsh. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. According to the registry maintained by the prison system, there were 8,459 prisoners throughout the country, while the official capacity of the prison system was 6,974. The overcrowding of jails was particularly severe in the department of Zacapa, where a prison designed to hold 140 inmates held 325, and in Guatemala City prisons Pavon and Preventivo, which were designed to hold 2,482 inmates and held 3,525. Approximately 60 percent of the prisoners were being held in pretrial detention. The average guard-to-prisoner ratio was 1 to 12.

Prisoners continued to complain of inadequate food and medical care. Corruption, especially drug-related, was widespread. Prison officials reported frequent escape at-

tempts and other manifestations of prisoner unrest. The military continued to provide perimeter security for various prisons.

The case of the 2001 breakout of 78 prisoners from the Escuintla maximum security prison, allegedly with the collaboration of prison authorities, concluded in late October when the prison director was sentenced to 16 years in prison; the sub-director and 20 guards were sentenced to 6 years in prison, and 2 wardens were acquitted. All of those convicted appealed, and the appeal remained with the 12th Appeals Court at year's end. In late November, all the inmates who escaped were sentenced to an additional 15 years in prison. None of the inmates appealed the sentence.

The 452 female prisoners in the penal system were held in facilities separate from men; however, the conditions were equally poor. Immigration detention facilities did not always hold female detainees separate from the male population. Children were held separately from adults. The Secretariat for Social Welfare runs four Centers for the Treatment and Orientation of Minors: One for girls and three for boys.

On July 18, the Congress passed a Minors' Protection Law, which reformed the Penal System and outlined the rights and mandated treatment of minors in detention (See Section 5).

The vast majority of juveniles detained by authorities are between 16 and 18 years old. Between August 2002 and July 2003, the police arrested 1,450 minors: Approximately 20 percent of the arrests were made for robberies and 13 percent for drug possession.

Pretrial detainees often were not separated from convicted criminals. Those serving time for minor infractions were often held with those who had committed serious offenses.

The Government permitted prison visits by independent human rights observers, public defenders, religious groups, and family members. Such visits took place during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, there were frequent credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers frequently failed to satisfy legal requisites, particularly with minors. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for more than 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file the case in court or seek a formal extension of the detention period. The law also provides for access to lawyers and bail for most crimes.

The country is divided into 6 police districts, each subdivided into 28 "comisarios." Between district and comisario level, there are four special units, each headed by police officers for: Information and intelligence; counter-narcotics; investigations; and environmental enforcement. A Director General, a uniformed police officer appointed by the President, directs the districts. Since its inception, the 21,000-member PNC has been understaffed, poorly trained, and severely underfunded. Police corruption was a major problem, and there were credible allegations of involvement by individual police officers in criminal activity, including kidnappings. Rather than discipline its officers, the police often just transferred them to a different part of the country. Impunity for police who commit abuses remained a serious problem.

All PNC members must meet minimum education requirements, pass an entrance examination, and undergo screening to detect suspected human rights violators and involvement in criminal activities. Training for new recruits was cut from 11 to 6 months in an emergency effort to get more police on the street. Police training incorporated 35 course hours on human rights, but none of the 20,000 officers trained since 1997 has received refresher training. The military continued to incorporate human rights training into its curriculum and developed human rights courses with the Human Rights Ombudsman (PDH). Civil Affairs Officers at each command were required to plan and document human rights training provided to soldiers. A separate human rights office within the Office of the Minister of Defense was open to active participation by the human rights community.

There were 21,180 PNC officers or 1 for every 543 persons. Presence outside of the capital improved; however, approximately two-thirds of those police districts remained 60 to 75 percent staffed. The PNC reported that 2,036 of its officers were indigenous.

According to the Interior Ministry, more than 60,000 private security agents worked in the country. According to the Gremial Federation and Security Association, approximately half worked for firms that had not completed legal requirements

and were owned by ex-soldiers and policemen. Despite its responsibility for regulating private security firms, the Ministry did little to investigate this.

The ORP performs internal investigations of misconduct by police officers. The ORP has a strong corps of investigators and has shown considerable improvement in professionalism; however, its independence and effectiveness were hampered by the lack of support from the PNC leadership. In isolated cases, ORP investigators appeared to participate in cover-ups of police misconduct. The ORP reported that it received 1,868 complaints which included: 40 cases of homicide, 200 cases of abuse of authority, 274 thefts, 214 cases of corruption or bribery, 179 threats, and 116 illegal detentions. Cases with sufficient evidence to suggest that criminal acts were committed were forwarded to the Public Ministry for further investigation and prosecution. During the year, ORP closed 1,062 cases, and its investigations resulted in the exoneration of 1,720 police officers.

No active members of the military serve in the police command structure, although the Government may employ the army to support the police temporarily in response to the rising rates of violent crime. Under the law, military personnel are not clearly subordinated to police control during joint patrols or operations. In July, in response to large-scale violent demonstrations in support of Rios Montt's efforts to register as a presidential candidate, President Portillo announced that he was calling out the military to assist the police in restoring order. Only a minor military presence was noted in support of police during the following days, prompting numerous accusations that the military had disobeyed a presidential order. The President subsequently relieved General Rios Sosa, the country's second-ranking military officer and the son of Congress President Rios Montt, of his command.

Persons attempting to enter the country illegally were often subject to extortion and mistreatment by government officials. Many observers believe this mistreatment is underreported because illegal immigrants rarely lodge formal complaints, either with the authorities or against them, and there is little legal assistance available to such persons.

Detainees were allowed prompt access to counsel; however, very limited resources were devoted to the public defense system.

There was a bail system.

There were no reliable data on the number of arbitrary detentions, although most accounts agree that security forces routinely ignored writs of habeas corpus in cases of illegal detention. In August, MINUGUA reported that it investigated 49 cases of illegal or arbitrary detention and confirmed 41 of them between January and August.

Of the 8,459 prisoners in custody as of September, 3,319 had been sentenced and the rest awaited trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions occurred routinely. Prisoners often were detained past their legal trial or release dates, sometimes for years. Prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems.

The Constitution prohibits exile, and the Government did not use it. However, self-imposed exile is a common response by citizens who feel threatened or intimidated.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system often failed to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. A May report by Amnesty International claimed that the failure of the legal system to deliver justice was a major factor contributing to intimidation against the country's human rights community and others trying to combat impunity in this situation. Many high-profile human rights cases remained pending in the courts for long periods as defense attorneys employed numerous dilatory appeals and motions. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. There were credible reports of the killing and threatening of witnesses, which continued to be a problem (see Sections 1.a. and 1.c.).

The judiciary is composed of the Supreme Court, appellate courts, trial courts, and probable-cause judges (who function like grand juries). There also are courts of special jurisdiction, such as labor courts and family courts, which also are under the jurisdiction of the Supreme Court. The Constitutional Court is independent of the rest of the judiciary. There are several community courts in indigenous rural areas.

The Constitution requires that Congress elect all Supreme Court and appellate court magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, law school deans, and university rectors.



Judges and prosecutors continued to receive threats designed to influence pending decisions or to punish past decisions. Death threats and intimidation of the judiciary were common in cases involving human rights violations, particularly when the defendants were active or former members of the military, military commissioners, or former members of PACs. Witnesses were often too intimidated to testify. Plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation, and surveillance. Prosecutors, judges, and witnesses associated with the Gerardi case reported continued threats, as did witnesses, prosecutors, and at least one judge in the Mack case (see Section 1.a.). Those involved in government corruption cases were also targeted, as in the cases of Karen Fischer and Tatiana Morales, former Special Anti-corruption prosecutors, who resigned after receiving threats and pressure from within the Government.

Many judges were denied private health and life insurance because their jobs were too dangerous. Between January and August, the Public Ministry spent approximately \$170,000 (1.3 million quetzals) on its witness protection program. By August, the judicial system had received 80 complaints of threats against judges, compared with 76 in all of 2002. The Special Prosecutor for Crimes against Judicial Personnel investigated 77 cases but lacked the personnel and resources necessary to carry out his mission.

In January, Supreme Court Magistrate Hector Mauricio Rodriguez Argueta was killed in what police concluded was an attempted car-jacking.

In March, an explosive device was detonated outside of Supreme Court Magistrate Jose Rolando Quezada Fernandez's home.

In June, the Mack Foundation reported that 114 judges and 8 prosecutors reported receiving threats during the year.

The Criminal Procedures Code provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea-bargaining, and the possibility of release on bail. Trials are public, allowing victims, family members, and human rights groups to observe the process. Three-judge panels render verdicts. The Criminal Procedures Code provides for oral trials; however, only those attorneys who have graduated since 1994 have had any real training in oral trials. The Code also provides for language interpretation for those who require it; however this provision was rarely honored due to budgetary and other constraints (see Section 5). Nationwide, the Institute for Public Defense employed six interpreters, six bilingual public defenders assistants, and four public defenders who spoke indigenous languages. The Attorney General's Office, or Public Ministry, which is independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as co-plaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to excessively long pretrial detention (see Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties used such motions as delaying tactics, frequently holding up trials for months or even years.

In August, Supreme Court President Carlos Larios Ochaita reported that the Court's budget for 2004 was \$166 million (1.3 billion quetzals), which he claimed was inadequate for even the basic needs of the judiciary without considering the creation of the new court provided for in the Minor's Code.

The Law on Judicial Careers regulates the income, terms of office, promotion, training, disciplining, and other activities of judges and magistrates and mandates a 6-month training course for all newly appointed judges. During the year, the Judicial Career Council reviewed the performance evaluations of 63 judges. The Council reviewed numerous cases and issued sanctions ranging from letters of reprimand to firing. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. From August 2002 until July, the Judicial Discipline Unit investigated 115 of 537 complaints of wrongdoing that it had received, with the result that 66 claims were found to be baseless, 25 judges were sanctioned, 22 were suspended, and 8 were sanctioned with the recommendation that they be removed.

The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of qualified investigators. Prosecutors remained susceptible to intimidation and corruption. In addition, the law's failure to delineate the responsibility for investigating crimes between the PNC or the Public Ministry led to rivalries between these organizations, as well as the duplication of investigative efforts. The Attorney General and head of the Public Ministry stated that a lack of funding was the source of most of the Ministry's deficiencies. Only an estimated 3 percent

of approximately 250,000 cases filed with the Public Ministry annually were prosecuted. The Public Ministry's budget for the year was \$50 million (398 million quetzals).

The Government continued efforts to reform the judicial system. Fifteen justice centers, which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, and civil society in a team approach to dispute resolution and problem solving, provided efficient public service. Clerk of Court offices streamlined case processing, increased transparency, improved customer service, and virtually eliminated corruption. An analogous system was inaugurated in Guatemala City in the Prosecutor's Office Case Intake Unit. At the Prosecutor's Office Victim's Unit in the capital, doctors and nurses were on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases (see Section 5), and similar units also operated in every department of the country.

There were no reports of political prisoners, although union leaders claimed that Rigoberto Duenas, a union leader, who was arrested on June 8 on suspicion of involvement in the Social Security Institute embezzlement scandal, was a political prisoner.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home, correspondence, and private documents; however, the authorities allegedly sometimes disregarded these provisions. Elements of the military, specifically the EMP and the Directorate of Military Intelligence, reportedly continued to monitor private communications. During the year, most human rights organizations reported surveillance or telephone anomalies that suggested wiretapping (see Section 4). There was no progress in the Public Ministry's 2001 case against Colonel Juan Valencia Osorio, former director of security of the EMP, for spying. On May 7, an appeals court overturned Valencia's 2002 conviction for the Myrna Mack murder (see Section 1.a.).

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment; the armed forces were able to recruit volunteers from impoverished areas using pay and education incentives.

During the year, there were several reported cases of government employees being forced to make contributions to the ruling party, the FRG, as well as become party members, to obtain or keep their jobs. During the riots of July 24 and 25, there were reports that teachers were required to participate in the pro-FRG demonstrations to keep their jobs.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression, and the Government generally respected this right in practice; however, there were numerous credible reports that members of the media were targets of attacks, threats, and intimidation.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors and also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks.

Daily El Periodico publisher Jose Ruben Zamora reported that a dozen invaders entered his home on June 24 and held him and his family at gunpoint for several hours, warning that he had bothered someone "from above." When Zamora noticed that he was still being followed days after the incident, he sent his wife and children out of the country. Many other journalists reported receiving threats. Prensa Libre's Luis Barilla said his house was firebombed by a Molotov cocktail on July 4, days after he wrote an article on the conflict between massacre-victim family members and presidential candidate Rios Montt. Many freelance journalists also reported threats and minor assaults.

The media were a primary target of the violent demonstrations in support of Rios Montt on July 24. Hector Ramirez of Radio Sonora and television program Notisiete suffered a fatal heart attack as he was chased by a machete-wielding mob. Juan Carlos Torres, from El Periodico, was doused with gasoline and narrowly escaped being set on fire; Hector Estrada, from television program Guatevision, was hospitalized after a similar assault. Several television reporters had equipment smashed and were roughed-up by the crowd.

On October 26, ex-PACs in Huehuetenango Province abducted four journalists to protest delays in payment for their services during the internal conflict. They were released 51 hours later, when a government negotiating team agreed to a payment schedule.

The Government prepared public information programs that the radio and television stations were required to broadcast. On November 25, the President an-

nounced that he would transfer the Government's rights to its two national television channels to the Academy of Guatemalan Mayan Languages and to the Congress.

All four of the country's national television stations are owned by a Mexican citizen, Angel Gonzalez, who plays a significant role in politics. These channels were criticized strongly as being monopolistic, pro-government, and interested in broadcasting only uncontroversial news. However, a new cable channel, Guatevision, began transmissions on March 20. Owned by Prensa Libre, it provided an alternative to the other stations and had a strong public affairs component. Civil society representatives, opposition candidates, and foreign diplomats appeared on many of its panel shows.

Investigations continued in the 2001 shooting death of radio journalist Mynor Alegria Almendaris, in Puerto Barrios, Izabal. In August, the court of Chiquimula denied the prosecutor's request for a warrant to arrest sitting congressman and former Puerto Barrios mayor David Pineda for his involvement in the killing. The case remained pending at year's end.

The Government did not restrict access to the Internet or academic freedom.

*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. Peaceful demonstrations were common.

There were numerous protests by a wide variety of groups around the country to demonstrate on a wide variety of issues; however, on several occasions, demonstrations became violent. Police generally acted with restraint; however, there were some allegations of unnecessary use of force, or, at times, inaction. In January, the teachers unions organized a nationwide strike in which members blocked roads and airports, organized sit-ins at various ministries, and demanded wage increases and improved access to resources. The police acted with restraint and did not use force to impede the demonstrations. The strike ended in March.

The Constitution provides for freedom of association, and the Government generally respected it in practice. However, there were allegations that the Government interfered with political associations, particularly at the local level. There were reports that the ex-PAC payments required registry with the official party (see Section 1.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government has not implemented the 1995 Agreement on the Identity and Rights of Indigenous People, which provides for respect of spiritual rights of indigenous people. There is no state religion; however, the Constitution explicitly recognizes the separate legal status of the Catholic Church.

The Government did not subsidize religious groups directly. Members of a religion need not register to worship together. However, the Government requires religious congregations (other than the Catholic Church), as well as other nonreligious associations and NGOs, to register as legal entities to transact business.

While there was no government policy of discrimination, a lack of resources and political will to enforce existing laws and to implement the Peace Accords limits the free expression of indigenous religious practice. Indigenous leaders charged that Mayan culture does not receive the official recognition it is due. The Government did not provide mechanisms for free access to ceremonial sites considered sacred within indigenous culture, nor did it provide for the preservation or protection of such ceremonial sites as archaeological preserves. Some indigenous groups considered the Government's use of sacred sites as revenue-generating tourist destinations to be an affront to their spiritual traditions.

On October 1, the Constitutional Court confirmed the 2001 conviction and sentencing of three military officers to 30-year, noncommutable sentences for the 1998 murder of Bishop Juan Gerardi, the Coordinator of the ODHAG (see Section 1.a.).

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for those 18 years of age and older. Ballots are secret. Members of the armed forces and police may not vote.

In the second-round runoff presidential election on December 28, Oscar Berger of the GANA coalition won a 4-year term with approximately 54 percent of the vote. In the period leading up to the elections, at least 29 opposition candidates were killed, and many incidents of violence occurred (see Section 1.a.). Despite some minor irregularities in the electoral registry, the OAS international observation mission categorized the elections as free and fair, with a 56 percent voter turnout in the first round and 49 percent in the runoff.

Voters elect the 158-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. Ten parties won seats in the legislature, led by the Great National Alliance (GAN) with 47 seats, followed by the FRG with 43 seats, the UNE with 32 seats, the National Advancement Party with 17 seats, the Unionist Party with 7 seats, the New Nation Alliance with 6 seats, the Democratic Union with 2 seats, the Guatemalan National Revolutionary Unity Party with 2 seats, and the Authentic Integral Development and Christian Democracy Parties with 1 seat each. Congress can and does act independently of the Executive.

There are no legal restrictions on the participation of women in the political process. Approximately 44 percent of the 5 million registered voters were women. In November, voters elected 14 women to the 158-member Congress. A woman, Zury Rios de Lopez, served as the Second Vice President of Congress. Women hold two seats on the Supreme Court and one on the Constitutional Court. There were three female ministers in the Cabinet: The Minister for Culture and Sports, the Minister of Communication and Public Works, and the Minister of Economy.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, but indigenous people still were underrepresented significantly in politics due to limited educational opportunities and pervasive discrimination (see Section 5). There are two indigenous members in the Cabinet. While indigenous people make up 60 percent of the population, they represent only 1 of 12 ministers and 1 of 12 presidential secretaries. Of 158 members of Congress, 18 were indigenous. There are 113 indigenous mayors in the country, out of 331 municipalities, including Quezaltenango, the second-largest city. There was one indigenous ambassador.

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

The Government permits local human rights groups to operate without restriction, and numerous domestic and international groups investigated and reported freely on human rights issues; however, many NGOs and human rights workers received threats or were intimidated by unidentified persons. Senior government officials met with international human rights monitors; however, some government officials questioned the credibility of both domestic human rights workers and international monitors. Many human rights workers believed this public questioning emboldened those who threatened them. While many international human rights organizations and their workers did not enjoy formal legal status, they continued to operate openly.

Human Rights Ombudsman Sergio Morales, elected by Congress in 2002 for a 5-year term, reports to Congress and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. The budget assigned to the PDH by Congress, historically inadequate, was approximately \$5 million (40 million quetzals) for PDH's activities nationwide. Upon the expiration of the MINUGUA's mandate in 2004, the Human Rights Ombudsman's Office is to assume MINUGUA's human rights verification function.

The COPREDEH is charged with formulating and promoting the Government's human rights policy, accepting government responsibility for past human rights abuse cases, and negotiating amicable settlements in those cases before the Inter-American Court of Human Rights. During the year, COPREDEH completed part of the IACHR-ordered reparations in the Bamaca case by publishing the details of state responsibility in the press. COPREDEH also completed negotiations between the Government and civil society for the establishment of a National Reparations Plan (see Section 1). By year's end, COPREDEH implemented IACHR orders to provide police protection to 14 human rights activists, 2 political activists, 14 judges, 3 journalists, 15 forensic anthropologists, and 12 people carrying the AIDS virus.

There was a marked increase in the number of threats against human rights workers, as well as against journalists and judicial personnel (see Sections 1.a., 1.e., and 2.a.). In August, U.N. Secretary General Kofi Annan reported to the General Assembly that “public security deteriorated, impunity persisted, and the climate of intimidation against human rights defenders, social activists, and journalists . . . continued.” The cases of intimidation, harassment, and violence against human rights defenders, Annan reported, “drew heightened attention to the problem of clandestine groups believed responsible for many of these incidents.”

On September 27, Eusebio Macario, a community organizer and founding member of the Council of Ethnic Communities (CERJ), was shot to death in Chichicastenango, Quiche. Macario had reportedly criticized the FRG’s Chichicastenango mayoralty candidate for corruption. The Public Ministry Special Prosecutor for Crimes Against Human Rights Workers took up the case, and the investigation was pending at year’s end.

There was intimidation of human rights workers, including anonymous telephoned or written threats, break-ins, and surveillance of workplaces, residences, and vehicular movements; however, MINUGUA indicated that the number of such incidents has declined since 2001. Prosecutors, judges, and witnesses in various human rights cases, notably in the Myrna Mack and Gerardi cases, also reported being the targets of various acts of intimidation (see Section 1.e.). Some of the attacks showed high degrees of sophistication and technical expertise. Most human rights cases remained pending for lengthy periods without being investigated or languished in the courts as defense attorneys took advantage of the inefficient judicial system and filed numerous motions and appeals to delay trials.

Throughout the year, individuals associated with forensic anthropology teams investigating mass graves from the armed conflict received specific and credible death threats. A majority of the staff of the FAFG received intimidating phone calls, were accosted and threatened by armed men, and reported that their homes were under surveillance. In August, the prosecutor investigating the threats discovered that a car monitoring the FAFG was registered to the EMP. An investigation into the car’s presence continued at year’s end.

The PDH received threats throughout the year. On August 26, the PDH’s Department of Investigation was burglarized. Two laptop computers and documents were stolen. In the days following the break-in, the Public Ministry arrested four suspects. A trial remained pending at year’s end.

On July 24, three armed men forced their way into the home of Norma Maldonado, a women’s human rights and environmental activist working with Mama Maquin, a rural indigenous women’s group. The intruders destroyed data that Maldonado had been working on with reference to the effects of development on rural indigenous development.

The Public Ministry completed the investigation of the April 2002 killing of Guillermo Ovalle, an accountant for the Rigoberta Menchu Foundation and nephew of its director. A trial was pending at year’s end.

In April, human rights activist and Mayan priest Diego Xon was killed in Camancha, Chichicastenango, Quiche. Xon was reportedly vocal in his criticisms of payments to the ex-civilian patrollers in Quiche. The investigation of his killing continued at year’s end.

The Public Ministry completed the investigation of the September 2002 killing of Manuel Garcia de la Cruz, a CONAVIGUA member from Joyabaj, Quiche. Five suspects were being held awaiting trial.

In January, Human Rights Ombudsman Sergio Morales, along with the National Movement for Human Rights, presented the Government with a proposal for a U.N.-OAS-Government led commission to investigate clandestine groups (CICIACS). The Government accepted the proposal. In March, Foreign Minister Edgar Gutierrez and Morales signed a memorandum of understanding outlining how the government and civil society would work together to facilitate the formation of the CICIACS. The agreement was scheduled to be submitted to the Congress for ratification in January 2004.

In April, the Attorney General named Thelma Pelaez de Lam as Special Prosecutor for crimes against human rights workers. Despite encouraging advances in the investigation of several paradigmatic cases, the office’s work was hampered by constant threats and intimidation, as well as by a lack of cooperation from the police, whose staff comprises a majority of the suspects in the cases the Special Prosecutor is investigating (see Section 1.e.).

MINUGUA reduced its presence significantly in preparation for a 2004 departure but continued to monitor implementation of the human rights provisions of the Peace Accords and to strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its investigations but cited occasional iso-

lated incidents in which government officials or institutions had obstructed its efforts.

In August, U.N. Secretary General Kofi Annan reported to the U.N. General Assembly that the threats, harassment, and violence against human rights activists, judges, prosecutors, attorneys, witnesses, and forensic anthropologists "drew heightened attention to the problem of clandestine groups believed responsible for many of these incidents."

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

The Constitution states that all persons are free and equal in dignity and rights and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice, the Government frequently was unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system (see Sections 1.c. and 1.e.).

During the year, there were at least five killings of male homosexual sex workers. There were no arrests made in any of the killings, and the police who arrived on the scene abused the victims' companions. There were no arrests in the 2000 killings of five male homosexual sex workers.

*Women.*—Violence against women, including domestic violence, remained common among all social classes, and there were multiple reports of women tortured, disappeared, and killed (see Sections 1.a. and 1.c.). The Law on Domestic Violence provides that the Prosecutor's Office, the national police, family courts, legal clinics, and the Human Rights Ombudsman's Office may receive complaints of domestic violence. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. The Prosecutor's Office reported receiving 4,580 complaints of family violence against women and children during the year; none of the cases came to trial. The PDH estimated that 90 percent of the cases went unreported.

The Law to Prevent and Sanction Intrafamily Violence requires the PNC to intervene in violent situations in the home. The press reported that in many cases the police did not respond to calls for help. The Politico-Civic Convergence of Women reported that officers who did arrive often chastised female victims for behavior that provoked their husbands' ire. The Program for Prevention and Eradication of Intrafamily Violence, a government program under the Secretariat of Social Work of the First Lady, reported that it received between 40 and 50 calls a day from battered women and children via its emergency hotline.

The office of the Ombudsman for Indigenous Women, led by Juana Catinac, provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It also coordinated and promoted action by both government institutions and NGOs to prevent violence and discrimination against indigenous women; however, it lacked the human resources and logistical capacity to perform its functions on a national level. The Ombudsman's budget was \$278,000 (2.2 million quetzals), a slight increase over past years. Since 2002, the office has handled 2,420 cases, including labor conflicts, and domestic violence.

Sexual offenses and prostitution remained a problem. The Prosecutor's Office reported receiving 431 cases of rape and sexual assault between January and June. The Office of Attention to the Victim, a unit within the Public Ministry, reported receiving 4,058 cases of family violence between January and July.

The Penal Code does not define sexual assault as a crime. During the year, the Office of Attention to the Victim received 1,642 complaints of rape. Many observers believed that increases in reported rapes did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward and improved record-keeping of crime statistics. Despite these advances, relatively few rape cases went to court, in large part because police have little training or investigative capacity for such crimes, and because many rape victims were reluctant to report and prosecute such crimes. The law allows a rapist to be exonerated when the victim is at least 12 years old and agrees to marry him, but the Public Ministry must approve the marriage when the victim is below the age of 18.

Prostitution is not illegal; however, procuring and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a growing problem (see Section 6.f.).

The Network for Non-violence Against Women reported that more than 220 women were killed, most by gunshot, during the year, compared with 244 in 2002. Between May 7 and August 22, the Human Rights Ombudsman's office investigated the torture and killing of 181 women; it attributed only 10 percent of the crimes

to gang activities and 80 percent to other organized crime. The Ombudsman's Office reported little cooperation from the police or Public Ministry in investigating these crimes.

The Constitution asserts the principle of gender equality; however, in practice women faced job discrimination and were less likely to win management positions. The PDH stated that women generally received significantly lower pay than men, in many cases one quarter to one-half the salary for the same work. Some women were subjected to pre-employment pregnancy tests. Women were employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More women than men were employed in the informal sector of the economy, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men.

More than 50 percent of urban girls and 81 percent of rural girls left school, and an estimated 70 percent of adult women have never received formal education. UNICEF's 2003 report indicated that the female adult literacy rate was 80 percent that of males.

The Secretariat for Women's Affairs advises the President on the coordination of policies affecting women and their development. The Secretariat's National Policy for the Promotion and Development of Guatemalan Women and Plan for Equal Opportunity 2001–06 prioritized areas of critical need for women, such as access to health care and education, but, lacking resources, it focused primarily on developing inter-institutional cooperation with existing programs.

Approximately 400 women served in all branches of the military, representing 16 percent of the enlisted ranks and 3 percent of the officer ranks, and made up approximately 10 percent of the students in the country's military academy. Approximately 10 percent of police officers were women.

*Children.*—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors; however, the Government did not devote sufficient resources to ensure adequate educational and health services for children. Government spending on education and health declined: Approximately 1.6 percent of the country's gross domestic product was devoted to education and less than 1 percent to health.

The Constitution provides for compulsory education for all children up to the sixth grade. However, less than half the population actually received a primary education, and only 30 percent of students who began primary school completed it, with completion rates even lower in rural and indigenous areas. The average child received 2.2 years of education; however, among indigenous children, the average dropped to 1.3 years. The Ministry of Education attempted to improve these indicators by granting special scholarships to girls and working or orphaned children.

A 2002 report of the Center for National Economic Investigation (CIEN) stated that, despite the Government's efforts to increase primary school enrollments and graduations, dropout rates had increased; illiteracy rates among women remained unchanged; and a very low percentage of resources went to post-primary levels.

UNICEF's 2003 Report estimated under-5 mortality rate at 58 per 1,000 live births. Public health analyses showed that 60 percent of the cases of infant mortality and 76 percent of the cases of maternal mortality were preventable through attention to basic health and environmental measures that have been neglected. An estimated 1.3 million women and children did not have access to basic health services during the year. Boys and girls had equal access to medical care.

Child abuse, including abuse of street children, remained a serious problem (see Sections 1.c. and 6.f.). The Public Ministry reported 1,029 cases of child abuse during the year. Most victims were between the ages of 2 and 10. A Permanent Commission for Children and Youth investigated cases of child abuse. The Social Secretariat for the Welfare of Children has oversight for the children's welfare programs, treatment and training for children, and special education assistance for children. The Secretariat provided shelter and assistance to children who were victims of abuse; however, these children sometimes were placed with other youths who had committed crimes (see Section 1.c.).

A 2002 Casa Alianza report estimated that there were more than 15,000 sexually exploited boys and girls in the country, many working in the more than 600 bars and nightclubs in Guatemala City. Child prostitution was especially a problem in the capital and in the towns of Escuintla, Tecun Uman, and Coban. Child prostitution in towns along the borders with Mexico and El Salvador continued to increase. Child migrants who failed to cross the border into Mexico often remained in the country and resorted to prostitution to survive. Many children were also brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced the children into prostitution. Laws and protection programs for such

child migrants were weak or nonexistent, and those taken into custody were often treated poorly by authorities and deported.

Child labor was a problem. UNICEF estimated that 22 percent of all children worked (see Section 6.d.).

The internal conflict left approximately 200,000 orphans throughout the country. Approximately 10,000 children were members of street gangs. Credible estimates put the number of street children at 6,500 nationwide, approximately 4,000 of them concentrated in Guatemala City.

Between July 2002 and June, Casa Alianza reported 10 homicides, 14 forced disappearances, and 14 sexual abuse cases of street children. Most street children ran away from home after being abused. Criminals, reportedly including private security guards and corrupt police or military personnel, often recruited these children into thievery, prostitution, or drug rings. Private individuals, private security guards, and other street children committed most violence against street children.

The Government and a number of NGOs operated youth centers; however, the funds devoted to them were not sufficient to address the problem. The Government maintained one shelter each for girls and boys in Guatemala City. These shelters provided housing for the homeless and incarceration for juvenile offenders.

On July 18, the Congress passed a new Integral Protection Law for Minors, which provides for the creation of Minor's Courts to have jurisdiction over crimes committed by and against minors, establishes the individual rights of minors, and outlines the rights and mandates treatment of minors in detention (see Section 1.c.).

*Persons with Disabilities.*—The Constitution provides that the State should protect persons with disabilities; however, persons with physical disabilities suffered discrimination in education and employment practices, and few resources were devoted to combat this problem. In September, the First Lady, Evelyn Morataya de Portillo, estimated that 10 percent of the population suffered some type of disability. Persons with disabilities have limited access to health care, recreational facilities, and work opportunities. Educational resources for those with special needs are scarce, and the majority of the universities are not handicapped accessible. The National Hospital for Mental Health, the principal health care provider for persons with mental illness, lacks: Basic supplies, equipment, hygienic living conditions, and adequate professional staffing. In 2002, the press reported that only 30 percent of children with disabilities received support from the Ministry of Education. The Education Ministry continued a public awareness program in public schools to overcome teachers' resistance to attendance by students with disabilities.

The Law for Protection of the Elderly and the Law on Attention to Disabled Persons mandate equal access to public facilities, prohibit discrimination based on disability, and provide other legal protections. They stipulate equal opportunity for persons with disabilities in health, education, work, recreation, sports, and cultural activities. The law also provides that all persons with disabilities receive the benefits of labor laws and social security and have the right to work. In addition, the law provides for equal educational opportunities, mandatory building access codes, and the right to equal pay. However, government efforts to implement the legislation were weak.

The National Council for the Disabled, composed of representatives of concerned government ministries and agencies, met regularly to discuss initiatives; however, no resources were devoted to the implementation of their recommendations.

*Indigenous People.*—The Constitution, recognizing that the country is composed of diverse ethnic groups, obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, social organization, and manner of dress of indigenous people.

Indigenous people constitute more than half the population; however, they remained largely outside the country's political, economic, social, and cultural mainstream. A 2000 U.N. report stated that 73 percent of indigenous persons lacked economic possibilities and had limited access to basic services. The U.N. Development Program (UNDP) estimated that 90 percent of the indigenous people were poor. While there was no single indicator of indigenous status, there were at least 22 separate Mayan ethnic groups, each with its own language. In addition, there is an indigenous Xinca community of some 6,000 persons. The Garifuna, descendants of Africans brought to the Caribbean region as slaves who later migrated to South and Central America, were a separate minority group.

The majority of the provisions regarding indigenous rights were incomplete in the 2000–04 timetable for the implementation of the Peace Accords. Among the initiatives still pending were educational reforms that include bilingual and intercultural components, promotion of the use of indigenous languages, and the conservation and protection of ceremonial sites. In May, MINUGUA lamented the minimal advance-



ment in the implementation of the Accord on Indigenous Rights 7 years after it was signed.

The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites.

On August 20, the Labor Ministry created a Department of Indigenous People to investigate cases of discrimination and promote implementation of the International Labor Organization (ILO) Convention on the rights of indigenous workers. The Department had no separate budget and only two employees. In August, the Ministry of Labor and the Public Ministry reached an agreement on training labor inspectors and prosecutors on the rights of indigenous workers. On October 17, 45 public servants, indigenous group representatives, and members of political parties completed a 6-month diploma in indigenous rights. The course was an initiative of the Ministry of Labor in cooperation with the Public Administration Institute.

Rural indigenous people had limited educational opportunities and fewer employment opportunities. For this reason, indigenous men constituted a high percentage of the military's ranks. Many indigenous people were illiterate or did not speak Spanish; more than half of indigenous women were illiterate; and a disproportionate number of indigenous girls did not attend school. The Government devoted few resources to bilingual education, and the Ministry of Education has yet to implement the recommendations made by the Commission on Educational Reform. CIEN noted in its annual report on educational reform that some 900,000 children between the ages of 6 and 12 spoke an indigenous language. Nevertheless, only 22 percent of this population received bilingual instruction. Only 12 percent of all teachers were bilingual.

The 2002 Law Against Discrimination addressing discrimination due to gender, ethnicity, language, religion, and economic status was criticized by some indigenous groups because it did not provide a separate status for indigenous rights.

Indigenous people arrested for crimes often are at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings; however, reports continued that indigenous people did not have equal access to the justice system. The Public Ministry concentrated 18 interpreters in former conflict areas of the country, and the Public Defender's Office employed 6 bilingual public defenders and assigned them to areas where they could serve as translators in addition to defending their clients. The Government made efforts to recruit justices of the peace who were bilingual in Spanish and an indigenous language. However, in 561 tribunals around the country there were only 62 judges who spoke Mayan languages and 22 court interpreters. Only 9 percent of police officers were indigenous. Better efforts were made to assign these officers to towns where their language skills could be used, and approximately 75 percent of them worked in the geographic area of their particular linguistic competency.

Two groups worked to represent indigenous issues. In August, a national Congress of Mayan People decided to create the National Assembly of Representatives of the Mayan People, which started selecting representatives from 16 departments and entered into dialogue with the National Council of Mayan Peoples to unify positions on indigenous demands of the new Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for freedom of association and the right to form and join trade unions; however, in practice the Government did not enforce effectively labor laws to protect workers who exercised their rights. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces. Approximately 3 percent of the work force was unionized. The Government did not control unions nor did it interfere with union activities. Reforms to the national Labor Code, enacted in 2001, which the ILO direct contact mission considered “a significant step forward in the application of Conventions 87 (freedom of association) and 98 (right to organize and bargain collectively),” defined the mission of the Labor Ministry as guaranteeing “the free exercise of union rights.” The reforms also permitted industrial or sectoral unions. Legal recognition of a new industrial union requires that the membership constitute one-half plus one of the workers in an industry. Labor activists considered this requirement a nearly insurmountable barrier to the formation of new industrial unions.

The law prohibits retribution for forming unions and for participating in trade union activities; in particular, the Labor Code prohibits employers from firing workers for union organizing and protects them from being fired for 60 days following

notification to the Labor Ministry that a union is being formed. Thereafter, they can be fired for cause, unless they are members of the union's executive committee. However, enforcement of these provisions was weak. Many employers routinely sought to circumvent Labor Code provisions to resist unionization. An ineffective legal system and inadequate penalties for violations hindered enforcement of the right to form unions and participate in trade union activities in the past and perpetuated the violence that workers faced if they attempted to exercise their rights.

The law accords initial jurisdiction over labor law violations to the Labor Ministry and sets forth procedures for processing complaints, making initial determinations, and fining violators. The Ministry of Labor may levy substantial fines for violations of labor rights. During the year, the Ministry imposed a total of 4,009 fines, amounting to \$1.6 million (12.3 million quetzals); however, the number of fines actually paid was 535, amounting to \$194 thousand (1.5 million quetzals). Individual fines were generally low because companies may challenge Ministry fines above \$641 (4,968 quetzals) in the labor courts. The labor inspection system remains inadequate and corrupt, despite continuing efforts at improvement. Low pay, the lack of a strong ethic of public service, and ineffective management prevented the Ministry from providing effective service.

Retaliation, including firing, intimidation, "blacklisting" and sometimes violence, by employers and others against workers who tried to exercise internationally recognized labor rights was common and usually went unsanctioned. For example, Labor Ministry officials believed that allegations of blacklisting of members of the union formerly representing construction workers at the San Jose coal-fired power plant, who were illegally fired by DYMEL Incorporated, were credible. The ILO's Committee on Freedom of Association continued to monitor approximately a dozen allegations of serious violence between 1995 and 2000 against individuals for unionizing activities that lacked credible investigations, prosecutions, or trials. A Special Prosecutor for Crimes Against Unionists and Journalists, who reviewed such allegations, accepted a number of cases during the year, and 47 remained under investigation at year's end. Only two suspects have been brought before a judge, and only one was detained; judges or the Prosecutor's Office found the remaining cases to be without merit. Unlike last year, there were no reported killings of union leaders.

The most common violation of freedom of association was the dismissal of workers for unionizing activity. Some workers who suffered illegal dismissal took their case to the labor courts and won injunctions of reinstatement. Appeals and re-appeals by the employers, along with legal ploys such as re-incorporation as a different entity, often prolonged proceedings for years. The labor courts generally did not dismiss frivolous appeals, nor were their decisions enforced. According to Labor Ministry officials, the labor courts vindicated the majority of workers' claims against employers. However, employers complied with the court decisions in only a small number of cases, creating a climate of impunity. Often employers were not disciplined for ignoring legally binding court orders.

Employees generally were reluctant to exercise their right of association for fear of reprisal by employers. Workers had little confidence that the responsible executive and judicial institutions would effectively protect or defend their rights if violated. In addition, the weakness of labor inspectors, the failures of the judicial system, poverty, the legacy of violent repression of labor activists during the internal conflict, the climate of impunity, and the deep-seated hostility of the business establishment toward independent and self-governing labor associations all constrained the exercise of worker rights.

In June, authorities appealed a court injunction protecting Rosa Maria Gonzalez Gonzalez, who they suspect to be involved in the 2001 killing of Baudilio Cermeno Ramirez, the Organization Secretary of the Light and Energy Union.

Investigation of the 2000 killing of Oswaldo Monzon Lima, the secretary general of a fuel drivers' union, continued; the Special Prosecutor re-interviewed key witnesses but had not asked for an arrest warrant by year's end.

Labor leaders reported death threats and other acts of intimidation. On April 25, Rolando Chacon Escobar, councilman of Nueva Concepcion, was arrested for the November 2002 killing of Carlos Francisco Guzman Lanuza, the Secretary General of the Municipal Employees Union of Nueva Concepcion and leader of a union of South Coast workers, and his brother near Nueva Concepcion, Escuintla. At year's end, Chacon Escobar was in prison pending trial on corruption charges, and the investigation into the killings continued. Death threats that municipal union members in Chichicastenango reportedly received in 2002 ended after the mayor of Chichicastenango was arrested on corruption charges. The General Union of Guatemalan Workers (CGTG) reported a pattern of death threats received by union leaders pressing for payment of minimum wages on agricultural plantations. They also reported receiving death threats for advocating the innocence of jailed union leader

Rigoberto Duenas. On January 17, CGTG union member, Marco Alvaro Tzoc, was shot and injured for stealing produce by the owner of the "el Arco" plantation, where he worked. The owner, Julio Cesar Salazar Pivaral, was arrested, charged with attempted murder, and released on bail.

An active "solidarismo" (solidarity) movement claims to have approximately 170,000 members in approximately 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. The Government viewed these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers; however, unions charged that management promoted solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticized these associations for not permitting strikes, having inadequate grievance procedures, and for displacing genuine, independent trade unions with an employer-dominated structure. There were credible reports that some associations did not adhere to democratic principles.

During the year, the Labor Ministry granted legal status to 37 unions. There were 1,579 registered unions (509 in the public sector and 1,070 in the private sector), with approximately 120,000 members, or approximately 2.3 percent of the workforce. The registered unions were generally independent of government and political party domination.

On July 9, the two unions at the Choi Shin/Cimatextiles export assembly plants, which had suffered anti-union violence in 2001, reached a collective bargaining agreement with management, after the Ministry of Economy threatened to withdraw tax privileges if outstanding labor complaints were not resolved. The Government initiated similar proceedings against other factories with pending labor violations in September. The Ministry of Economy put export tax exemption privileges of 54 export-only companies under review in light of labor complaints pending with the Ministry of Labor.

The Labor Code provides for the right of employers to fire union workers for cause, permits workers to appeal their dismissal to the labor courts, and requires the reinstatement within 24 hours of any unionized worker fired without cause. The Labor Code also prohibits employers from firing any member of the executive committee of a union and also protects them for 12 months after their terms end. An employer may fire a member of the union's executive committee for cause only after a trial in a labor court and issuance of a court resolution. Even in clear-cut cases of illegal firings, labor laws were not enforced adequately. On October 27, a Korean-owned textile maquila (plant that assembles imported components for re-export) reinstated three workers fired on October 16 for attempting to form a union.

Despite efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts: 7 in the capital and 13 elsewhere around the country. An additional nine courts address labor issues, primarily appeals, as part of their jurisdiction. The weakness of the judicial system as a whole, the severe shortage of competent judges and staff, a heavy backlog of undecided cases, and failure to enforce effectively court rulings all contributed to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors and the lack of training and resources devoted to detecting and investigating Labor Code violations compounded the weakness of the labor courts.

The Ministry of Labor continued efforts to improve the labor inspection system by: increasing its rate of inspections, training and evaluating inspectors, dismissing some incompetent or corrupt inspectors, computerizing inspection reports, cooperating with an ILO study on inspection norms, and creating national and departmental consultative councils to discuss Labor Inspectorate operations.

The Ministry of Labor continued its educational campaign on worker rights, which included a campaign of radio spots and the provision of some educational materials in indigenous languages. The Ministry of Labor has seven regional offices to improve enforcement of the Labor Code outside the capital; regional staff includes labor inspectors and specialists in women and workplace issues, management-worker relations/conflict resolution, and child labor issues.

MINUGUA and the Human Rights Ombudsman's office of the Defender of Worker Rights took complaints related to violation of internationally recognized worker rights. The Human Rights Ombudsman's Office may investigate union complaints and issue a statement; however, the office has no enforcement powers beyond attempting to resolve the situation through publicity and persuasion.

Unions may and do form federations and confederations and affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively; however, the small number of unionized workers limited the practice of collective bargaining. The prevailing business culture ignored labor contracts because, in practice, they were largely unenforceable due to the weak, cumbersome, and sometimes corrupt legal system. The Labor Code requires that one-half plus one of the union members must approve a collective bargaining agreement.

Other factors limiting the practice of collective bargaining included the requirement that 25 percent of the workers in a factory or business must be union members for collective bargaining to take place, lack of experience, and management's aversion to sharing power with workers. Management and labor honored collective contracts at some firms. In others, management, and sometimes labor, chose to ignore selected provisions of binding collective bargaining agreements. According to the Ministry of Labor, 21 collective bargaining agreements were registered during the year. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law. According to the Labor Ministry, only 3.3 percent of the workforce had a contract legally registered with the ministry.

In January, a 2002 government decree prohibiting the executive branch from allowing any salary or other monetary benefits to increase under any collective bargaining agreement was withdrawn after it was challenged by labor groups and ruled unconstitutional by the Constitutional Court.

During labor conflicts, unions frequently seek a labor court injunction, which prohibits firing without approval of a judge until the conflict is resolved (277 such injunctions were filed in 2000, according to the most recent official data). Despite the greatly increased penalties for defying court injunctions that were adopted in 2001, the Ministry of Labor's enforcement remained problematic. The Labor Ministry, and its corps of labor inspectors in particular, continued to suffer from a lack of respect from employers, inadequate resources, and corruption (see Section 6.a.).

During the year, there were 12,589 routine labor inspections and 4,602 inspections based on a specific complaint.

Workers have the right to strike; however, the very low level of unionization and procedural hurdles made legal strikes rare. The Labor Code requires approval of one-half plus one of a firm's workers to call a legal strike. The Labor Code requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The Labor Code empowers the President and his cabinet to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." Employers may suspend or fire workers for absence without leave if authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if no agreement is reached after 30 days of negotiation.

There were no legal strikes during the year, although teachers and labor groups in the banana, health, and other sectors held illegal or unofficial work stoppages.

Labor laws and regulations apply throughout the country, including the few export processing zones (EPZs). Maquilas operate under an EPZ-like regime, although they are not located in distinctly established areas. There are only two collective bargaining agreements (covering 1,300 workers) between employers and any of the more than 125,000 workers in the export zones and maquila sector. Unions' lack of success organizing workers in these zones is affected by employer intimidation and pressure.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, some women and minors were trafficked for the purpose of sexual exploitation (see Section 6.f.). There were reports that employers sometimes forced workers to work overtime, often without premium pay (see Section 6.e.). Forced or bonded labor by children generally did not occur; however, the ILO reported that children worked as domestics in private homes in "conditions of modern slavery," and, in November, there was a report of forced labor by two children (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. A reform to the Labor Code submitted by the Executive to Congress in May to rescind the labor permit program and make all employment of minors under 14 illegal remained pending at year's end. However, the informal and agricultural sectors regularly employed younger children, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities. A March joint report of the ILO, UNICEF and the World Bank estimated that 23 per-

cent of minors under age 18 worked, up from 20 percent in 2000. The report estimated that 507,000 children age 7–14 years (20 percent of this age group) were engaged in work. Most minors worked at household chores, in subsistence agriculture, in family-run enterprises, and elsewhere in the informal economy.

The law prohibits minors from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and extra hours (the legal workday for persons younger than 14 is 6 hours; for persons 14 to 17 years of age it is 7 hours). The ILO/UNICEF/World Bank report found that, despite these protections, children worked on average 47 hours per week.

The ILO's International Program on the Elimination of Child Labor launched projects to combat child labor in the fireworks industry, in the production of gravel, in the growing of coffee and broccoli crops, in domestic service, and in the commercial sex industry. The Labor Ministry estimated that between 3,000 and 5,000 children were employed in the illegal cottage-based fireworks industry, approximately 10 percent of them in factories, while others, under the age of 14, typically worked at home on piecework taken in by their families; accidents occurred regularly in the fireworks industry. According to press reports an average of 25 persons per year, the majority minors, suffered burns and amputations from accidents in the fabrication of fireworks. On December 10, three persons (including a 17-year-old) died and six others (including a 10-year-old) suffered second and third degree burns, when a legally registered fireworks factory exploded in San Raymundo, Sacatepequez Province.

Laws governing the employment of minors were not enforced effectively, due to the weakness of the labor inspection and labor court systems. The Labor Ministry granted 119 work permits for minors under age 14, compared with 124 such approvals in 2002. Many children under the age of 14 worked without legal permission and were vulnerable to exploitation. Their illegal status made them ineligible to receive social benefits, social insurance, vacations, or severance pay, and they often earned salaries below the minimum wage.

A 2002 ILO report indicated that 937,530 child workers (38,878 under age 18) worked as domestics in private homes in "conditions of modern slavery." In the capital, three-quarters of the children worked 13 to 16 hours a day, and their average monthly salary was approximately \$51 (395 quetzals). Many of the domestic workers suffered psychological mistreatment, including sexual abuse.

On November 21, the press reported the February 9 rescue of two children from a neighborhood in Guatemala City where they were chained, presumably to prevent them from escaping conditions of forced labor.

The Child Worker Protection Unit within the Ministry of Labor enforces restrictions on child labor and educates minors, their parents, and employers on the rights of minors in the labor market. The National Commission for the Elimination of Child Labor created in 2002 developed an operational plan to implement the 2000 National Plan to Eradicate Child Labor. In July, the Minister of Education issued regulations incorporating basic labor rights training into the secondary school curriculum.

*e. Acceptable Conditions of Work.*—Although the law sets minimum wages, non-compliance with minimum wage provisions in the rural and informal sectors was widespread. A 2001 government survey, the most recent available, noted that only 60 percent of the working population received the minimum wage or more. Advocacy groups, focused on rural sector issues, estimated that more than half of workers engaged in day-long employment in the rural sector do not receive the wages, benefits, and social security allocations required by law. Minimum wage and working hour protection laws do not extend to domestic workers; however, in May, the President submitted a bill to Congress that would do so. It remained pending at year's end.

The Ministry of Labor oversees a tripartite committee that makes recommendations for increases in the minimum wage. In the event that agreement is not reached in the tripartite commission, the Government may decree such increases based on recommendations of the Labor Minister. The daily minimum wage was \$4.25 (33 quetzals) in agriculture and \$4.56 (35 quetzals) in commerce. The law requires an incentive bonus be added to this minimum wage for all hours worked, effectively raising the daily minimum wage to \$5.58 (43 quetzals) in agriculture and \$5.87 (45 quetzals) in commerce. In November, the President authorized a new minimum wage (effective January 1, 2004) that provided increases of 21 percent for agricultural workers and 16 percent for non-agricultural workers. For day shift workers, the standard 6-day workweek is 44 hours; for night shift workers, it is 36 hours; for swing shift workers, it is 42 hours. Time-and-a-half pay is required for overtime work.

The minimum wage was not sufficient to provide a decent standard of living for a worker and family. In its Human Development Report issued in September, the

UNDP estimated that 57 percent of the population live below the poverty line and 21.5 percent in extreme poverty. The Ministry of Labor conducts inspections to monitor compliance with minimum wage provisions; however, the Ministry of Labor lacked the resources to enforce the minimum wage law adequately.

An estimated 75 percent of workers were in the informal sector and were therefore completely without labor protections. Only 24.6 percent of workers were covered by the National Social Security System in 2001, according to the Labor Ministry.

The legal workday is 8 hours and the workweek is 44 hours; a tradition of longer hours remained in place in certain sectors. These limits do not apply to domestic workers; a reform pending in Congress would apply these conditions to domestic workers. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charged that employers sometimes forced workers to work overtime, often without premium pay. Labor inspectors reported uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system and enforcement of court orders, have inhibited adequate enforcement of the law.

Occupational health and safety standards were inadequate and enforcement remained weak. During the year, the Ministry of Labor participated in a number of regional international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. The Labor Ministry provided training courses for labor inspectors in health and safety standards and gave such training priority. In December, the Ministry of Labor hosted a seminar with the Chamber of Construction Industries and unions to promote formation of health and safety workplace committees, an initiative included in the 2002 National Plan for Occupational Health and Safety.

When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not enforced; however, most large employers did provide such facilities for their employees. The fireworks industry is particularly hazardous (see Section 6.b.). Workers have the legal right to remove themselves from dangerous work situations without reprisal. However, few workers were willing to jeopardize their jobs by complaining about unsafe working conditions.

A 2002 Human Rights Watch (HRW) report alleged that women workers, particularly in the domestic and maquila for-export manufacturing sector, suffered discrimination and sexual harassment. In May, the President proposed legislation to criminalize sexual harassment at work; the proposal remained pending at year's end. Labor law exempts domestic workers from the right to an 8-hour workday and the 44-hour workweek, provides domestics only limited rights to national holidays and weekly rest, and denies domestics the right to employee health care under the national social security system. An executive decree exempts domestic workers from the Labor Code provision that all workers have the right to the minimum wage.

The HRW 2002 report alleged that maquilas, which employed approximately 100,000 women, often forced women to reveal whether they are pregnant as a condition of employment.

*f. Trafficking in Persons.*—The law specifically prohibits trafficking and smuggling of persons; however, trafficking in women and children was a problem.

Trafficking in persons for the purpose of practicing prostitution is punishable by 1–3 years' imprisonment and a fine between \$335 and \$2,000 (2,500 and 15,000 quetzals); the fine for procuring minors is between \$470 (3,500 and 13,000 quetzals); at year's end, legislation was pending in Congress to increase these sanctions. The Government investigated trafficking cases and reported that it had initiated 26 prosecutions for trafficking between January 2002 and March, and at least two traffickers were imprisoned as a result of prosecution during the year. Most victims failed to press charges due to a cumbersome judicial system and fear of reprisal or deportation. Some prison sentences for traffickers are commutable to fines.

The Defense of Children's Rights unit in the Human Rights Ombudsman's Office and the newly created Minor Victims Section of the Prosecutor's Office investigate cases of trafficking.

NGOs and the press credibly alleged that some Immigration Service officers accepted bribes in return for allowing traffickers to bring children into the country for purposes of sexual exploitation. The Directorate of Migration reported that there were 80 dismissals for corruption and 46 pending disciplinary procedures, compared with 126 dismissals and 86 disciplinary procedures in 2002.

The country was a source and transit point for women and children trafficked for the purpose of sexual exploitation. There was also internal trafficking, and, in some cases, the country was a destination for trafficked persons who came mainly from

other Central American countries and Ecuador. Victims trafficked to Guatemala were usually young women or minors who were trafficked for sexual exploitation and were placed in poor surroundings and paid low salaries. The most common “contracting places” are along the borders.

The country was a significant transit and source country for alien smuggling, from neighboring Central American countries and from Ecuador, China, Taiwan, and South Asia. Some aliens were trafficked to the United States.

Those trafficked from the country for sexual exploitation were usually minors, both boys and girls, from poor families. The traffickers often approached these individuals and offered them lucrative jobs, which would allow them to make regular remittances back to their families. The approaches included promises of economic rewards, jobs in cafeterias or beauty parlors, or jobs in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations. Traffickers also used force, coercion, fraud, and deception.

Sexual exploitation of children, including child prostitution and the trafficking of children for purposes of prostitution, was a growing problem (see Section 5).

The Government assisted some victims of trafficking by providing shelters for children under protection by court order. Victims were not treated as criminals, although some were deported.

The Government conducted anti-trafficking and anti-smuggling public awareness campaigns. NGOs that focus on women and children’s rights often helped victims of trafficking and worked to educate the population about the dangers of trafficking. In October, UNICEF started a public relations campaign to warn Central Americans about the risks of exploitation by traffickers, particularly to alert parents to the dangers faced by unaccompanied minors attempting to migrate illegally to the United States. The campaign consisted of radio spots and videos shown on border-crossing buses.

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## GUYANA

The Co-operative Republic of Guyana has a multiparty political system based on proportional representation. Citizens elect an executive president and a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In March 2001, citizens voted in a generally free and fair national election to reelect the People’s Progressive Party (PPP) and its Civic (C) partner. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. Social unrest and occasional violence marred the postelection period, with the main opposition party alleging that election procedures violated the Constitution. Despite some technical problems, international observers considered the elections free and fair. The judiciary, although constitutionally independent, was inefficient and often appeared subject to the influence of the executive branch.

The Guyana Defence Force (GDF) is a professional military responsible for national defense, internal security, and emergency response. The Guyana Police Force (GPF), which includes a Target Special Squad (TSS) that has some paramilitary training, has the authority to make arrests and is responsible for maintaining law and order throughout the country. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy was based on a mix of private and state enterprises. The country has a population of approximately 735,000. Rice, sugar, bauxite, gold, fish, and timber were the major exports. There were severe shortages of skilled labor, and the economy was constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Government estimates placed real economic growth at 1.5 percent during the year, compared with 1.1 percent in 2002. The latest (1999) U.N. Development Program (UNDP) living conditions survey showed that 35 percent of the population lived in poverty; 21 percent were extremely poor.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police continued to commit unlawful killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but in general, the police continued to commit abuses with impunity. Prison conditions remained poor, and lengthy pretrial detention continued to be a problem. The inefficiency of the judicial system resulted in long delays in trials. Police infringed on citizens’ privacy rights. The Government charged a television talk show host and a political activist with treason. Violence against women and children, societal discrimination against women and indigenous

Amerindians, incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese, child labor in the informal sector, and trafficking in persons were all problems.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, police continued to commit unlawful killings. The Guyana Human Rights Association (GHRA), a nongovernmental organization (NGO), reported that the security forces killed 39 civilians during the year, compared with 28 in 2002. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Thirteen of the killings occurred during joint GPF/GDF operations to counter the rampant criminal activities of bandits centered in the village of Buxton. Public investigations rarely were conducted into such killings; in general, police abuses were committed with impunity. The Constitution broadly defines justifiable use of lethal force.

On January 18, police shot and killed Charles Hinckson and Marlon Wilson in a bathroom stall after they reportedly committed a robbery. The independent Stabroek News reported that the men received multiple gunshot wounds to the chest, face, and lower extremities, and that police recovered a cutlass and a .32 caliber gun.

On January 29, police shot and killed Errol Immanuel. According to Stabroek News, Immanuel, an itinerant vendor, was sitting with a friend around 8:00 p.m. when a police van stopped, and the policemen confronted him. According to eyewitnesses, Immanuel immediately raised his hands in the air, but one of the police officers fired two shots directly at him. The other man reportedly was arrested, tied to a fence, but subsequently released when reinforcements arrived. According to a GPF press release, Immanuel was killed in a confrontation with police after he allegedly attempted to rob someone at knife-point.

On March 1, a police patrol fired on a car carrying five teenagers, killing 18-year-old university student Yohance Douglas and injuring Ronson Grey and O'Neil King. Mass protests followed Douglas' killing, and the incident provoked allegations of racial profiling and indiscriminate use of force by the police. A preliminary inquiry was conducted before the Chief Magistrate, and the authorities charged two police officers with murder.

On June 4, a joint GPF/GDF force killed Romel Reman, Akeem Hack, Daniel James, Sean Norton, H. Glasgow, and three other men during an operation in Buxton. The police were looking for Reman and described Hack as the "mastermind" behind the Buxton-based crime wave. A GDF release stated that during the operation, bandits had opened fire on police while they were trying to escape from a building. Police found a large cache of arms and other items, including Bushnell night-vision binoculars. The GHRA questioned the credibility of the official reports, noting that all suspects died, with none injured, no surrenders, and no arrests.

On September 4, a policeman and a civilian accomplice beat to death Albert Hopkinson when he resisted arrest. Police detectives were immediately dispatched to the rural village where the incident took place, and the man's body was flown to Georgetown for an autopsy, which showed signs of strangulation and a fractured skull. The policeman and the civilian were taken into custody; a preliminary inquiry had not concluded at year's end.

The crime wave that began in 2002 continued into the year, and law enforcement officers continued to be targets of premeditated, ambush-style murders. In May, joint GPF/GDF cordon and search patrols were initiated in the village of Buxton, a well-known criminal safe-haven. On the basis of intelligence gathered in the course of these patrols, police killed several alleged bandits. Following the police action, killings of police ceased, and the violent crime rate declined for several months, before rising again toward year's end.

There were no new developments in most of the killings by police in previous years, including the police shootings of Wesley Hendricks, Tshaka Blair, Mark Crawford, Albetha Fufe, Kwame Pindleton, Leroy Lowe, Dexter Dubisette, and Shawn Welcome in 2002.

During the year, there were occasional reports of vigilante action taken against supposed criminals by unknown parties, who possibly included off-duty or former police officers. Several murders reportedly were attributed to this group, popularly referred to as the "Phantom Squad."

*b. Disappearance.*—There were no reports of politically motivated disappearances. During the first 4 months of the year, a trend towards increasing incidence of kidnappings for ransom continued. Most cases involved local businessmen, but some



foreigners were also kidnapped for ransom. Following the joint GPF/GDF operations in Buxton and elsewhere, kidnappings declined by 80 percent.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, police continued to abuse suspects. The GHRA continued to consider mistreatment of prisoners by prison officers a problem. Moreover, inmates, attorneys, and judicial authorities provided credible evidence that police and correctional officers frequently ignored the actions of other inmates who beat, robbed, or otherwise mistreated “problem” prisoners.

The Police Complaints Authority (PCA) received 161 complaints through September (compared with 98 for the same period in 2002); it completed investigations of 56 cases. Two cases were referred to the Criminal Investigation Authority for murder proceedings. The Office of Professional Responsibility (OPR) also investigated complaints against police. The OPR did not release any information on how many cases it received during the year, how many it completed action on, or how many were awaiting decisions by the Department of Public Prosecutions (DPP) on whether to prosecute (see Section 1.d.).

Many legal authorities and human rights activists stated that due to rising crime and pressure from urban businesses, which were often the targets of criminals, the Government did not actively pursue investigations of alleged police abuses. Fear of reprisals also limited citizen reporting of police abuses.

Prison and jail conditions were poor, particularly in police holding cells. Georgetown’s Camp Street Prison, the country’s largest, was overcrowded. The Prison Authority reported that there were approximately 1,250 inmates in the 5 facilities in the system. Nearly half of these were estimated to be in the Camp Street Prison. According to prison officials, the facility was intended to hold 500 inmates; however, the GHRA stated that the Camp Street Prison initially was designed to hold 350 inmates. Conditions in the country’s four smaller prisons generally were adequate. The GHRA continued to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale was a serious problem. Prison staffers were poorly paid, and their salaries and benefits were insufficient to compensate for the on-the-job risks. The Guyana Prison Service reported that the department was implementing a 10-year (2001–11) strategic plan to modernize the prison system, with an emphasis on making prisons safer for inmates and officers, and implementing new rehabilitation programs.

Although the Government made efforts to address the recommendations made by a United Kingdom Prison Reform Team following the team’s 18-month review of the Prison Service, progress was hampered by a lack of resources. The failure to appoint a Judicial Service Commission also impeded progress on reform implementation (see Section 1.e.).

The GHRA reported no deaths in prison during the year attributed to overcrowding. To reduce overcrowding, the GHRA called on the judiciary to consider alternative sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. The GHRA did report that the reduction in the judicial backlog had resulted in reduced prison crowding (see Section 1.d.). The Parole Board continued to play a more active role, but was reluctant to release prisoners due to insufficient post-release resources, including a lack of staff to monitor parolees.

Although sanitary and medical conditions in police station temporary holding facilities varied, in almost all cases these conditions were worse than those in the prisons. Some such jails were bare, overcrowded, and damp. Few had beds, washbasins, furniture, or utensils. Meals were normally inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown had poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically held up to 30 detainees and often was the site of violence between inmates. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as 2 years, waiting for the overburdened judicial system to act on their cases.

Conditions were generally adequate in the only women’s prison, which is at New Amsterdam, in a facility that held men and women in separate dormitory-type buildings. There were a number of vocational and educational courses. The GHRA urged that female inmates’ responsibility for children be recognized in terms of length of sentence and facilities for family contact.

Police continued to place juvenile offenders in a fairly adequate separate facility; however, female juvenile offenders were held with adult prisoners.

Pretrial detainees were held separately from convicted prisoners. Some special watch/high profile pretrial detainees were kept in security divisions also occupied by convicted prisoners.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

The GPF is a centralized, military-style organization. There are seven regional districts, but all criminal investigations operate out of headquarters in Georgetown. The force includes specialized units, such as the Tactical Services Unit and the Quick Reaction Group, some of which had no clearly defined mandate. The Special Constabulary receives the same training as the regular police but focuses mainly on guard duty for Cabinet ministers and certain government facilities. During the year, the GHRA conducted general human rights training programs for the GPF and the Prison Service.

The PCA was composed of five members who investigated complaints against police officers. The law provides for the independence of the PCA; however, an appointment system drawing heavily from retired judges fostered a reluctance to take controversial or decisive action. A lack of adequate powers for independent investigation limited the effectiveness of the PCA. The OPR also investigated complaints against the police (see Section 1.c.).

Poor training, poor equipment, and poor leadership severely limited the effectiveness of the GPF. Public confidence and cooperation with the police was extremely low. The police appeared completely incapable of effectively addressing an unprecedented violent crime wave, which included multiple deliberate murders of police officers. In addition, there were reports of corruption in the police and a lack of police accountability. Even when police officers faced charges, most of the cases were heard by lower magistrate courts, where other specially trained police officers served as the prosecutors (see Section 1.e.). Human rights monitors questioned officers' commitment to prosecute their own colleagues.

In August, the National Assembly established a Disciplined Forces Commission to review the operations of the security services. The Commission gave priority to an investigation of the operations of the Police Force and submitted an interim report (covering the police) of its findings and recommendations to the Assembly in December. Commission hearings were held publicly, and a wide range of organizations and individuals came forward to testify.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged, and this was generally observed in practice. Bail was generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and are required to remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remained a problem. Since implementing initiatives contained in the Chancellor's Committee on Reform of the Criminal Justice System, however, the courts have reduced the backlog of cases, according to the GHRA. The GHRA estimated that prison figures have fallen approximately 30 percent with the main contributing factor being the reduced backlog of prisoners on remand.

The Government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host held on charges of treason, considered him to be a political detainee (see Section 2.a.).

The Constitution prohibits forced exile, and it was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and for the most part this was the case. However, some law enforcement officials and prominent lawyers questioned that independence and accused the Government of occasional judicial intervention in civil cases involving judgments against the Government.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates were members of the civil service and were trained lawyers. The magistrate courts deal with both criminal and civil matters, and specially trained police officers serve as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecu-

tion is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right generally was respected in practice.

Delays and inefficiency characterized the judicial process. Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. There were reports that police who served as prosecutors in lower magistrate courts were reluctant to prosecute police accused of abuses (see Section 1.c.). The inefficiency of the judicial system undermined due process.

In 2001, the Constitution was amended to place the authority to appoint judges and determine tenure with the Judicial Service Commission (JSC). The JSC has the power to appoint the Director and Deputy Director of Public Prosecutions, the Registrar and Deputy Registrar of the High Court, and the Registrar and Deputy Registrar of Deeds. The amendments also allow the President, on the advice of the JSC, to make temporary appointments of judges to sit in magistrate courts and the High Court. At year's end, a new JSC had yet to be formed to replace the one whose term expired at the end of 2001.

Due to the continued absence of the Constitutional Service Commissions (Public Service Commission, the Police Service Commission, the Teaching Service Commission, and the Judicial Service Commission) there were no appointments or promotions to Public Service, the Police Force, the Teaching Service, or the judiciary and magistracy for over a year. Despite progress in the dialog between the governing PPP/C and opposition Peoples National Congress/Reform (PNC/R) parties, activation of the service commissions was held up by disagreement over their composition. On December 30, the Government formed the Public Service Commission, clearing the way for establishment of the Police Service Commission.

Defendants are granted public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may go on for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had only a limited effect. Judicial staff still needed further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There was no public defender system, but defendants in murder cases who needed a lawyer were assigned an attorney by the court.

The Georgetown Legal Aid Clinic, with public and private support, provided advice to persons who could not afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases (for example, assault as part of a divorce case). The Guyana Association of Women Lawyers provided free legal services for civil cases only.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right of privacy; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking was a problem, and in connection with the Buxton-based crime wave.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were complaints of interference in the electronic media. Citizens openly criticized the Government and its policies.

The independent Stabroek News published daily, and a wide range of religious groups, political parties, and journalists published a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covered a broad spectrum of political and nongovernmental groups. Throughout the year, however, the Chronicle typically displayed a clear anti-opposition bias.

Talk show host Mark Benschop, arrested in 2002 on charges of treason for his role in the July 2002 storming of the Presidential Office Complex, remained in jail. The preliminary inquiry found that there was sufficient evidence for indictable charges to be brought, and the case awaited action in an upcoming High Court session. It was not clear when the case may come up, as there was a long backlog of

pending cases before the court. Political activist Phillip Bynoe, who was charged together with Benschop, remained at large.

In contrast to the Government's tolerance of the print media, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owned and operated the country's sole radio station, which broadcast on three frequencies. There were no private radio stations, and private interests continued to criticize the Government for its failure to approve requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 12 independent television stations in addition to the government station.

In late December 2002, on the recommendation of the Advisory Broadcasting Committee, the Government temporarily suspended the licenses of two television broadcasters, HBTV and CNS. In July, HBTV again had its license temporarily suspended. In each case the suspensions were in response to what was considered irresponsible broadcasting by the stations. The GHRA stated that although the recommendations to suspend were justified, it should have been done through judicial rather than executive action.

The legal and regulatory environment of the broadcast sector is weak and has been widely criticized for its inability to control frequently irresponsible independent television broadcasters. In August, a new draft broadcast law was introduced in the National Assembly, but it was returned to the inter-party committee for redrafting, which was not completed by year's end.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if it is believed that the meeting may provoke a breach of the peace. In cases of refusal, applicants may appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally was granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

In March, large rallies and marches took place to protest the shooting of Yohance Douglas and Ronson Grey (see Section 1.a.). The demonstrations were peaceful and generally faced no interference.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

For a more detailed discussion, see the 2003 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, and the Government generally respected this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice most persons traveled throughout these areas without regard to the formality of a permit. Citizens were free to travel abroad, to emigrate, and to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government did not have a formal policy on refugees or asylum and did not enact model legislation prepared by the UNHCR. In practice, the Government provided protection against refoulement but did not routinely grant refugee status or asylum. Efforts by the Ministry of Home Affairs and the Cuban Government to forcibly repatriate to Cuba a Cuban national married to a Guyanese citizen have for over a year been impeded by legal challenges brought by the Cuban.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There is a multiparty political system based on proportional representation. Voters elect 25 of the 65 deputies from regional constituencies; the remaining 40 seats are filled proportionally from na-

tional slates of nominees chosen by the parties from different sectors of society. Any citizen 18 years or older may register to vote. Citizens are free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provides only a limited check on the executive's power.

Voters indirectly elect the President to a 5-year term of office. A party's presidential candidate must be announced in advance of the election. The party that wins the most votes for Parliament wins the presidency. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. A maximum of four ministers may be named who are not elected Members of Parliament.

In March 2001, citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the PNC/R party. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. The opposition called for the courts to declare the election unconstitutional and illegal, which delayed Jagdeo's swearing in until later that month. An extensive audit of the 2001 election led by the Institute for Democracy and Electoral Assistance found that despite several procedural errors and system failures, there was no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition alleged.

Society is racially divided, and the political party structure reflected the polarization of the main ethnic groups. The two major parties (the PPP/C and the PNC/R) were formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There were no legal impediments to the participation of women or minorities in the political process. The Constitution requires that one-third of the parliamentary candidates be female. The 65-member Parliament included 20 women and 4 Amerindians, representing both major parties. The 20-person Cabinet included 4 women and 1 Amerindian, and the Chancellor of the Judiciary was a woman.

#### *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 GHRA was the most active local human rights group and issued periodic press releases and published an annual report on human rights. Trade unions, professional organizations, various ethnic groups, and churches participated in the GHRA. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

A Human Rights Commission (HRC), mandated by the Constitutional Reform Commission, is to be comprised of a Chairperson and the four chairpersons of the Women's, Children's, Indigenous, and Ethnic Relations commissions. At year's end, only the Ethnic Relations Commission had been activated, preventing establishment of the HRC. The GHRA complained about the lack of HRC members specifically charged with observing, protecting, and investigating fundamental human rights and freedoms, and the lack of authority given the commission.

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

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin; however, the Government did not always enforce these provisions effectively.

Fierce opposition from diverse religious groups prevented the passage of a constitutional amendment to prohibit discrimination on the basis of sexual orientation.

Persons living with HIV/AIDS encountered societal discrimination. They faced derogatory comments, the refusal of some mini-bus drivers to pick them up, and other types of stigma-related discrimination. There were anecdotal reports of employers releasing HIV-positive employees but no evidence of official discrimination against persons with HIV/AIDS.

*Women.*—Violence against women, including domestic violence, was widespread, and NGOs reported that domestic violence crossed racial and socio-economic lines. Despite efforts by NGOs and the DPP to sensitize police officers to domestic violence, the police often were hesitant to interfere in cases of domestic disputes. Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, handled 308 cases of abuse, including child, spousal, nonspousal, and other domestic abuse between January and September. Of these, 227 involved spousal abuse, 98 percent of which was directed against women.

The Domestic Violence Act defines domestic violence, establishes it as a crime, and gives women the right to seek prompt protection. Magistrates may issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out an application for protection. A magistrate then evaluates the case and decides

whether to replace interim orders with permanent orders. The act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibited abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders were violated, the abuser could be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months; however, this legislation frequently was not enforced. Occupation orders allowed the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders required an abuser to leave a rented dwelling and to continue to pay some or all of the rent. The GHRA criticized the structure of the Domestic Violence Act, stating that the law could not be implemented until appointments had been made to the Women's Affairs Bureau.

Rape, particularly of girls and young women, was a serious problem but was infrequently reported or prosecuted. While more victims reported these crimes to the authorities than previously, there still was a social stigma applied to the victim for doing so.

Prostitution is illegal, but it did occur, and it received increased public attention due to the high incidence of HIV/AIDS among prostitutes.

There was no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds did not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The Women's Leadership Institute, a collaborative effort between the Government and the UNDP, sought through education and training to facilitate greater participation by women in government and the private sector.

On July 24, the National Assembly amended the Constitution to place emphasis on fundamental rights at that level. The amendment clearly spells out a range of criteria on the basis of which persons cannot be discriminated against, including gender.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remained illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

*Children.*—Children were affected more severely by the country's poverty than any other group. One-third of the population was under 18 years of age and, although the Government provided free education through secondary school (it is compulsory until age 14), the severe deterioration of the public education and health care systems limited children's future prospects. The public health system was inadequate, and private health care was unaffordable for many children. Children often did not attend school because their families needed them to contribute to the household by working or providing childcare for siblings or younger relatives (see Section 6.d.).

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were unreported. Reports of physical and sexual abuse of children were common. There were no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the numerous children under the age of 5 who died each year; these deaths were usually attributed to malnutrition or disease.

Media reports of rape and incest further indicated that violence against children was a significant problem. The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child, but there was a lack of social services or trained experts to assist children fleeing sexual, physical, or emotional abuse. Many children suffered from neglect or abandonment, much of which resulted from the annual emigration of 1 to 2 percent of the adult population, who often left children behind.

The Government has reiterated its position that corporal punishment is acceptable. The Government's report to the U.N. Committee on the Rights of the Child refers to "a parent's right to chastise." Anecdotal reports indicated that violence against children in public schools continued to occur, but Education Ministry data on the number of corporal punishment cases were unavailable. The Ministry of Education instituted a program intended to phase out corporal punishment in schools, but it had not been fully implemented by year's end.

There were reports of child prostitution (see Section 6.f.). UNICEF criticized the practice in which girls traded sexual favors for money, gifts, or help in employment

or higher education, a practice sometimes condoned by their parents and obscured by cultural norms.

*Persons with Disabilities.*—There was no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult for persons with disabilities to be employed outside their homes. A council for persons with disabilities functioned throughout the year. There were several special schools and training centers for persons with disabilities, but the facilities lacked trained staff and were in disrepair.

*Indigenous People.*—The Amerindian population, which consists of nine tribal groups, constituted an estimated 8 percent of the population. Most lived in reservations and villages in remote parts of the interior. Their standard of living was much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources was limited. Access to education and health care in Amerindian communities was limited severely.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what constitutes an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment, but these provisions were not enforced. Both Amerindian individuals and groups remained free to criticize the Government. In 2002 and during the year, the Government, in collaboration with Amerindian NGOs and community leaders, carried out a series of consultations with Amerindian communities to receive recommendations for a review of the Amerindian Act. This process had a substantive response from the communities, and the resulting reports were to be incorporated into formal recommendations to the Cabinet. At year's end, the process had not been completed, and no draft had been prepared for a new act.

The Government continued to maintain that it was committed to demarcating lands that traditionally have been the home of Amerindians, but the Government held title to almost all the country's land and was free to act as it wished without consultation. Under existing legislation, Amerindian rights to land are limited, and legal titles officially granted can be taken away in at least five ways. The demarcation process lacks transparency and has itself been a source of contention, with Amerindian communities claiming that their input has not been given appropriate consideration. For the Amerindian population, the land question constituted a major issue. Amerindians complained that the Government allocated land to other interests without proper consultations with the communities. Whether for concessions for environmentally damaging mining or logging interests or environmentally protected reserves, the Amerindian communities often viewed the allocations as illegitimate takings of "their" lands.

*National/Racial/Ethnic Minorities.*—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. Members of both the largely Indo-Guyanese PPP/C and the largely Afro-Guyanese PNC/R engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and security forces continued to be overwhelmingly staffed by Afro-Guyanese. Recruitment for the uniformed services operated on an open basis, with no preference or special effort to attract applicants from any particular group. There were generally few Indo-Guyanese applicants, since most qualified Indo-Guyanese candidates opted for a business or professional career over military, police, or public service.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. However, the Constitution also specifically bars GPF members from unionizing or associating with any other established union.

The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, came into effect in 1999, but implementation has been slow. During the year, the Trade Unions Recognition Board, created by this law, issued 30 certifications and denied 4. The denied applications failed to meet the required threshold of 40 percent employee support. The Government pro-

moted new union groupings as alternatives to established unions that it believed were dominated by the opposition. Nevertheless, all the new certifications were for existing unions representing previously uncertified enterprises.

Approximately 32 percent of the work force was unionized. Most union members worked in the public sector and in state-owned enterprises. There is no law prohibiting anti-union discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the Government maintained a generally pro-union stance.

Organized labor freely associated in the major national federation, the Guyana Trades Union Congress (GTUC), which was composed of 22 unions. There remained a tradition of close ties between the trade union movement and political parties. Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This arrangement occasionally led to overt politicization of labor issues.

Unions and their federations freely maintained relations with recognized international trade union and professional groups.

*b. The Right to Organize and Bargain Collectively.*—Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certified all collective bargaining agreements, and there have never been reports that it refused to do so. Individual unions directly negotiate collective bargaining status. Unions were dissatisfied with a provision that granted the Ministry of Finance veto power over wage contracts negotiated by other ministries. The Chief Labor Officer and the staff of the Ministry of Labor provide consultation, enforcement, and conciliation services.

The law provides workers with the right to strike. Strikes may be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. The International Labor Organization (ILO) urged the Government to amend this legislation to limit the use of compulsory arbitration to only those strikes in services where interruption would endanger life, personal safety, or health. There was no law prohibiting retaliation against strikers, but this principle was always included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, were legally enforceable. Budgetary limitations have led the Government to resist recourse to arbitration in an ongoing wage dispute with the Guyana Public Service Union.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor; however, there were reports that such practices occurred (see Section 6.f.). The Government prohibited forced or bonded labor by children and generally enforced this prohibition effectively, with the exception of child prostitution.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children; however, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industrial undertaking, and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family were employed. According to UNICEF, 19 percent of children between the ages of 5 and 14 were considered to be involved in labor activities.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively. The practice of teenage prostitution was a problem (see Section 6.f.).

*e. Acceptable Conditions of Work.*—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers, but there was no legislated private sector minimum wage. As a result of a civil service arbitration ruling in 1999, the minimum public sector wage increased to \$98 (G\$19,000) per month. Although enforcement mechanisms existed, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally. The legal minimum wage for the public sector was insufficient to provide a decent standard of living for a worker and family.



The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general, work in excess of an 8-hour day or a 44-hour week required payment of an overtime rate, but if the initial contract stipulated a 48-hour workweek, then the overtime rate applied only for hours worked in excess of 48. The law does not require at least a 24-hour rest period each week.

The Factories Act also establishes workplace safety and health standards. The Ministry of Labor continued to conduct limited outreach to business in an effort to promote HIV/AIDS awareness and provide information on related health issues. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. The ILO's Committee of Experts criticized the Occupational Health and Safety Act for failing to provide adequate protection for workers who use chemical substances proven to be carcinogenic. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

*f. Trafficking in Persons.*—There were no laws that specifically prohibit trafficking in persons, and there were some reports of women being lured into prostitution through false promises of employment, as well as reports of child prostitution by teenagers in cities and in remote gold mining areas in Amerindian communities.

There were also occasional reports of smuggling of persons of Chinese and South Asian origin through Guyana for illegal immigration to the United States, although it is not known if the smuggling involved any force, fraud, or coercion. Persons caught providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence.

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## HAITI

Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The opposition parties boycotted the 2000 presidential elections, in which Jean-Bertrand Aristide was reelected with extremely low voter turnout. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In September 2002, the Organization of American States (OAS) adopted Resolution 822 as a catalyst for resolving the political impasse. Included in the resolution was a provision calling for a legitimate Provisional Electoral Council (CEP), which was to be charged with planning local, municipal, and legislative elections during the year; however, the elections were never held. The Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the Armed Forces of Haiti (FAd'H). The HNP is officially an autonomous civilian institution; however, authorities did not maintain effective control of the security forces, and HNP officials at all levels were implicated in corruption and narcotics trafficking. Partisan political leaders increasingly exercised control over elements of the police and influenced it for personal or political gain. President Aristide filled many key HNP positions with political allies lacking experience, training, and credibility. Some parliamentarians, mayors, and members of local government councils (CASECs) exercised arrest authority without legal sanction. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMOs) serving Port-au-Prince and the Western department; crowd control units (UDMOs) serving each of the remaining eight departments; Special Brigades (BS) attached to certain commissariats; and a small Coast Guard unit. Police "attaches" became increasingly prevalent throughout the country and particularly in certain commissariats. The large and well-funded Presidential Security Unit, officially part of the HNP, had its own budget and remained administratively and functionally independent. Civilian deaths and serious injuries resulted from the inability of HNP units to maintain order. Members of the security forces committed human rights abuses during the year.

The country has a market-based economy and state-controlled utilities, and its economic stagnation continued during the year due to the continuing political crisis and the petroleum price shocks experienced in the second quarter. A small elite controlled much of the country's wealth. Two-thirds of the estimated 8 million citizens

worked in subsistence agriculture and were extremely poor. The informal sector accounted for approximately 70 percent of all economic activity, making taxation problematic. Remittances from Haitians living overseas, estimated at \$931 million in 2002, were a growing revenue source. Textiles accounted for approximately 80 percent of recorded exports; assembled goods, leather goods, agricultural products, and handicrafts also provided limited export revenue. The Haitian Institute for Statistics calculated real GDP growth of 0.5 percent for the fiscal year, compared with negative growth of 0.9 percent for fiscal year 2002. Inflation was 42.5 percent for the fiscal year, compared with 10.7 percent for fiscal year 2002, largely reflecting the adjustment in fuel prices to world market rates and the decline in the value of the gourde. By year's end, inflation had subsided to an annualized rate in the low teens.

The Government's human rights record remained poor, with political and civil officials implicated in serious abuses. There were credible reports of extrajudicial killings by members of the HNP. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and were rarely punished for such acts. Attacks on and threats to journalists and political dissenters by members of Popular Organizations (OPs) and by supporters of the President's party, Fanmi Lavalas (FL), increased. Prison conditions remained poor, and prisoners with valid release orders continued to be held in defiance of these orders. Legal impunity remained a major problem, and police and judicial officials often failed to respect legal provisions or pursue and prosecute suspected violators. The media were largely free and often critical of the Government; however, most journalists practiced some form of self-censorship. Child abuse, violence, and societal discrimination against women remained problems. Internal trafficking of children and child domestic labor remained a problem; however, the Government increased its efforts to address the issue.

#### 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 credible reports of extrajudicial killings by members of the HNP, municipal government officials, and civilian attaches (see Section 1.d.) associated with HNP commissariats.

Individuals involved in the State University protest movement that began in August 2002 continued to be victims of violence and human rights violations. On January 7, assailants shot and killed Eric Pierre, a 27-year-old medical student, while leaving the Faculty of Medicine building. The authorities did not arrest anyone in connection with his death, despite witnesses' allegations that the attackers left the scene in two vehicles, one with official license plates and the other with the state telephone company logo on the side.

On January 8, police shot and killed an anti-government demonstrator as they were breaking up a demonstration in Gonaives. Jean-Dady Simeon, HNP spokesperson, claimed that the man was already dead when police intervened (see Section 2.b.).

On January 27, armed men shot and killed 17-year-old John Peter Ancy Oleus in Carrefour under orders from the wife of the Police Commissioner of Jacmel, Mrs. Cadet. As John Peter and Cadet were arguing over the Oleus family's garbage disposal near her home, Cadet summoned six armed men, one of whom shot and killed Oleus as he ran to lock the front door of his house to protect his sisters inside. The authorities arrested Cadet soon after the crime was committed, but State Prosecutor Josue Pierre Louis released her the following day. Louis claimed that he had to follow the "hierarchy of respect," and that he was simply following orders from the Justice Minister. At year's end, no one had been held responsible for Oleus' death.

On February 4, a group of armed men shot and killed Ronuald Cadet, another student involved in State University demonstrations who had been in hiding since November 2002. This case, remained unsolved at year's end.

On March 27, in Petit-Goave, a police bullet grazed 21-year-old Ginette Pierre, who was believed to be the daughter of a Convergence leader whom the police planned to arrest. After she fell to the ground, the officers put their car in reverse and ran over the woman's head, killing her instantly. The Government provided funds for her wake and funeral, but took no action against the police officers responsible for her death.

On May 18, a civilian attache from the Commissariat in Hinche killed Josue Telusme. On July 8, attaches from Delmas 33 Commissariat riding in a HNP vehicle killed Leon Regois and discarded his body at the State University Hospital.

In October, Municipal Commissaire for Hinche Neguppe Simon shot and killed a woman who accidentally struck his vehicle with a rock during a domestic dispute. Following the incident, Simon disappeared, but was later arrested, then inexplicably

released from jail while pending trial in December and was promoted into higher ranks of the HNP leadership.

On October 21, police in Gonaives broke up an anti-Aristide march by the civil society coalition group Union Citoyenne. Police arrested several opposition members participating in the march. Police, in concert with pro-Lavalas "chimeres" (thugs) threw rocks and bottles, preventing the demonstration from taking place; one person was shot and killed and several others were injured.

Sparked by the death of Cannibal Army head Amiot "Cubain" Metayer (see Sections 1.b. and 3), several weeks of intense violence between police and Cannibal Army members were brought to a climax in Gonaives from October 26 to 28. On October 26, Cannibal Army members attacked the home of the Government's representative in Gonaives, Ketlin Telemaque, and burned one of the mayor's vehicles as police responded in kind. Following an attack on the main police commissariat, a gun battle between the police and gang members led to the death of a 12-year-old girl and the injuring of the Departmental Police Director.

From October 27 to 28, police and civilian chimeres mounted a major offensive on the gang-controlled section of Raboteau, Gonaives. While attempting to locate and arrest Cannibal Army members, police burned 10 homes in Raboteau, arrested area residents, and slaughtered livestock. Police efforts were unsuccessful, as the operation only netted civilians not involved with the Cannibal Army. During the siege, a newborn baby was burned to death, a woman was killed, and two other civilians were shot and injured. Reports estimated that there were as many as 50 dead and 80 injured civilians in Gonaives from September through December due to the continued violence.

In May, following a hearing before the Court of Appeals, Deputy Jocelyn Saint Louis of Saint Raphael, who was arrested for his alleged role in the January 2002 murder of mayor Sernand Severe, was released.

In December 2002, armed men dressed in black identified as HNP took three brothers, Angelot, Andy Philippe, and Vladimir Sanon, from their home in Carrefour in Port-au-Prince (see Section 1.c.). Later that day their bodies were found with gunshot wounds and taken to the city morgue. The boys had previously protested the police robbery and shooting of their friend, Marcellus Bongue. The authorities had not arrested anybody, and no examining judge had questioned any of the four policemen whom eyewitnesses identified as the last persons seen with the brothers. The police officers and the civilian attache from the Carrefour Commissariat suspected in the killing of the three brothers had not been brought to justice and were still working in that commissariat at year's end.

There was no progress in several other killings that occurred during 2002, including those of the three youths from Cite Soleil, a farmer in the town of Hinche, and four persons killed in an attack on the Las Cahobas jail.

In September 2002, an investigating judge indicted 10 persons in connection with the 2001 killing of journalist Brignol Lindor; however, he did not indict Petit Goave deputy mayor Duby Bony, who allegedly incited the killing when he said Lindor should be met with "zero tolerance" (a code word for officially sanctioned killings). Out of 27 warrants issued, the authorities arrested only 3 individuals in connection with Lindor's death. Judge Fritzner Duclair determined that the mayor's call did not incite the killing and failed to include the mayor or other local government officials who publicly called for retribution against Lindor (see Section 2.a.). By the end of January, only one person, Masee Zephir, remained in prison awaiting trial.

On March 24, almost 3 years after the killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, Judge Bernard Sainvil issued the final report on his investigation of the journalist's death. The report, criticized by the human rights community for its failure to identify the true authors of the crime, widely suspected to be high-ranking government officials, implicated six men: Dymsey Milien, alias "Tilou," for the actual murder, and five others who have already been in jail for more than 2 years as accomplices. Although Senator Dany Toussaint implicated former deputy mayor of Port-au-Prince Harold Severe during Toussaint's interrogation in January, in the final report, Severe was neither cleared nor implicated in Dominique's death. In August, Judge Jean Bien-Aime released three of the men incarcerated for the crime: Freud Junior Desmarates, Ralph Joseph, and Ralph Leger.

On January 27, the HNP took into custody Herbert Valmond and Carl Dorelien, both former FAd'H colonels returned to the country as criminal deportees. They were turned over to a special police unit who took them to the national penitentiary, where they remained at year's end. On January 29, Justice Minister Calixte Delatour announced that the two would be serving life sentences. In 2000, a criminal court in Gonaives had convicted Valmond and Dorelien in absentia, along with

35 former military leaders, for premeditated homicide in connection with the 1994 Raboteau massacre.

Vigilante killings are a long established practice in the country, and their incidence increased following President Aristide's zero tolerance exhortation to police and citizens to bypass the judicial system if they caught criminals in the act. During the year, human rights organizations, journalists, and opposition groups criticized the Government's support for this practice.

*b. Disappearance.*—There were credible reports of politically motivated disappearances; however, there were fewer such reports than in the previous year.

Attaches from Delmas 33 police station arrested Junior Jean and Manke Anelus in front of their neighbors in June. The pair has since disappeared.

On July 15, persons believed to be attaches from the Cap-Haitien Commissariat kidnapped Pierre Franklin Julien, father of Citizen's Initiative founder Denis Julien, and held him for ransom.

Ordonel Paul, a presidential palace employee and widely believed to be the man who betrayed Cannibal Army leader Amiot Metayer, was last seen with Metayer on September 21 (see Section 3).

There were no further developments in the cases of disappearances reported in 2002.

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continued to violate these provisions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and were rarely punished for such acts. Torture and other forms of abuse were reported.

Police mistreatment of suspects at the time of arrest and during detention remained common in all parts of the country. Beating with fists, sticks, belts, and "kalot marassa"—a severe boxing of the ears—were the most common form of abuse. Persons who reported such abuse often had visible injuries consistent with the alleged mistreatment. Mistreatment also took the form of withholding medical treatment from injured jail inmates.

A police officer from the Commissariat in Hinche shot Joseline Desroses in the mouth after she refused his sexual advances.

On July 14, the Brigade for Research and Intervention (BRI) arrested opposition militant Judie C. Roy and brought her to the National Police Academy, where she and three colleagues were tortured for 4 days before being transferred to the Delmas 33 police station. While at Delmas 33, they claimed to have been tortured using the kalot marassa method and brutally beaten by civilian attaches before being transferred to Fort National prison. Roy was refused medical treatment and legal counsel upon her initial arrival at Fort National, but eventually was allowed to see a doctor and obtain a lawyer after protest from the National Coalition for Haitian Rights (NCHR). Roy was eventually transferred to the Petionville police station where she remained at year's end.

On October 14, homeless 16-year-old Jonathan Louima was brutally beaten and tortured in the Port-au-Prince Police Commissariat. After being arrested, Louima was brought to the police station where police beat him and summoned dogs to bite him all over his body. He survived the attack, and HNP Chief Inspector Sainturne promised an investigation. At year's end, no police officers had been held responsible for the attack.

The police were accused of using excessive force against demonstrators and failing to protect demonstrators from violence by pro-Lavalas chimeres (see Section 2.b.).

Prison conditions remained poor. The Penitentiary Administration Management (DAP) made some progress in improving prison administration and warden training. Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. Some prisoners who were incarcerated for petty crimes were given amnesty and released by the Ministry of Justice during the year. The Government estimated the total prison population to be 3,519, including 116 female and minor (male and female) prisoners. This figure changed somewhat on December 31, when President Aristide issued a decree giving full amnesty to common law criminals still awaiting trial, and commuted the sentences of 66 other prisoners.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

Prison officials confirmed reports by international human rights observers of instances of inmate abuse by prison personnel; however, no statistics were available. Prisoners and detainees, ignorant of legal rights or doubtful officials would respond positively, rarely filed official complaints.

The Government commission to investigate the 2001 riot at the National Penitentiary, the country's largest prison facility located in Port-au-Prince, had not yet published a report of its findings.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention (*garde à vu*) to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the DAP, focusing on midlevel warden training and management information. The NCHR actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

Fort National prison in Port-au-Prince was the only prison facility exclusively for women and juveniles. In other prison facilities, women were held in cells separate from men. However, in 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners shared living quarters with male prisoners. This subjected women to violence and sexual abuse. Due to overcrowding, juveniles often were held with adults.

On February 14, 18-year-old Natacha Jean Jacques was released from Fort National, following strong protests from civil society organizations. Jacques became pregnant during her incarceration at Fort National while serving time after being arrested in 2000 for killing the man who was raping her. A warrant was issued for the arrest of her rapist in jail, a medical assistant working at the prison, Ilus Denasty. At year's end, he remained at large.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces continued to employ both practices. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority; mayors and members of local CASECs sometimes arrested persons in under-policed rural areas. Judges often issued arrest warrants with little or no evidence.

The HNP is officially an autonomous civilian institution; however, despite a cadre of competent and committed officers trained by U.S., French, and Canadian authorities, HNP officials at all levels were implicated in corruption and narcotics trafficking (see Section 3). While some new cadets entered through a competitive selection process, the Government appointed more than half of the new recruits based on political and personal favoritism. In the spring, the police academy graduated more than 800 police officers, including a record number of female officers. The HNP failed to pursue criminals, promoting a growing condition of judicial impunity. The Special Brigades are small detachments of regular policemen attached to certain commissariats throughout the country. These units, which have no special tactical training, are equipped with assault rifles and dressed in black T-shirts that read "BS." Their job is to provide defense for the commissariats or fill in for SWAT in certain situations until SWAT teams can arrive.

Killings and other abuses (see Section 1.a.) involving civilian attaches in police commissariats increased during the year. Attaches have their roots in the launch of the zero tolerance operation in June 2001. They are not members of the police force, nor have they received any official training at the police academy; rather they act as special units of armed civilian thugs and operate in police stations of large urban areas. They also often provide special security for key political figures. Attaches function under the direct control of the chief commissioner of a police station and are given special identification cards. The most notable commissariats for atta-

che activity were Delmas 33, Carrefour, Cite Soleil, Port-au-Prince, Petionville, Gonaives, Cap-Haitien, and Hinche.

Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for years in pretrial detention. Although the 48-hour rule was violated in all parts of the country, it was most often and most flagrantly ignored in Jeremie, Cap-Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Police or other government officials often apprehended persons without warrants, or on warrants not issued by a duly authorized official. Moreover, arrests sometimes were made on charges such as sorcery or debt with no basis in law. The authorities frequently detained individuals on unspecified charges or pending investigation. The Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas. Detainees were generally allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail is available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Prosper Avril, former general and head of the military government from 1988 to 1990, remained incarcerated despite the Gonaives Court of Appeals' ruling in October 2002 that his rearrest was illegal, and which ordered his release. However, the district attorney's office in Port-au-Prince did not comply with the ruling. Avril remained incarcerated at year's end.

On March 9, women's rights activist Carline Simon and her husband Serge were brutally arrested, beaten, and held for a week without formal charges brought against them. The couple was arrested after the police rescued them from a failed kidnapping attempt. On March 10, they were transferred from Cite Soleil to the Delmas police station as State Prosecutor Josue Pierre Louis issued a temporary release order for the couple. The Delmas Police Commissioner refused to free them and a HNP spokesperson claimed they were in possession of illegal firearms; those weapons were never found. Due to immense pressure from the human rights community, Simon and her husband were released on March 13.

After spending almost 6 months in the National Penitentiary, Rosemond Jean, head of the movement to reclaim lost money from government-supported cooperatives, was released on March 31. Arbitrarily arrested without warrant in September 2002, attaches beat Jean and accused her of possessing illegal firearms and munitions. Police entered his house without a warrant, claiming that he had weapons and he was plotting against the state. No weapons were ever found in his possession. After pressure from the international community, the authorities cleared Jean of all charges and released him in March.

On February 18, former Army officers Ibert Blanc, Rosalvo Bastia, and Pastor Ceriphin Franck were arrested in the central department of Hinche without charges. On July 29, the three were transported by helicopter to Port-au-Prince. Accused of conspiring against the security of the State, they remained at the National Penitentiary awaiting trial at year's end.

Prolonged pretrial detention was a serious problem. Judicial delays left an estimated 78 percent of the country's prison population awaiting trial. The problem was most extreme in Port-au-Prince, with 88 percent of National Penitentiary inmates in pretrial detention status. Eighty-six percent of females and 95 percent of minor detainees were in pretrial detention. The prolonged detention of persons with valid release orders continued to be a problem (see Section 1.e.).

Since her July 14 arrest, Judie Roy remained incarcerated in a prison in the Port-au-Prince suburb of Petionville, accused of conspiring against the security of the State (see Sections 1.c. and 1.f.).

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. Self-imposed internal and external exile were common among opponents of the regime.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference by the executive branch.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest

court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are present or they waive this right; this right was also abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (see Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources to perform their duties. Professional competence was sometimes lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

The Constitution sets varying tenure periods for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercised appointment and administrative oversight over the judiciary, prosecutors, and court staff. This Ministry can remove justices of the peace and in practice has occasionally dismissed judges above this level.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted only rarely, and autopsy reports seldom issued. The code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. Criminal assizes in Port-au-Prince have met only once a year since 1998.

Citizens deported to Haiti after completing prison sentences in foreign countries are detained until a family member agrees to take custody of them and their prison release order is processed, although there is no provision for such detention in the law. This generally takes 1 to 2 months, but has lasted as long as 4 months in unusual instances.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; however, police and other security force elements routinely conducted searches without warrants (see Section 1.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; however, the Government did not respect these rights in practice. Several times during the year, the Government publicly expressed support for free expression; however, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some form of self-censorship to avoid offending sponsors or the politically influential.

There were two French-language newspapers in the country, *Le Nouvelliste* and *L'Union*, with a combined circulation of less than 20,000 readers. *L'Union* is a government-run newspaper; its editor was the Secretary of State for Communication. *Le Nouvelliste* and some irregularly printed papers were frequently critical of government policies. There was virtually no Creole-language press.

With a literacy rate of approximately 52 percent and limited access to television, the most important medium is radio, especially those stations broadcasting in Cre-

ole. There were 275 private radio stations, with 43 in the capital alone. Most carried a mix of music, news, and talk show programs that many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite and cable broadcasts were available but limited in impact: most citizens could not afford televisions. The few stations carrying news or opinion broadcasts freely expressed a wide range of political viewpoints.

Although most radio stations and other forms of telecommunications were nominally independent, they are subject to a 1997 law designating the State sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

There were several attacks on, or threats against, journalists during the year, and the legal system provided limited protection or redress. Journalists were accused of destabilizing the Government and often subjected to anonymous threats of violence, including threats of kidnapping and murder. Police and government officials often failed to protect journalists during civil unrest. The NGO Reporters Without Borders and local journalists' associations continued to protest attacks in prior years and called on the Government to provide security. The Government failed to do so, despite frequent expressions of support for free expression. Pro-government OPs (loosely organized neighborhood-based groups that often functioned as politically-affiliated gangs) sometimes threatened journalists covering protests, civil unrest, and other large group events. In such cases, the Government's inability or unwillingness to provide adequate security to media outlets and journalists contributed to an increased sense of vulnerability among members of the media who criticized the Government or Fanmi Lavalas.

According to a report released on August 15 by the Committee to Protect Journalists, in less than 3 years, 2 journalists, Brignol Lindor and Jean Dominique, had been killed and nearly 30 others had fled into exile. At year's end, only one person remained in prison awaiting trial for the December 2001 killing of Petit-Goave journalist, Brignol Lindor (see Section 1.a.).

On February 4, assailants shot Reverend Manes Blanc, the director of Radio Shekina in St. Marc, twice in the stomach. His assailants said he was too vocal in his anti-Lavalas comments, and that they intended to kill him. The gunshots were not fatal, and no one was charged with the crime.

On February 14, veteran reporter Goudou Jean Numa was warned about returning to his home as unknown persons had visited earlier in the day inquiring about him. Arsonists returned later and set fire to the reporter's vehicle. Goudou left the country.

On February 18, pro-Lavalas forces burned the home of Voice of America stringer Montigene Sincere and arrested, then released, his two sons, who were also journalists. Sincere was attacked in the past by persons believed to be acting on behalf of FL.

That same day, Radio Metropole, a pro-opposition radio station in Port-au-Prince, observed a 24-hour pause in news reporting to protest attacks on several of its staffers in weeks prior. Two days before, shots were allegedly fired at the home of the mother of Radio Metropole political columnist Nancy Roc.

On October 28, several armed and masked individuals in a truck with government service license plates opened fire on Radio Caraibes in Port-au-Prince. The attack occurred the day before a court hearing on the case of a Radio Caraibes journalist who was killed in a traffic accident involving a vehicle and employees from the Interior Ministry. No one was injured in the attack. While he did not denounce the attack, government spokesperson Mario Dupuy promised an investigation of the event. The case remained unsolved at year's end.

Radio Maxima in Cap-Haitien, a prominent anti-Aristide station was attacked a number of times since December 2002, leaving all three of its transmitters destroyed. Staff also reported verbal threats against their lives before and after the anti-Lavalas demonstrations planned for October 24-25 in Cap-Haitien.

In September 2002, Radio Kiskeya temporarily went off the air after receiving threats that an OP was going to attack the station. On April 30, Liliane Pierre Paul, the Program Director for the station, received a threatening letter with a bullet inside. The letter instructed her to broadcast a message on the radio by May 6 calling for French President Chirac to pay financial reparations to Haiti, threatening to kill French citizens in the country and Pierre Paul if she did not oblige. The letter was signed by members of various OP Lavalas groups, including the group believed to be responsible for the murder of Brignol Lindor. Nothing happened on May 6.

On March 20, the investigative report by Judge Sainvil on the 3-year-old murder of radio journalist Jean Dominique was released. The report indicted six men who have been in prison for 2 years on unrelated charges (see Section 1.a.). In December



2002, armed men attempting to enter the home of Michele Montas, Dominique's widow, shot and killed Maxime Seide, her bodyguard. Montas left the country. On April 3, the third anniversary of Dominique's death, major radio and print media staged a blackout refraining from all news reporting, broadcasts, and analyses to demonstrate what a country would become without a free press.

Foreign journalists generally traveled without hindrance from the authorities. The Government did not censor books or films.

The Government did not limit 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; however, the Government's increasing repression of planned events and periodic prohibition of demonstrations flagrantly ignored that freedom. Although some organizations were able to exercise this right without hindrance throughout the year, numerous violations of this freedom frequently occurred in the capital as well as in the provinces. Authorities frequently failed to provide police protection for opposition parties, student groups, and women's groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators and brutally beating them with clubs.

The HNP and governmental authorities continued to suppress citizens' fundamental rights to demonstrate, protest, and express their opinions. There were a series of general strikes in January promoting a variety of causes that often ended in confrontation or death (see Section 1.a.). Transportation unions and the opposition called for strikes and demonstrations throughout the month of January to protest the price increase for fuel and continued to urge President Aristide to resign.

Activists and women's organizations took to the streets of Port-au-Prince on March 10 to commemorate International Women's Day and to call for justice in cases where women's rights had been violated. The HNP attempted to break-up the demonstration, claiming that the women were not authorized to hold a march. Police confiscated the keys to the vehicle carrying the sound system and cut the connection from the system to the generator, yet the women were able to continue marching without further incident.

For several years, the Central Plateau and the city of Hinche have been plagued with political violence. In March, the pro-opposition Papaye Peasants Movement cancelled its march, marking its 30th anniversary in Hinche, due to warnings of security problems, and read its resolutions on the radio instead. Armed Lavalas OP's, unaware of the cancellation, blocked the road between Hinche and Papaye and assaulted anyone who attempted to travel that road. They injured more than 10 persons in the attacks.

On July 12, the civil society Group 184 (G184) led a "Caravan of Hope" on a march into the pro-government stronghold of Cite Soleil. The group planned to unveil a new social contract, but the event turned violent when the meeting place was overrun by a mob of pro-Lavalas chimeres. Police put forth little effort in stopping the chimeres and appeared to have incited hostilities. Personnel from foreign embassies and the OAS were on hand to observe the rally and were unharmed.

On August 30, in the north, Cap-Haitien police, apparently responding to government instructions, violently repressed the opening event of a planned opposition/civil society "Weekend of Solidarity," using tear gas and automatic weapons to disperse the peaceful open-air meeting. Pro-government popular organizations used barricades of burning tires to block access. The march scheduled for August 31 was then cancelled.

On September 14, another opposition march in Cap-Haitien was broken up a half a kilometer from its starting point by another group of chimeres throwing rocks and bottles at 2-5,000 demonstrators. Police launched tear gas at both the Lavalas aggressors and then at the opposition crowd. The confrontation occurred after police allowed 1,000 pro-FL counter-demonstrators to breach their assigned route and confront the oncoming opposition demonstration.

On October 25, in Cap-Haitien, pro-Lavalas chimeres constructed barriers and blocked road and air entry into the city in anticipation of an opposition march planned for October 26. Despite police efforts at dismantling the barricades, rock-throwing chimeres went on a rampage through the city effectively causing the opposition to cancel the demonstration.

On October 29, two nonpolitical demonstrations staged by women's groups, one to protest the climate of violence in the country and one to plant trees, were broken up by Lavalas chimeres. In both cases, police failed to prevent the disruption of the demonstrations, and little afterward to constrain the chimeres.

The G184 planned November 14 rally, to discuss its social contract and to present its political proposal, in downtown Port-au-Prince foundered in the face of a governmental campaign of obstruction and repression. Long before the rally was to begin, police impeded access to the area by constructing roadblocks and searching private vehicles. The rally failed to commence as OP members attacked the G184's stage equipment while police arrested 25 G184 members, including the brother-in-law and nephew of G184 leader Andy Apaid. As G184 members tried to move to the staging point, they were confronted by rock-throwing pro-Lavalas OP members. Crowd-control police intervened using tear gas and firing warning shots into the air. In an effort to avert further violence, Apaid called an end to the gathering in the early afternoon as OP members chased G184 partisans from the scene. Most of the G184 members were released on November 18, but the Apaid family members remained in prison until December 1 on false weapons charges.

On December 5, pro-Lavalas chimeres violently disrupted an anti-Aristide demonstration planned by State University students. An estimated 30 students were injured, at least 10 by gunfire. The University Rector suffered 2 broken kneecaps as a result of clubbing by the chimeres. Police on the scene were complicit with the chimeres throughout and did nothing to curb the violence, reacting only when the Rector was clubbed, and only then assisting in the evacuation of the students. Human rights groups and government officials widely criticized the attack, which led to the resignation of the Minister of Education, Marie-Carmel Paul Austin.

On December 8, several thousand students demonstrated in Gonaives, demanding justice for Port-au-Prince university students attacked by pro-Lavalas chimeres on December 5 (termed "Black Friday"). Police used tear gas to disband the demonstrators and indiscriminately fired into the crowd injuring several civilians and two police officers. One journalist on the scene reported that police shot and injured several journalists attempting to verify how many protesters died during the event.

On December 12, State University student protesters in Port-au-Prince joined forces with Apaid's 184 and members of the city's business, legal, academic, and artisan community to launch a massive anti-government demonstration. Early morning police barricades and burning tires erected by chimeres, some carrying arms, attempted to thwart the crowds that had gathered in various sections of the city. Police fired into the air and used tear gas in an attempt to disperse the demonstrators, who regrouped later in another location; this pattern continued throughout the day. There were no reported fatalities.

Following a student demonstration on December 15, HNP officers injected 21-year-old Josue Alcenat with an unknown substance while holding him at the police station in Canape Vert section of Port-au-Prince. Alcenat spent 5 days in a local hospital undergoing tests to determine the nature of the substance. Alcenat was sent to a medical facility abroad to undergo further testing after the hospital was unable to arrive at any concrete conclusion.

On December 17, small groups of students attempted to mobilize in Port-au-Prince, but low numbers and aggressive police intervention combined to prevent a major demonstration. Lavalas chimeres reportedly opened fire on several journalists and protesters in different parts of the city as police used large amounts of tear gas to disperse students assembled at various points. Simultaneously, police employed similar tactics to halt anti-government demonstrations in cities outside the capital, such as Jacmel, St. Marc, and Cap-Haitien. During one protest in Trou de Nord, police fired into a crowd attempting to break-up a protest and killed a young girl. Protesters responded by attacking several government office buildings and burning the house of the police officer who shot the girl.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

*c. Freedom of Religion.*—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

In many respects, Roman Catholicism retained its traditional primacy among the country's religions. Precise figures were difficult to obtain, but it was estimated that 80 percent of the population were Catholic. However, Protestant denominations (primarily Methodist and Baptist) were growing in terms of number of active members, in comparison to the Catholic Church membership. A large segment of the population practiced Christianity as well as Voodoo, a traditional religion derived in part from West African beliefs. While there were associations of Voodoo practitioners and priests, there was no organized hierarchy. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing and tax-exempt status, and extends civil recognition to church documents. In 2001, the Ministry of Religion

officially recognized the first Voodoo church, the Eglise Vodou d'Ayiti, and in April, the Government officially recognized Voodoo as a religion.

Accusations of sorcery, particularly in rural areas, led to mob violence and killings, and Voodoo practitioners were targeted in some cases.

For a more detailed discussion, see the 2003 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.

An unknown number of undocumented migrants left the country by sea or land to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year, the ONM assisted 17,323 repatriated citizens. There were reliable reports of family separation and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of government mistreatment of repatriated migrants.

The law includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status on asylum.

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

The Constitution provides citizens with the right to change their government peacefully. In practice, the political system remained in transition from a dictatorial system to a more open and competitive one, and the political crisis stemming from flawed 2000 elections continued to hinder the implementation of this right. The dominant Fanmi Lavalas (FL) political party, which controls all branches of government, manipulated legislative elections in May 2000 and exaggerated electoral participation in the November 2000 presidential elections. OAS efforts since then to resolve the crisis have been unsuccessful.

In September 2002, the OAS unanimously approved Resolution 822, delinking international economic assistance from the signing of an FL/Convergence Democratique (CD) accord between FL and opposition parties. It called on the Government to implement previous OAS resolutions, expressed the expectation that the Government would hold legislative and local elections in 2003, and called on the Government to create a favorable security climate, implement a disarmament plan, strengthen independent police and judicial institutions to combat impunity, and participate in the formation of a credible Provisional Electoral Council by November 4, 2002, and an Electoral Guarantees Commission by December 4, 2002. The resolution broadened the mandate of the OAS Special Mission to assist the Government in undertaking its obligations and to monitor and evaluate those efforts. By November 20, 2002, seven of the entities comprising the CEP had nominated a representative, although not officially sworn them in. CD, the main opposition block, had not put forth a representative.

OAS policy remained focused on implementation of Resolution 822, the main thrust of which was the formation of a legitimate CEP, which was to be charged with planning local, municipal, and legislative elections during the year. However, elections did not take place, largely due to the inability to form the consensus CEP.

The Government had invited a three-member OAS special inquiry commission to investigate the 2001 attacks on members of opposition parties, which were triggered by an apparent attack on the presidential palace. Under international pressure, the Government agreed to pay reparations to the victims and publish a report of actions taken against persons implicated in the events. An agreement was reached between the two largest opposition political parties, the Struggling People's Organization (OPL) and the New Christian Movement for a New Haiti (MOCHRENA), and the Government paid reparations during the year.

Resolution 822 also called for a thorough inquiry into all politically motivated crimes and cited the need to strengthen independent police and judicial institutions to combat impunity. In particular, the OAS requested the arrest of Amiot "Cubain" Metayer, also the leader of the Cannibal Army in Gonaives, for his part in the violence of December 2001. After failing for 7 months to rearrest Metayer, and following the exile of the judge assigned to the case due to threats and pressure, the State Prosecutor's office in Gonaives exonerated Metayer and declared his initial arrest illegal on May 14. On September 23, Metayer's body was found in St. Marc. Although the Government promised a full investigation, many opposition groups,

and even Metayer's own Cannibal Army, accused authorities of ordering the murder to ensure Metayer's silence about official involvement in the violence.

On the occasion of the high-level OAS/CARICOM meeting on March 19–20, the OAS emphasized replacing the leadership of the HNP for the Government to further demonstrate its willingness to combat impunity. On March 25, Jean Claude Jean-Baptiste replaced Jean Nesly Lucien as Director General (DG) and Evans Pierre Sainturne replaced Victor Harvel Jean-Baptiste as HNP Chief General Inspector. These appointments immediately sparked controversy among human rights organizations and the international community because of numerous and credible reports of criminal activity by both officials. There was photographic evidence of Jean-Baptiste participating in the brutal beating and burning murder of Pastor Sylvio Claude, leader of the Parti Democrate Chretien Haitien, one of the political parties that ran against FL in the 1990 elections. Additionally, Jean-Baptiste was named as DG without consultation with the OAS, as required by Resolution 822.

Under significant international pressure, the authorities replaced Jean-Baptiste with Jean-Robert Faveur, who was sworn in on June 6, as DG of the HNP. On June 21, Faveur resigned his position, citing government intimidation and interference in his decision-making, and his unwillingness to execute illegal orders. Faveur fled the country fearing retribution for public statements he made on the radio about his experience as DG. In July, former civil court senior judge (Doyenne) Jocelyne Pierre replaced Faveur as DG. Sainturne was implicated in the 2001 murder attempt on the investigating judge of the Jean Dominique murder investigation, but remained the Chief General Inspector at year's end.

Affiliation with the FL was increasingly required for government employment, and political patronage was widespread. It was common for political appointees to use their positions for personal enrichment. Many of the 2,500 to 3,500 officers on the official HNP payroll were ghost officers who did not actually work (see Section 1.d.).

The Government continued to accuse opposition supporters of plotting against the State. Members of opposition parties and their supporters faced the constant threat of arrest (see Section 1.d.). Most remained in jail for months despite the widespread perception that the charges were without foundation.

On December 14, two prominent critics of the Government, Senator Pierre Prince Sonson and Catholic Bishop Pierre Andre Dumas, were shot at in what appeared to have been murder attempts or intimidation. Another vocal critic of the Government, Evans Lescouflair, also reported a December 11 attempt on his life. An opposition politician accompanying Prince Sonson at the time of the attack identified Lavalas Deputy James Desrosins as driver of the vehicle used in the attempt on Sonson's life. The attack on Sonson came days after a Lavalas Deputy issued an incendiary call to arms to Lavalas supporters.

There are no legal impediments to women's participation in politics or government. The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. At year's end, 3 of the 81 deputies were women, and there were 6 women among the 19 senators. Five of the 16 ministers in the Government were women.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally acknowledged their views but often failed to implement recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the ICRC, the U.N. Independent Expert on Human Rights, the UNDP, the IACHR, and the OAS Special Mission's human rights office. However, threats and intimidation from unknown sources against domestic NGOs continued during the year.

In a report released before the April 17 session of the U.N. Human Rights Commission, independent observer Louis Joinet cited the steady decline in the human rights situation since his September 2002 visit and recommended establishment of an office of the U.N. High Commissioner for Human Rights in the country. Joinet noted that security had deteriorated and violence against human rights defenders increased; arrests, illegal detentions of political activists, police brutality, and cases of intimidation had been widely publicized; and the judicial system continued to be deficient as judges had been subjected to attacks, causing some to go into exile. Joinet's report also recommended a national commission on reparations for the victims of the 1991 coup d'etat and legislative reform of three bills concerning the judiciary as a means of combating impunity. At year's end, the proposed office had not

been established, but the U.N. High Commission on Refugees (UNHCR) opened an office in the neighboring Dominican Republic, which began to handle cases of Haitian political asylum seekers.

Human rights organizations increasingly turned to issues that they had not previously addressed, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempted to control and sought money from domestic human rights groups, as well as other local NGOs. Especially in Gonaives, the Les Cayes region, and in the Central Plateau, local officials and their supporters often harassed, refused permits to assemble, and threatened NGOs.

No investigations were opened in the 2002 cases of Patrick Merisier, a human rights field monitor who was shot, or human rights attorney Fleury Lysias who was illegally arrested and beaten.

At the national and international levels, human rights organizations have been active and effective in monitoring human rights issues, and met frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights, the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. All reported receiving threats as a result of their work.

In February, Marie-Yolene Gilles, coordinator of NCHR's Human Rights Monitoring Program, was targeted by a campaign of intimidation. While working on the December 2002 triple murder case of the three brothers killed by police in Carrefour (see Section 1.a.), Gilles received phone calls with threats to kill her and her family and burn down her home. She was threatened again in August for her work investigating attaches in police stations.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. The Government did not directly impede OPC investigations but did not always respond to its requests for information. In the past, local human rights organizations did not view the office as an advocate or interlocutor with the Government and often did not file complaints with the OPC, reporting that OPC did not play an active role following up on human rights complaints. This perception changed, however, with the appointment of Necker Dessables, a respected human rights advocate, as the OPC ombudsman in 2002. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and the Lawyers Committee for the Respect of Individual Rights improved and continued to be positive. The OPC had budgetary problems and employed only four investigators and was therefore unable to be very active in investigations of human rights abuses.

The Parliament's Justice and Human Rights Committee did not have a high profile and focused largely on judicial issues.

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

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions. Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs and HIV/AIDS activists were fighting to change that stigma.

*Women.*—The law provides penalties for rape and domestic violence; however, the Government did not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women was common, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in the "quartiers populaires" (slums) like Cite Soleil and Martissant. Police authorities rarely arrested the perpetrators or investigate the incident, and the victims sometimes suffered further harassment in retaliation. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who murders his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector (see Section 6.b.).

Women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female

heads of household in urban areas also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but were rarely enforced. Female employees in private industry or service jobs, including government jobs, were seldom promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

*Children.*—Government health care and education programs for children were inadequate. Malnutrition was a problem; approximately 23 percent of all children under 5 were chronically malnourished. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice most rural families had no access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school; of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income-generating children.

In early January, a 10-year-old girl was lured into an alley, raped, and became pregnant by a 16-year-old male. On April 16, the victim's family filed a complaint against the male with the Justice of the Peace of Carrefour. On January 17, police arrested him and released him the following day, but then rearrested him on April 28 after the family filed a complaint with the State Prosecutor's office. After discussion between the assistant prosecutor and the defendant's lawyer, the defendant was released, provided he would return for the hearing in May; he never appeared and neither did the Assistant Prosecutor. The lead State Prosecutor highlighted the apparent collusion between the defendant's lawyer and the assistant prosecutor. Following significant press coverage and interventions by human rights and women's organizations, the defendant was arrested for a third time on May 16. He spent only a few days in prison at Fort National and was subsequently released due to his age. The prosecutor's investigation of the case continued at year's end.

The law prohibits corporal punishment of children, and all schools must post clearly their disciplinary policies. It also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

Port-au-Prince's large population of street children included many domestic servants, or "restaveks" ("to stay with" in Creole) who were dismissed from or fled employers' homes (see Section 6.f.). The Ministry of Social Affairs provided some assistance to street children.

Several international and local NGOs worked on children's issues. UNICEF and Save the Children Canada and UK, in conjunction with local NGOs such as the Haitian Coalition for the Defense of the Rights of the Child (COHADDE), promote children's rights by conducting studies of children's issues, most notably a study on child domestic labor (see Section 6.f.), and awareness raising activities in the country.

*Persons with Disabilities.*—The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Given the severe poverty in which most citizens live, those with disabilities faced a particularly harsh existence even though they did not face overt mistreatment. Disabled beggars were common on the streets of Port-au-Prince and other towns.

*National/Racial/Ethnic Minorities.*—Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence

from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. However, longstanding social and political animosities were often tied to cultural identification, skin color, and overlapping issues of class in a starkly nonegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attacks and kidnappings because they were perceived as wealthy.

The Government recognizes two official languages: Creole, spoken by virtually all Haitians; and French, limited to approximately 20 percent of the population including the economic elite. Lack of French-language skills limited access to political and economic opportunities for the majority of the population. Although Creole was used in parliamentary debate in the Lower House of Parliament, the Government prepared most official documents only in French. Language also remained a significant barrier to full access to the judicial system (see Section 1.e.). Despite the Government's literacy promotion, many Creole speakers were illiterate.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for the right of association, which was generally respected in practice; however, the Labor Code dates from earlier governments and is far more restrictive. For instance, there is no legislation protecting the right of public employees to organize.

The law protects union activities and prohibits a closed shop. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (see Section 2.b.). The law prohibits employers, management, and anyone who represents the interests of employers from joining a union.

In theory unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the total labor force of approximately 2.8 million persons, including the approximately 2 to 3 percent working in the industrial sector. Union membership decreased significantly, but unions remained active in the public sector. Some union representatives asserted that union activists not affiliated with the Government felt themselves forced into self-exile.

Several unions have grievances pending against the Government over unfair labor practices and other worker rights violations before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions.

Labor unions reported several cases of threats and arrests during the year. Leaders of several major labor confederations reported receiving threats and demands to support the FL party. On July 29, armed men visited the home of Petit-Frere Jean-Louis, Secretary General of the General Independent Organization of Haitian Workers. Jean-Louis had spoken out against the corruption among Lavalas officials in Port de Paix and in the Northwest Department. He was not home at that time but upon hearing of the incident, he left Port de Paix and went into hiding in Gonaives.

On July 30, the office of Fignole St. Cyr, Secretary General of the Autonomous Central of Haitian Workers, was the target of similar harassment. While he was out, armed thugs entered St. Cyr's office and demanded his staff divulge his arrival time. The truck circled the office for the remainder of the morning but eventually left when St. Cyr failed to appear. St. Cyr had taken part in the G184 demonstration in Cite Soleil (see Section 2.b.) and had criticized the Government on unemployment, the political crisis, and interference with the press.

Union leaders asserted that some employers in the private industrial sector dismissed individuals for participation in union organizing activities. In 2000, the ILO criticized the Labor Code for its failure to include a specific provision providing protection against anti-union discrimination at the time of hiring.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some affiliation with various international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right but does not provide for reinstatement of workers fired for trade union activities. No fines were issued during the year, or in previous years. Unions generally were free of government and employer interference to pursue their goals, although the Government made little effort to enforce the law.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, and in the civil service. High unemployment rates and anti-union sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes; however, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operate in Port-au-Prince, and in the provinces plaintiffs utilize municipal courts.

The Labor Code provides for the right to strike, except for managers, administrators, other heads of establishments, and public utility service workers. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year. In May 2002, hospital residents went on strike to protest lack of supplies and the diversion of existing supplies to administrators. When the Government intervened and provided additional materials, residents resumed work.

There are no export processing zones (EPZs) outside of the metropolitan area. Legislation governing free trade zones provide that the Labor Code applies in the EPZs, and the Government signed an agreement with Grupo M, a Dominican textile company, to build a production facility in a newly established free trade zone on the border near Ouanaminthe. On October 9, the International Finance Corporation (IFC) approved a loan to the company; its provisions stipulated a social compensation plan for farmers and landowners displaced by the project. The IFC called for independent investigations into allegations of Grupo M abuse of workers and union organizers. Nevertheless, Batay Ouvriye, an organization of peasant workers, strongly opposed the project, and progress has stalled pending legislative authorization of the land concession, which had not been granted at year's end.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced or bonded labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households, sometimes under harsh conditions (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as domestic servants (restaveks); however, some worked on the street as vendors or beggars, and some were involved in prostitution.

The Government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor. It has not defined "worst forms of child labor" or "hazardous work."

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government has begun to place a high priority on the eradication of child domestic labor (see Section 6.f.). Despite the Government's efforts, the budget for the Ministry remained below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce



child labor policies. The Government signed a Memorandum of Understanding with ILO's International Program for the Elimination of Child Labor (IPEC) in 1999. IPEC began a Child Labor Project in 2000, which was scheduled to end in December 2002 but continued through the spring and developed a framework focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor. A much-lauded government-sponsored hotline for children in crisis operated only during regular business hours and had limited resources and access to safe shelters. In August 2002, NCHR-New York inaugurated a program to prevent the *restavek* practice, improve living conditions for and rescue these children, and reintegrate them into society (see Section 6.f.).

*e. Acceptable Conditions of Work.*—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage was insufficient to provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and may earn more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. In this sector, working conditions were also generally better and there were no reports of child labor.

There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The Government passed a law in June prohibiting trafficking in women and children; however, trafficking in women and children was a problem. Internal trafficking of children for domestic labor remained a problem in the country. On October 8, a new, more comprehensive law was introduced before Parliament that would render trafficking in all persons illegal. The Chamber of Deputies approved it and it was waiting Senate passage at year's end.

Haitians trafficked overseas were sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. The results of the most recent study of trafficking across the border conducted by UNICEF in August 2002 reported that between 2,000 and 3,000 Haitian children were trafficked to the Dominican Republic each year. The findings were the result of a joint UNICEF/International Organization for Migration study. However, most trafficking occurs within the country's borders and involves children. In June, the Government created a Brigade for the Protection of Minors (BPM), a special unit under the HNP charged with investigating cases of child trafficking and monitoring movement of children across the Haitian/Dominican border. The BPM was functional; however, resource issues remained a barrier to its operational capacity.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*. In May, the country's first lady, Mildred Aristide, authored a book documenting the *restavek* phenomenon in Haiti, its historical background, and the steps that the Government should take to combat the practice. The practice of sending children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While some *restaveks* received adequate care including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently beat and abused them. The majority of *restaveks* worked in homes where the yearly income was very low, so conditions, food, and education for nonbiological children were not priorities.

In May, the Ministry of Labor and Social Affairs held a conference to unveil the results of a study that the Government co-sponsored with UNICEF, ILO/IPEC, UNDP, and Save the Children Canada and UK to determine the fundamentals of child domestic labor practice. The study, which covered the fiscal years 2001–02, noted that 173,000 children, or 8.2 percent of children between the ages of 5 and 17 years of age, worked as domestic household labor. Of that 8.2 percent, girls comprised the majority of child domestics at 59 percent and boys at 41 percent. Labor laws require anyone who has a child domestic in their employ to obtain a permit from IBESR and to ensure the overall welfare of the child until they reach 15 years of age. Additionally, the law requires that restaveks 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many restaveks before they reached that age.

The Government acknowledged the problem of internal trafficking and took steps to address it, despite severe resource constraints. The Government devoted the bulk of its entire social welfare budget to combating trafficking of children. Since its establishment in 2000, the hotline for child abuse victims received over 720 calls leading to action on 158 cases, either through initiation of criminal action against an abusive adult or removal of the child from an abusive situation. Eighty-three percent of the children involved in these cases were in domestic service, many were under the age of 12, and many reported abuses such as beatings, rape, and malnutrition. In August, IBESR hired four additional monitors to rescue children believed to be working in forced labor situations. Government officials placed rescued victims in shelters and in the care of local NGOs, such as Foyer Maurice Sixto, a children's shelter located in Port-au-Prince.

In August, the Ministry of Foreign Affairs approved the creation of three additional consulates along the Haitian/Dominican border, which were charged with monitoring the movement of Haitian children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice circulated memorandums to magistrates around the country in an awareness-heightening campaign on the new anti-trafficking law and on child labor laws. To address some of the social aspects of the restavek practice, the Government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The Government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

There was no evidence that the authorities were complicit in trafficking of persons.

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## HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. The multiparty political system is dominated by two traditional parties, the Nationalists and the Liberals. In November 2001, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. A 1999 constitutional amendment established direct civilian control over the armed forces through a civilian Minister of Defense. In 2001, the Organic Law of the Armed Forces solidified civilian control over the military, a process that took a decade. The National Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The Ministry of Public Security oversees police operations, and police are responsible for all public security issues. The military are authorized to support law enforcement activities with police upon presidential directive. During the year, nearly half of all military personnel were assigned continuously to joint patrols with police to prevent and combat high levels of criminal and gang activity. The civilian authorities maintained effective control of these joint security forces. Police committed most human rights abuses during the year; however, the military committed abuses in the past. The Public Ministry is an independent entity led by the Attorney General, selected by Congress for a five-year term, and includes prosecutors and the Directorate of the Fight

Against Drug Trafficking (DLCN). The Public Ministry is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 6.7 million. According to the Central Bank, in 2002 approximately 40 percent of the labor force worked in agriculture, followed by 22 percent in commerce, and 14 percent in manufacturing. The principal export crops are coffee and bananas; these, along with value added income from the maquiladora industry and remittances from citizens living abroad, are the leading sources of foreign exchange. Non-traditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. Economic growth remains muted due to record low worldwide coffee prices and sluggish activity in the maquiladora sector. The Central Bank estimated real economic growth for the year at 2.5 percent. About two-thirds of the country's households live in poverty, and 40 percent of the population lives on less than \$1.00 (17.5 lempiras) per day.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the police committed extrajudicial killings. Well-organized private and vigilante security forces were believed to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbitrary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remained harsh, and detainees generally did not receive due process. There was considerable impunity for members of the economic, military, and official elite. A weak, underfunded, and often corrupt judicial system contributed to human rights problems. Although the courts considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were few, if any, convictions. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted some military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. With the new Criminal Procedures Code in effect and an oral accusatory system, lengthy pretrial detention in new cases was less common than in the past; however, cases from previous years remained subject to delays. On occasion the authorities conducted illegal searches. Other human rights problems included violence and discrimination against women, child prostitution, abuse of children, discrimination against indigenous people, and trafficking in persons. The Government did not enforce effectively all labor laws. Many workers in the private sector were forced to work unpaid overtime. Child labor was a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by government agents; however, members of the security forces were suspected of direct involvement in at least 24 of the estimated 1,250 extrajudicial, arbitrary, and summary killings of youth under age 22 and minors from 1998 to June 2002. A February report by the Permanent Commission on the Physical and Moral Integrity of Children, a commission made up of government and civil society leaders to investigate killings of children and youth, estimated there had been 744 children under 18 killed from 1988 to 2002. The Minister of Government later reported that 800 children were killed from 1988 to the end of the year. There has been little or no progress made by the Public Ministry in bringing charges in most of these cases.

According to Public Ministry figures from the government's morgues in Tegucigalpa and San Pedro Sula, there were 2,205 persons killed in 2002, a figure that almost certainly undercounts the actual number of murder victims.

There was some improvement in the government's ability to investigate, but not to prosecute, suspects in the killings of children and youth. According to the non-governmental organization (NGO) Casa Alianza, information on killings collected from press reports show that the average number of killings of children and youth under age 23 through June 2002 increased by 16 percent over the first 6 months of 2001, rising from 197 to 230 killings. The average number of killings of children by firearms increased 46 percent from 52 minors in 2001 to 76 in 2002. During 2002, no perpetrator was identified in 60 to 70 percent of the killings; gangs were suspected in 15–20 percent of killings; police, private guards, or neighborhood vigi-

lante groups were suspected in 5 percent of killings, and 10–15 percent of killings were drive-by shootings usually involving a truck, often without license plates. A majority, but by no means all, of the victims were gang members. According to Casa Alianza, 557 children and youth age 23 and under were killed during the year, compared to 549 in 2002.

In April 2002, unknown persons killed two youths and an adult in a sugar cane field outside San Pedro Sula after they were forced into a gray pickup by six heavily armed men dressed in bullet proof vests and showing police identification. One of the youths was suspected by police of gang activity. In September 2002, a group of armed men in a pickup killed five youths in Tegucigalpa, mimicking a 1995 torture and killing of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (see Section 1.c.).

In a January 2002 report on violent deaths of children and youths, the National Human Rights Commission, an autonomous government agency, reviewed the evidence and interviewed youths in detention who had been threatened or who had survived an attempted killing. Those who survived attacks identified the perpetrators as police or as heavily armed older men in vehicles who would either confuse the victims by using gang signs or ask victims to take off shirts to show whether the victims had gang-related tattoos.

In September 2002, the Ministry of Public Security established a special investigative unit on child murders to follow through on cases. The Ministry of Public Security has assigned 20 detectives to the Special Investigative Unit—10 in Tegucigalpa and 10 in San Pedro Sula—as well as 4 analysts, 2 in each city. There are a total of 32 people, including administrative staff, assigned to the unit. The police have 300 detectives nationwide. As of December 11, the Special Investigative Unit had investigated 148 cases of killing of children and young adults. Forty-eight cases covering 66 victims have been resolved; 100 cases were still under investigation at year's end. Of the 48 cases, 22 were gang-related, 13 involved members of the security forces, and 13 involved civilians. Casa Alianza provided information on 15 cases in September 2002 and another 8 cases in January for a total of 23 cases of killings of minors in which police were suspected of involvement. As a result of the investigations, in October 2002 the authorities arrested former policeman Walter Enrique Moncada Duarte for the 1999 killing of minor Alexander Reyes. Of the 23 cases, the special investigative unit had completed investigations in 9 cases and investigations were pending in the other cases at year's end. However, the judicial system had taken little action on these cases at year's end.

In September 2002, the IACHR Special Rapporteur for Children visited the country to review the situation of extrajudicial, arbitrary, and summary killings of youths and children. In September 2002, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a report based on her 2001 visit that claimed that security forces were involved in covering up their involvement in some of the summary killings of youth and children, and that some of the killings involved police. In October 2002, a special inter-agency Presidential Commission, consisting of the Ministry of Justice and Government, the Attorney General, the Institute for Family and Children, the Human Rights Commission, and the nongovernmental Institutional Coordinator of Children's Rights Group issued a report that identified 574 cases of summary killings of minors and 18-year-olds, of which 140 occurred in the first half of the year and 276 occurred in 2001. Despite continued attention to the problem by the Government, perpetrators of killings against youth and minors continued to act with impunity.

Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders with regard to these killings. The Ministry of Public Security, which was the focus of human rights criticism, publicly denied accusations that the police force as a whole was involved in extrajudicial killings, although it acknowledged that individual police had been investigated for participation in extrajudicial killings.

In September 2002, the Police Director of Internal Affairs announced that she would continue investigating high-level officials whom she alleged had been involved either directly or indirectly in at least 20 extrajudicial killings, not necessarily of youths, over the previous 4 years (see Section 1.c.). During the year, the authorities sought or detained a number of police officials for their involvement in the killings of various individuals, some of whom were minors. In September, police officer Juan Carlos "Tiger" Bonilla, wanted for suspected involvement in an extrajudicial killing,

turned himself in to authorities in San Pedro Sula. Bonilla was arrested but then granted bail.

On April 5, 68 persons, 61 of them gang members, were killed in a violent incident at El Porvenir prison near La Ceiba. Reports done by both a Special Commission of the Honduran National Council for Internal Security (CONASIN) and the Human Rights Commissioner put the blame for the vast majority of the deaths on government security forces (police and military under police command) and nongang member inmate trusties. While it appears that gang members started the violence, security forces and trusties then beat, shot, and burned them to death, according to the reports. Many gang members appear to have been summarily executed while attempting to surrender to the authorities. At year's end, the Deputy Warden who was in charge at the time of the incident was under arrest and the Public Ministry and the Ministry of Public Security was investigating several members of the security forces involved in the incident.

On July 18, unknown assailants killed environmental activist Carlos Arturo "Oscar" Reyes in his home. Reyes was involved in NGOs' protests of illegal logging in Olancho department. Priest and environmental activist Jose Andres Tamayo received death threats for his involvement in protesting illegal logging.

On November 23, unknown assailants killed Jose Daniel Chinchilla, the Vice President of La Central Cooperativas Cafetaleras de Honduras. An investigation into his killing was pending at year's end.

On December 18, the priest Guillermo Antonio Salgado was killed in Juticalpa. Police subsequently arrested Arlin Daniel Escobar Molina on murder charges.

In August 2002, presumed members of an organized crime gang, the Barrera Herrera brothers, killed human rights activist Jose Santos Callejas, treasurer of the local office of the national NGO Human Rights Committee (CODEH), in his home near the city of La Ceiba. Preliminary investigations indicated that the gang had threatened Callejas after he positively identified them to police as having committed a killing. Police authorities and the Human Rights Committee were investigating the involvement of individual police officers in Callejas' killing. At year's end, no suspects had been captured.

There were no developments in the 2001 killing case of the son of a Potrerillos, Cortes department, mayoral candidate and his friend.

There was no more information on the 2001 case of police involvement in the killing of the Chorti indigenous person Isidro Geronimo during a demonstration.

At year's end, no suspects were under arrest for the 2001 killing of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

Approximately 20 active and former military and police officials continued to face criminal charges on human rights abuses during the 1980s in various courts during the year. Most officials were accused of illegal detention and murder because disappearance is not a crime under the new or previous criminal codes (see Section 1.b.). Human rights abuses committed before March 1985 were adjudicated under the 1906 Criminal Code. Crimes after that date were prosecuted and judged under the new Criminal Code as revised in 1997 and 1999. Courts do not accept cases if the body of the victim has not been recovered and positively identified. An identified body allows families and human rights organizations to bring a case of suspected human rights abuse to court.

There were no exhumations of clandestine graves during the year; however, on January 23 the Public Ministry took samples for testing exposed bodies found in the department of Olancho. Human rights organizations believed that more uncovered graves do exist; however, they need to have sufficient evidence to identify the buried bodies in suspected graves to improve the likelihood of successful prosecution. Human rights organizations continue to seek information using grass-roots contacts and other sources outside the Government that would lead to exhumations that would advance prosecutions. In April, the press reported that four clandestine grave sites had been found recently in the country, but these have not been exhumed.

Various witnesses, survivors, and former HOAF personnel charged that members of the now-disbanded army Intelligence Battalion 3-16 illegally detained, tortured, and killed many of the 184 persons who disappeared during the 1980s. The Public Ministry was not able to bring new cases to court due to lack of evidence (see Section 1.b.).

In May and July 2002, police arrested Jose Angel Rosa and Jorge Adolfo Chavez Hernandez, a former member of Battalion 3-16, for the 1998 killing of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. An appeals court later freed Rosa; however, in May 2002 police arrested him for the attempted killing of Sylvia Esperanza Gonzales, which is related to the killing of Luna Lopez. Rosa remained in prison on unrelated environmental charges at year's end. In May, the Supreme Court ruled against a motion to dismiss the charges against

Chavez, and he remained in prison at year's end. Former security official Jose Marcos Hernandez Hernandez and two other suspects remained at large. In December 2002, a court sentenced Oscar Aurelio "Machetillo" Rodriguez Molina, to 20 years' imprisonment for the murder of Luna Lopez and 7 years' imprisonment for grave injury to Gonzales. In January two NGOs brought the case to the IACHR.

In August, the authorities arrested Jaime Ramirez Raudales, also known as Jaime Rosales, a former member of Battalion 3-16, for the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte.

In June, an appeals court upheld the dismissals of the arrest warrant for Raymundo Alexander Hernandez Santos and retired Major Manuel de Jesus Trejo Rosa for the 1982 illegal detention and attempted murder of Nelson MacKay Echevarria and Miguel Francisco Carias Medina. The Public Ministry then appealed to the Supreme Court, where the case was pending at year's end.

The case against Raymundo Alexander Hernandez Santos for the 1982 illegal detention and murder of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz was ongoing at year's end. On October 8, the Supreme Court ruled against the Public Ministry's appeal of an appeals court's decision not to reissue an arrest warrant for Juan Evangelista Lopez Grijalba, wanted in the same case. On December 2, the trial court dismissed the case against Lopez Grijalba. In April, retired Colonel Manuel Enrique Suarez Benavides, another suspect in the case, died.

Former security officials Jose Marcos Hernandez Hernandez, German Antonio McNeil Ulloa, Jose Alfredo Martinez, and Juan Blas Salazar Meza awaited sentencing at year's end for the 1983 illegal detention and torture of student activist Luis Manuel Figueroa Guillen in Choluteca department. Former security official Dimas Carvajal Gomez, also charged in the case, was killed during the year. Salazar Meza was in jail for his involvement in the illegal detention of six university students (see Section 1.c.).

In the July 1982 killing of university student Hans Madisson, the Public Ministry never received a response to its request to the Canadian Government for testimony from witnesses who had fled the country and applied for asylum in Canada. Nor has the Public Ministry received a response to its request for further DNA testing to identify positively the body thought to be Madisson's. At year's end, the case was continuing against Captain Billy Fernando Joya Amendola, former army Chief of Staff Oscar Ramon Hernandez Chavez, Raymundo Alexander Hernandez Santos, and Segundo Flores Murillo, but none were under arrest.

At year's end, Jose Barrera Martinez, a witness in cases related to Billy Fernando Joya Amendola and Raymundo Alexander Hernandez Santos, was at large despite a pending arrest warrant.

Violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. During the year there was an average of six violent deaths per day. Vigilante justice led to the killing of known and suspected criminals, as well as of youth in gangs, street children, and youth not known to be involved in criminal activity (see Section 5). Neighborhood watch groups called Citizen Security Councils (CSCs) originally were authorized by a previous Minister of Public Security, and some of them were accused of taking the law into their own hands. Human rights activists continued to state publicly their belief that some of the CSCs, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth, with the tacit complicity of police. According to human rights groups, the CSCs with the greatest number of incidents of violent deaths committed by vigilante committees were in the municipalities surrounding San Pedro Sula. In 2002, the Ministry of Public Security worked with city officials to assure that vigilante committees did not operate with official support; however, the program was not ongoing at year's end. In June 2002, the Ministry of Public Security announced that all arms, including those of private security firms, would have to be registered.

In September 2002, the Attorney General rejected the idea that death squads were killing youth and children; however, he acknowledged that individual police and vigilante groups committed some killings.

Several "killings for hire" occurred during the year, usually related to land disputes or criminal activities. Six members of the NGO National Central for Rural Workers were killed during the year in land disputes. In April 2002, four landless farmers were killed and one guard was injured when the farmers attempted to take over land also claimed by a subsidiary of a multinational company. There was no information on the proceedings at year's end.

No more information was available regarding the 2001 killings of the Peralta Torres family, farmers' cooperative president Felix Roque, or the suspicious death of farmers' cooperative president Jose Antonio Santos Lopez. Three suspects were

in jail and three remained at large in the June 2001 killing of community leader and environmental activist Carlos Roberto Flores in Olancho. In 2001, a court convicted Edgardo Danilo Arita for the 1999 killing of Cabana mayor Juan Ramon Alvarado case and sentenced him to 10 years' imprisonment.

The 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and killing by police of four youths in 1995 remained under investigation by the Commission at the end of the year. In 2002, Casa Alianza appended a 1998 case to the 1995 IACHR complaint for the torture and killing of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission; in three of these cases agreements were close to completion.

The Ministry of Public Security reported that gang members killed at least 11 police officers during the year.

A law outlawing gang membership was passed in August and implemented in September. The law prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. Human rights organizations criticized the law and filed a brief before the Supreme Court arguing that the law is unconstitutional, but the Court dismissed the brief (see Section 4).

*b. Disappearance.*—The law does not prohibit forced disappearance; however, there were no reports of disappearances during the year.

There were no developments in the 2001 case of former guerrilla Rigoberto Martinez Lagos, who disappeared after leaving his house in Tegucigalpa to meet a police investigative agent.

In cases where significant information is available, but no body has been identified, the Public Ministry's Human Rights office attempts to uncover evidence that could lead to clandestine graves. In 2002, the Public Ministry requested information from the HOAF regarding the 1988 disappearance of student activist Roger Samuel Gonzales Zelaya, whose body has not been found; however, the HOAF did not provide any information relating to his disappearance, only information regarding his detention. An investigation was continuing into the involvement of former military officers Carlos Roberto Velasquez Ilovaes and Mario Raul Hung Pacheco in his illegal detention. Only a few bodies were found of the 184 persons who have been documented as disappearances. There was no change in the case of the 1981 torture or the 1984 disappearance of Jose Eduardo Lopez.

There were no exhumations during the year. The courts adjudicated some pending cases involving political disappearances from the 1980s as murders (see Section 1.a.).

There were 17 kidnappings for ransom, many in San Pedro Sula, during the year, which was less than in years past.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In 2002, the Ministry of Public Security fired more than 300 police personnel in both the Criminal Investigative Unit (DGIC) and the Preventive Police for corruption, criminal activity, and abuse of authority. In September 2002, the Director of Internal Affairs of the police force announced that high-level officials had been involved either directly or indirectly in at least 20 extrajudicial killings of presumed delinquents (see Section 1.a.). At the end of the year, the Public Ministry had brought some cases to prosecution. During the year, the Public Ministry also investigated complaints of prison abuse.

Disagreements between the Public Ministry and the Ministry of Public Security continued to create friction. While local prosecutors were able to work in police stations, they did not always maintain good relations with police investigators.

The 2001 order by the General Director of Prisons barring access to district attorneys had not been implemented by the end of the year.

The 2000 Supreme Court ruling that the 1987 and 1991 Amnesty Laws did not cover illegal detention and attempted murder meant that amnesty laws were no longer applicable in the case of Raymundo Alexander Hernandez Santos, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, retired Captain Billy Fernando Joya Amendola, retired General Jose Amilcar Zelaya Rodriguez, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Colonel Julio Cesar Funez Alvarez, accused of the 1982 illegal detention and torture of six university students (see Section 1.e.). In May, the appeals court ruled that Raymundo Alexander Hernandez Santos must be released from prison for the illegal detention charges to which the appeals court had reduced all charges in December 2001. At year's end, the Public Ministry's appeal to the Supreme Court of the appeals court ruling was pending. Hernandez is also charged in the 1982 Avilez and Espinoza killings (see Section 1.a.). In May, a court convicted Juan Blas Salazar Meza for illegal detention and sentenced him to 4 years' imprisonment for his par-

ticipation in the illegal detention of two of the six students. In June, the Public Ministry appealed the failure of the court to try him for attempted murder and the detention of all six students. At year's end, retired Captain Billy Fernando Joya Amendola was free on bail while his case continued. The courts denied repeated Public Ministry appeals to have his arrest warrant reinstated, most recently in July 2002 by the Supreme Court. On March 31, the court issued arrest warrants for two retired colonels, Juan Evangelista Lopez Grijalba and Julio Cesar Funez Alvarez, for illegal detention in the case of the six university students. Retired General Jose Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred, was under house arrest at year's end, under charges of complicity. At year's end, the case was continuing against Roberto Arnaldo Erazo Paz and Manuel de Jesus Trejo Rosa. In 2001, the court dismissed all charges against Jorge Antonio Padilla Torres for lack of evidence. The court also dropped all charges against Juan Ramon Pena Paz who was accused wrongly because he shared the same last names as another suspect, Jose Blas Pena Paz, who died in 1991.

The Public Ministry's appeal of the decision to drop charges against Raymundo Alexander Hernandez Santos and Manuel de Jesus Trejo Rosa for the 1982 illegal detention of Miguel Francisco Carias Medina was pending at year's end (see Section 1.a.).

Police occasionally used force against demonstrators; in some cases a number of persons were injured. Protests sometimes turned violent, including vandalism and the use of Molotov cocktails (see Section 2.b.).

In May 2002, the 2001 Police and Social Order Law took effect. The new law defines the different roles of national and municipal police and describes the activities that police undertake. The law outlines when police can use force and when they should assist citizens, limits how demonstrations can be carried out (see Section 2.b.), gives authority to police to remove landless farmers who take over land, and defines public order. It allows prostitution for those over 18 years of age, but outlaws brothels, madams, and pimps, while offering rehabilitation (see Section 5). The law permits police to detain gang members, drunkards, truants, and vagrants without warrants, and to fine parents who deny education to their children. Human rights and gay rights organizations alleged that the new law restricted freedom of assembly.

In a number of instances, the security forces actively dislodged farmers and indigenous groups from lands in dispute. Sometimes this government action was legitimate, because the National Agrarian Institute (INA) did not substantiate the farmers' and indigenous groups' claims under land reform laws or ancestral titles. In other cases, the action taken in support of local landowners who exercised undue influence over local security officials, including in some cases obtaining a legal order when the justification for the order was questionable (see Sections 1.a., 1.f., and 5).

Police are underfunded, undertrained, and understaffed, and corruption is a serious problem. There is widespread public frustration at the inability of the security forces to prevent and control crime. During the year, police and military continued to patrol jointly the streets, and petty crime remained relatively high. Gang violence and intimidation on the streets remained a serious problem, and gangs continued to intimidate, threaten, and rob passengers on public transportation. Kidnappings of the wealthy and well-known declined, and more perpetrators were identified and prosecuted compared with the previous year. While investigation into crimes improved during the year, the public continued to believe that corrupt security personnel were complicit in the high crime rate (see Section 1.a.).

Prison conditions were harsh and prison security was poor. The Law for the Rehabilitation of the Delinquent establishes regulations for prison conditions, including minimum conditions of sanitation and security for prisoners. The Ministry of Public Security maintains prison facilities, and Prison Police are guards. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. Pretrial detainees generally were not separated from convicted prisoners. The 24 penal centers held over 12,500 prisoners in 2002, more than twice their intended capacity; more than 88 percent of all prisoners in 2002 were pretrial detainees (see Section 1.d.). Prison escapes, through bribery or other means, remained a frequent occurrence. About 3 percent of prisoners were thought to be gang members in 2002.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, reportedly by members of other gangs. During the year, prison authorities continued to move prisoners of opposing gangs into different facilities to reduce intergang tensions and violence. The illegal transfer of a large number of gang members to the El Porvenir



prison was alleged to be a contributing factor to the April 5 incident that killed 68 persons (see Section 1.a.).

More often than not, for lack of alternative facilities, wardens housed the mentally ill, although there is a National Mental Hospital with drug and alcohol rehabilitation, and those with tuberculosis and other infectious diseases, among the general prison population. In July 2002, the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using excessive force against prisoners. Practices reported included beatings, isolation, threats, electric shocks, and immersion in water.

A 2001 National University's Medical College study reported a 7 percent HIV/AIDS infection rate among prisoners. Male prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about \$0.46 (8.13 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate food.

The NGO CODEH continued government-funded programs to train police and prison personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons. The Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and Their Families provided health and social services to prisoners in the main penitentiary in Tamara.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges. Four percent of the prison population was female. Children up to age 2 can live with their mothers in prison.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. Although there was a lack of juvenile detention facilities, minors were detained infrequently in adult prisons. There were an average of 281 juveniles held per month at juvenile detention facilities in 2002, according to the Honduran Institute of Children and the Family. Casa Alianza reported that the Government responded quickly to complaints of minors in adult prisons and no longer routinely housed juvenile offenders in adult prisons. The Government and Casa Alianza agreed to earmark \$182,000 (3 million lempiras) compensatory payments under an IACHR agreement to assist juvenile offenders. Approximately 24 of the 300 juvenile offenders who served time in adult prisons from 1995 to 1999 were compensated.

There were no developments in the Casa Alianza complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1990.

The Government generally permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally failed to observe these prohibitions.

The Ministry of Public Security oversees police operations (Preventive Police, DGIC, Transit Police, Tourist Police, and Prison Police), and police are responsible for all public security issues. Police were poorly staffed and equipped, often ineffective, and subject to corruption and political influence. Despite continued attention to the problem by the Government, perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

The police force, which includes the Preventive Police and the DGIC, is subject to investigation by the Internal Affairs office regarding illegal activities. The Internal Affairs office reports to the Attorney General's office, where a decision is made either to prosecute the offender or to return the case to the Minister of Public Security for administrative action. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Public Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions.

The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime, or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only misdemeanors, unless the DGIC is not

available, in which case the law allows the Preventive Police to investigate misdemeanors and felonies. Police must bring a detainee before a competent authority within 24 hours; a prosecutor has 24 hours to decide if there is probable cause for an indictment. If a prosecutor decides to indict a suspect, the prosecutor presents an indictment before a judge, who then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. Under the Criminal Procedures Code, bail is available for felonies. A judge must take into account the seriousness of the crime, the suspect's criminal record and personal history, as well as his financial status before setting bail. Judges can set lower bail amounts for indigent defendants. Lengthy pretrial detention was a serious problem; in 2002, an estimated 88 percent of the prison population awaited trial and sentencing (see Section 1.c.). The authorities expect that over time the new Criminal Procedures Code will reduce or even eliminate the problem of denial of justice through prolonged pretrial detention.

The 1996 Unsensenced Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clog the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. In 2000, the Government estimated that as many as 3,017 prisoners qualified for release under the Unsensenced Prisoner Law, that 3 officers were required to monitor each detainee, and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras). The new Criminal Procedures Code limits pretrial detention to 1 year if the greatest penalty for a crime is less than 6 years and to 2 years if the penalty for the crime is 6 years or greater. The Code is not retroactive, so individuals who have already served their sentence but whose case has not been reviewed will remain in jail until the judge reviews the case. Many prisoners under the old system remained in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. The Criminal Procedures Code mandates house arrest until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the terminally ill. In addition, it provides for the use of house arrest in felony cases, depending on the seriousness of the crime as well as the suspect's criminal record and personal history.

Neither the Constitution nor the Penal Code explicitly prohibits exile, but it was not used as a means of political control.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was poorly staffed and equipped, often ineffective, and subject to corruption. While the Government respected constitutional provisions in principle, implementation was weak and uneven in practice. Both the judiciary and the Public Ministry suffered from inadequate funding; low wages and lack of internal controls made judicial and law enforcement officials susceptible to bribery; and powerful special interests still exercised influence and often prevailed in the courts. Many elected politicians enjoy constitutional immunity as a privilege of their office. The full application of the Criminal Procedures Code in February 2002 and the establishment of a new Supreme Court in January 2002 slightly improved the judicial system.

The Constitution provides for the right to a fair trial. This right improved in practice over the year since implementation of the Criminal Procedures Code. The new code established an oral accusatory system for all new criminal cases to replace the written, inquisitorial trial system. At the first instance level each case has a pretrial judge, a three-judge trial panel, and a post-trial phase judge. Defendants have appeal rights to an appellate court and the Supreme Court. The new system allows for plea-bargaining, although in practice there have been difficulties in implementation for cases with multiple suspects, and for the provision of appointed legal counsel to all indigent suspects. The Government began oral proceedings in May 2002. The new code works on the basis of the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits pretrial detention after the initial 24-hour detention without a court order. Since the implementation of the new code, there has been some improvement in the legal system's fairness toward those charged with crimes, and cases have been processed with greater efficiency than under the old system.

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. The rights of defendants often were not observed under the 1984 Code. Under the 1984 Code, all stages of

the trial process were conducted in writing and, at the judge's discretion, could be declared secret and, thus, even less public than normal. All trials are public under the new code.

The 2001 constitutional amendment to restructure the Supreme Court and create an independent judiciary took effect during in 2002. In January 2002, a special nominating committee representing 5 sectors of civil society (one representative each from labor unions, employer associations, civil society, the bar association, and the human rights ombudsman) selected 45 nominees from more than 200 applicants for a new 15-member, 7-year-term Supreme Court. The Congress then selected 15 judges from the 45 nominees. There are 10 appeals courts, 67 courts of first instance with general jurisdiction, and 326 justice of the peace courts with limited jurisdiction. The Supreme Court names all lower court judges. Human rights groups expressed concern that the 8-7 split between the Nationalist and Liberal Parties on the court was not likely to depoliticize Supreme Court appointments. In May 2002, the courts were reorganized to divide case management into two systems, one following the old, written administrative court procedures, and the other following the new, oral accusatorial method of the Criminal Procedures Code. During 2002, 35 percent of 140,000 pending cases under the previous procedure were dismissed or resolved. A separate but less efficient procedure led to the release of some pretrial detainees. On November 5, 2002, the Supreme Court named a new Court of Appeals in Tegucigalpa, after having ousted the entire three-member court in the midst of allegations of corruption and impropriety. In 2002, the Supreme Court also replaced judges in San Pedro Sula who were accused of corruption.

The Congress introduced draft constitutional amendments in 2002 that would have given Congress unfettered power to interpret the constitutionality of laws that it passes. In November 2002, the National Human Rights Commission filed a lawsuit asking that the Supreme Court declare the proposals unconstitutional and in violation of the separation of powers provision in the Constitution. In May, the Supreme Court ruled that the proposed amendments were unconstitutional. An initial confrontation between the Supreme Court and Congress ended when Congress refrained from taking any action.

The new Criminal Procedures Code gave the Public Ministry the responsibility to initiate criminal proceedings and to lead investigations. When the code was initially written, the DGIC fell under the Public Ministry. Prior to the code being fully implemented the DGIC came under the Ministry of Public Security. This change means that until the code is revised to designate the Ministry of Public Security as the investigative lead, all investigations are dependent upon the physical presence of a prosecutor, who directs the investigations. Under the old system, which remained in effect for crimes committed before February 2002, judges were in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, police, public officials, and individual citizens could initiate criminal proceedings. The new code with prosecutors serving as investigators has caused problems that led to the dismissal of some cases because a person cannot be a prosecutor and an investigative witness at the same time.

The new code provides defendants with additional rights that reduce their likelihood of being detained, including strict timelines for actions during the criminal process, which some critics warn may reduce the conviction rate of hardened criminals. Public officials assert that the new code will reduce the number of pretrial detainees and will establish procedures so that detainees will not be held in prison beyond their maximum prison term.

A public defender program provides assistance to those unable to afford an adequate defense. There are over 200 public defenders providing free legal services nationally to 50 percent of the prison population; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. Under the Code, cases cannot proceed if a suspect does not have legal representation. In 2002, 83 percent of defendants used public defenders. The demands placed on the public defender system severely overtaxed its resources.

A 1998 Supreme Court instruction held judges personally accountable for reducing the number of backlogged cases. The order separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense. It had little effect under the old system, but the Criminal Procedures Code allows for four options: dismissal of charges by the prosecutor, conditional suspension of the proceedings (contingent on behavioral modifications by the defendant), an abbreviated trial procedure whereby the accused admits guilt and receives a reduced sentence, and strict conformity with the law to reduce the caseload

and to prioritize serious crimes for prosecution. The Supreme Court also created a “purging unit” to clear backlogged cases from prior to the implementation of the new code. By law, these cases must be resolved by 2006. There were approximately 49,000 pending cases at year’s end, down from over 125,000 cases.

Modest progress was made in previous years toward implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and address problems of corruption, clientism, patronage, and influence-peddling within the judiciary. Nonetheless, many courts remain staffed by politically selected judges and by unqualified clerks who are inefficient and subject to influence from special interests. The reforms have not been implemented fully or effectively. Public accountability or official sanction for misconduct is minimal. However, the Supreme Court dismissed more than 19 judges on various charges, including corruption, in 2002.

A prosecutor and a judge investigating the 1998 killing of a town councilman reported receiving death threats (see Section 1.a.).

The Supreme Court’s rulings on the 1987 and 1991 amnesty laws declared their application unconstitutional for nine military officials accused in the illegal detention and attempted murder of six university students (see Section 1.c). Amnesty laws would continue to apply to all military defendants until specific grounds for exclusion of amnesty are applied in that case. Military officials may request amnesty, but only if the case has gone to trial. The Public Ministry has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

The Constitution provides broad immunity to members of Congress and government officials. Membership in both the National Congress and the Central American Parliament confers legal immunity from prosecution which extends to candidates running for office and to acts committed before taking office. A 2000 General Law of Immunities did little to foster transparency and accountability in government. According to the Constitution and the law, charges brought against public officials with immunity first must be adjudicated through unspecified administrative procedures before any criminal proceedings are initiated. In addition, the law bestows immunity to citizens upon party nomination to run for public office. The law continues to require a vote of Congress to deprive an individual of his or her immunity, although such individual may be arrested if caught in the act of endangering the life or physical integrity of another. Under the new Code of Criminal Procedures, the Public Ministry has responsibility to investigate and then present a petition to Congress requesting a revocation of immunity if warranted. If the Congress votes to admit the petition, the Supreme Court nominates three magistrates to hear the case. Members of Congress and other public officials may voluntarily submit themselves directly to the Supreme Court. There had yet to be a case of a congressman convicted of a crime while still in office.

Congressman Armando Avila Panchame requested that his immunity be waived to stand trial after his arrest in July on attempted murder and drug trafficking charges. At year’s end, he was under house arrest awaiting trial. In July, authorities arrested Congressman Mauro Caballero and charged him with environmental crimes; however, his immunity had not been revoked by year’s end. Congressman Melvin Tomas Regalado was arrested and charged for improperly influencing decisions leading to the release and flight of the prisoner Amilcar Antonio Portillo in March and subsequently requested that his immunity be waived. In June the Central American Parliament revoked the immunity of Central American parliamentarian Cesar Augusto Diaz Flores, who was arrested in June (and later convicted) in Nicaragua for trafficking and possession of seven kilos of heroin. In 2002, Congressman David Romero was stripped of his immunity to face charges of raping his stepdaughter. He was in jail awaiting trial at year’s end.

Over the past 9 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white-collar crimes, as well as ranking officials of the three previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year’s end, very few of those accused had been tried or convicted. Some of these individuals maintained immunity from prosecution because they were in elected office.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution specifies that a person’s home is inviolable, that persons employed by the State may enter only with the owner’s consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m. There is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime, expanded in 2002 to include

kidnapping or endangerment of life. However, as in previous years, there were credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among police, the courts, and the Public Ministry remained weak; however, it improved somewhat with the creation of unified centers for police, prosecutors, and public defenders that provide for more efficient operations.

In a number of instances, private and public security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see Section 5). A number of farm cooperatives experience constant threats of dislocation from local police and military authorities who support local landowners. In the past, some individuals who lost disputed lands to farmer cooperatives as a result of government adjudication killed cooperative leaders.

The Government generally respected the privacy of correspondence.

Despite reforms to the civil service system, party membership is often necessary to obtain or retain government employment.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. The Police and Social Order Law restricts demonstrators from using statements that could incite persons to riot. Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners.

A small number of powerful business magnates with intersecting business interests, political loyalties, and family ties own many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limit the development of the news media. For example, of the four national newspapers, a Congressman operated one and a former Liberal Party president runs another. Each government ministry for the most part selects the journalists who cover its activities. If a government ministry is unhappy with the reporter, the minister often speaks with the owner of the media outlet to pressure for a change.

The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials, which is crucial for news reporters, editors, and media owners. Other methods are subtler, such as the coveted privilege to accompany the President on his official travels. Journalists who accompany the President on such occasions do so at the expense of the Government, which grants or withholds invitations for such travel at will. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

Responsible journalists on many occasions have conducted investigative journalism and presented corruption stories to the public's attention. However, in some cases when the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations and a lack of access to government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Press silence can be bought by many means, including the practice of ministers and other high-ranking government officials hiring journalists as public affairs assistants at high salaries. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice.

The Maduro Government used the Cadena Nacional, a complete preemption of all television and radio broadcasting, to present bimonthly presidential addresses.

One potentially abusive practice continued to be the granting of awards to individual reporters on "Journalists' Day." In May, all three branches of the Government and several private organizations, including chambers of commerce, bestowed numerous awards, some accompanied by substantial sums of cash, on the "best" journalists. Rather than being tied to a specific accomplishment—a particular article or series, or even a lifetime's body of work—most awards were granted without any published criteria to beat reporters assigned to the granting institution. Some of these awards appeared to be deserved; however, many observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered.

Because President Maduro had limited ties to the media, some journalists took the opportunity to increase reporting on sensitive topics. In the past, there were credible reports of media owners' repression against individual journalists who criti-

cized the Government, actively criticized freedom of the press, or otherwise reported on issues sensitive to powerful interests in the country. During the year there were several reports of threats or lawsuits against journalists by powerful persons, including legal cases against three journalists for their reports on corruption cases.

On November 26, unknown persons shot and killed German Antonio Rivas, a journalist, in Santa Rosa de Copan, Copan department. An investigation was pending at year's end.

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 the right of peaceful assembly, and the Government generally respected this right in practice; however, police used force to disperse several protests, resulting in a number of injuries.

During the year, incidents in which protesters, including farmers or teachers, took over roadways in various departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in some of the incidents.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. However, on August 8, the Congress approved a bill that bans membership in street gangs and prescribes prison terms of 3–12 years (see Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The government accepted 13 people for refugee status between 1998 and October. The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections were held in 2001, and in January 2002 Ricardo Maduro Joest was sworn in as President for a 4-year term.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, and direct, balloting every 4 years. In 1997, voters for the first time were able to cast separate ballots for the President, Congresspersons, and mayors, making individual elected officials somewhat more representative and accountable. Suffrage is universal; however, the clergy and members of the military or civilian security forces are not permitted to vote. In the 2001 elections, voting was expanded to include citizens resident in 5 cities in the United States, of whom only 1,000 voted. Any citizen born in the country or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police.

The investigation into the 2001 election-eve killing of Angel Pacheco, Nationalist Party congressional candidate from Valle department, had uncovered no suspects at year's end.

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments. There are five recognized parties. The Democratic Unification Party was established by decree as a result of the Esquipulas peace accords.

There are no legal impediments to the participation of women or minorities in government and politics. The 2000 Law of Gender Equality mandated that 30 percent of all candidates nominated for public office by recognized political parties be women. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the 2001 elec-

tions. There are 9 women in the 128-seat legislature. There are 9 female justices, 1 of whom is president, on the 17-member Supreme Court; and 3 of the 15 Cabinet ministers are women.

There were few indigenous people in leadership positions in government or politics. There are 3 indigenous or Garifuna (Afro-Caribbean) persons in the 128-seat legislature.

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

A wide variety of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with these groups and were responsive to their views.

Several human rights organizations criticized the Government for criticizing their challenges to the constitutionality of the anti-gang law. The human rights organizations alleged that this criticism created a perception that they were supporting members of gangs, which resulted in their receiving threats. Bertha Oliva de Nativi, coordinator of the NGO Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH), had her minor daughter's life threatened. On September 22, COFADEH filed a complaint with the Supreme Court that alleged that the law permits the illegal detention of gang members, violated the principle that all are presumed innocent, and therefore was unconstitutional. On October 9, the Supreme Court dismissed the complaint and ruled that COFADEH did not have standing to challenge the law's constitutionality.

In August 2002, human rights worker Jose Santos Callejas was killed in Atlantida in a criminal assault related to his human rights activism. An investigation into his killing was pending at year's end (see Section 1.a).

In September 2002, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions published the report on her visit to the country to meet with government, human rights, and children's organizations (see Section 1.a).

In March 2002, Congress chose Ramon Custodio Lopez to replace Leo Valladares Lanza as Human Rights Commissioner of the National Human Rights Commission (NHRC), an autonomous government institution. He holds a 6-year term. The NHRC director has free access to all civilian and military institutions and detention centers and is supposed to perform his functions with complete immunity and autonomy. The Government generally cooperated with the NHRC and invited the Human Rights Ombudsman to work on interagency commissions dealing with rule of law issues. The NHRC was one of the organizations that received threats due to its stance on the anti-gang law.

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

The Constitution bans discrimination based on race or sex. The Constitution also bans discrimination on the basis of class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (see Section 1.e.). It is illegal for an employer to discriminate against a worker based on disability, including HIV/AIDS status.

In September, Amnesty International reported that approximately 200 homosexual and transsexual workers were killed between 1991–2003. On July 15, two policemen allegedly shot and killed Eric David Yanez, a transgender member of the NGO San Pedro Sula's Gay Community. The investigation into his killing was pending at year's end.

*Women.*—Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In 2000, the Pan-American Health Organization reported that 60 percent of women had been victims of domestic violence, and the U.N. Population Fund estimated that 8 of every 10 women suffered from domestic violence. The Ministry of Public Security reported that 3,430 cases of domestic violence and 275 rapes were reported to the police during the year. The Public Ministry reported that 743 cases of domestic violence and 93 cases of rape were tried during the year.

The Law Against Domestic Violence, intended to strengthen the rights of women and increase the penalties for crimes of domestic violence, does not impose any fines, and the only sanctions are community service and 24-hour preventive detention if the aggressor is caught in the act. The Penal Code includes the crime of intrafamily violence and disobeying authorities, in the case that an aggressor does not obey a restraining order. Three years' imprisonment per incident is the maximum sentence. The Special Prosecutor for Women in the Public Ministry received approximately 30 complaints daily about domestic violence. Since 2002, more cases

have been resolved because the Government began to fund special courts to hear only cases of domestic violence.

The Government works with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offered legal, medical, and psychological assistance but not physical shelter.

The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if the victim does not want to press charges.

The law does not prohibit adult prostitution, but child prostitution is illegal; the law prohibits promoting or facilitating the prostitution of adults.

Women were trafficked for sexual exploitation and debt bondage (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women, who are a majority of the population according to the National Statistics Institute, and make up approximately 36 percent of the work force according to 2001 estimates, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. Under the law, women have equal access to educational opportunities and slightly more girls complete grade school and high school than boys, according to the National Statistics Institute. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries. The Inter-Institutional Technical Committee on Gender supported gender units in five government ministries, and there is a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women.

Workers in the textile export industries reported that they were required to take preemployment pregnancy tests, which is against the law. Pregnant employees and new mothers for three months after the birth of their child have specific protections under labor law to prevent unjust firings (see Section 6.e.). Women are eligible for 4 weeks of paid maternity leave prior to the birth and 6 weeks of paid maternity leave after the birth.

The Government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy.

*Children.*—Although the Government during the year allocated 26.9 percent of its total expenditures (including foreign assistance) to education (including salaries of teachers and administrators), funding remained insufficient to address the educational needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 13; however, the Government estimated in 2002 that as many as 65,000 children ages 6 through 12 fail to receive schooling of any kind each year; of these, almost 10,000 will never attend primary school. Slightly more girls attend primary and high school than boys, and older boys often drop out to assist their family by working. The Government increased its national school capacity by approximately 50,000 children in 2002. The average woman has approximately 4.7 years of primary education; the average man has approximately 4.9 years of primary education.

The Government allocated 16.2 percent of its total expenditures (including foreign assistance) to the health sector in 2003 (including salaries of doctors and medical workers). According to a 2001 national survey on epidemiology and family health, infant mortality (deaths under 1 year of age) was 34 per 1,000 live births, and child mortality (deaths under 5 years of age) was 45 per 1,000 live births. Of children age 1 to 5, 32.9 percent were malnourished.

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children. It established prison sentences of up to 3 years for persons convicted of child abuse. In the major cities of San Pedro Sula and Tegucigalpa, with a combined population of 682,400 minors, the Public Ministry received a total of 2,500 complaints of child abuse in 2001. The Public Ministry reported that 205 cases of child abuse were tried during the year.

The commercial sexual exploitation of children is a serious problem, and child prostitution is a problem in tourist and border areas of the country. Casa Alianza estimated in December that there were approximately 8,335 children who are victims of some form of commercial sexual exploitation. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle during the year (see Section 6.f.).



Child labor is a problem (see Section 6.d.).

Trafficking in children is a problem (see Section 6.f.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (see Sections 1.a. and 1.c.). The Government and children's rights organizations estimate the number of street children at 20,000, only half of whom have shelter on any given day. Many street children have been sexually molested or exploited, and some are addicted to drugs, alcohol, and glue sniffing. Approximately 30 percent of the street children and youth in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive in 1998. The Tegucigalpa city administration runs 12 temporary shelters with a total capacity of 240 children. In December, Casa Alianza inaugurated a shelter for children who are victims of commercial sexual exploitation. The shelter was designed to expand efforts by Casa Alianza, which previously provided shelter to 160 children.

Abuse of youth and children in poor neighborhoods and in gangs is a serious problem. Both police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities, but many were not. Police were found to be responsible for some of the killings of approximately 500 children, only some of whom lived on the street, who were killed summarily in "social cleansing" killings between January 1998 and August 2002. In April 2002, a court sentenced policeman Cesar Montoya to 6 years imprisonment for the 2000 killing of 17-year-old Edie Donaie. This was the first sentence imposed for the murder of a minor since tracking of the youth killings began in 1998. In September 2002, the courts sentenced a policeman to 24 years in prison for the 1995 rape and murder of a 14-year-old street child. Security authorities' abuse of street children decreased significantly in the late 1990s after Casa Alianza trained the Preventive Police on treatment of children and youth for 2 years; however, it is still a problem, although the situation has improved significantly. Casa Alianza no longer trains police recruits at the National Police Academy in La Paz department. In 2002, CODEH signed an agreement with the Ministry of Public Security to provide human rights training. CODEH also conducted human rights training with the military during the year.

International and national human rights groups implicated public and private security force personnel, vigilante groups, and business leaders in many juvenile deaths (see Section 1.a.).

*Persons with Disabilities.*—There are no formal barriers to participation by an estimated 700,000 persons with disabilities in employment, education, or health care; however, there is no specific statutory or constitutional protection for them. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments. In 2001, the National University began providing classes in Honduran Sign Language.

*Indigenous People.*—Some 490,000 persons, constituting 9 percent of the general population, are members of indigenous and Afro-Caribbean ethnic groups. The Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas live in 362 communities and generally have little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Most indigenous land rights are communal, providing land use rights to individual members of the ethnic group. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century. Both indigenous and nonindigenous communities have criticized the government's exploitation of timber; however, government policy over natural resources changed in 2002 and reportedly included greater local participation.

Land disputes are common among all sectors of society; however, the lack of clear title and property boundaries of indigenous land claims often leads to conflicts between such groups as landless mestizo farmers who clear and occupy land for subsistence farming, local and national elites who encroach on indigenous land to engage in illegal logging, and various government entities (see Sections 1.a. and 1.f.). In 2002, 12 Tolupan were killed in Yoro department in separate incidents because they opposed illegal logging and usurpation of their ancestral lands. Tolupan leaders implicated sawmill owners, police, district attorneys, and the governmental Honduran Forest Development Corporation in these killings. These cases were still pending at year's end. The Government worked with various indigenous groups on management plans for public and ancestral lands that they occupy. Expanded coverage of the national cadastral registry, property titling, and government land registries has the potential to reduce violence related to land disputes. In recent years security officials and private landowners have been accused of participating in about a dozen killings of Lencas and Garifunas in conflicts over indigenous land claims.

In August, the IACHR recognized that the delivery of a final title deed for ancestral lands of the Sambo Creek Garifuna Community settled an IACHR petition filed by the Honduran Black People's Fraternal Organization.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently leads to indigenous groups' attempting to regain land through invasions of private property, which usually provoke the authorities into retaliating forcefully. The Government is somewhat responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential individuals.

In 2002, the INA reduced its issuance of titles to indigenous groups because of lack of funds to compensate private owners and expected changes in land use laws. The INA continued to play a weak role in mediating land claims of indigenous and farmer groups.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the legal right to form and join labor unions; unions generally are independent of the Government and of political parties. Most farmer organizations are affiliated directly with the labor movement. Unions, especially public sector unions, occasionally hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 8 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in the past several years. Public sector unions have greater strength than private sector unions. Companies with unions are closed shops. The International Labor Organization (ILO) has noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, the requirement that trade union organizations must include more than 90 percent Honduran membership, the prohibition on foreign nationals holding union offices, the requirement that union officials must be employed in the economic activity of the business the union represents, and the restriction on unions in agricultural businesses with less than 10 employees.

The labor movement consists of three national labor confederations: the General Workers Central (CGT), the Confederation of Honduran Workers (CTH), and the United Confederation of Honduran Workers (CUTH). The CTH and the CUTH are affiliated with the International Conference of Free Trade Unions (ICFTU). The CGT is affiliated with the World Conference of Labor (WCL).

A number of private firms have instituted "solidarity" associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are employer-dominated. However, they are generally not seen by unions as a significant impediment to freedom of association. The Labor Code prohibits retribution by employers for trade union activity; however, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. Workers are most vulnerable for being fired while forming unions, despite the fact that workers in the process of establishing a union cannot be unfairly dismissed once they have registered their intent to organize a union with the Ministry of Labor. Some foreign companies close operations when they are notified that workers seek union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. The labor courts routinely consider hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. Cases referred to the judicial system begin at the Judge of First Instance, can then be appealed to a Court of Appeals, and finally can be appealed to the Supreme Court. There are Labor Courts for First Instance and Appeals in Tegucigalpa and San Pedro Sula (and a labor Judge of First Instance in La Ceiba); in other regions of the country regular Judges of First Instance and regular Courts of Appeals handle labor cases. The Ministry of Labor can issue an enforcement order if an employer does not abide by a reinstatement order by a court. Workers often accept dismissal with severance pay rather than wait for a court resolution due to the length of this process. Lack of effective reinstatement of workers is a serious problem.

Once a union is recognized, employers actually dismiss relatively few workers for union activity. Cases of firings and harassment serve to discourage workers else-

where from attempting to organize. The ILO has recommended that the Government provide adequate protection, particularly effective and dissuasive sanctions, against acts of anti-union discrimination for trade union membership or activities and against acts of interference by employers or their organizations in trade union activities.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor applied the law in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Collective bargaining agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting; however, there was credible evidence that blacklisting occurred in the assembly manufacturing for export firms, known as maquilas. A number of maquiladora workers who were fired for union activity have reported being hired for 1 or 2 weeks and then being let go with no explanation. Maquiladora employees have reported seeing computer records that include previous union membership in personnel records, and employers have told previously unionized workers that they are unemployable because of their previous union activity.

When a union is formed, its organizers must submit a list of founding members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. At times companies receive the list illegally from workers or from Labor Ministry inspectors willing to take a bribe. The Ministry of Labor has not always been able to provide effective protection to labor organizers. In 2002 the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years. Once a union is registered, its board of directors has specific protections under the law to prevent illegal firings.

The three national labor confederations maintain close ties with various international trade union organizations.

*b. The Right to Organize and Bargain Collectively.*—The law protects the rights to organize and to bargain collectively. By law an employer must begin collective bargaining once workers establish a union; however, employers often refuse to bargain with a union. The Ministry of Labor can and has administratively sanctioned an employer for failing to negotiate, or for violating a collective bargaining agreement. In addition, a union can bring an employer to court for violating a collective bargaining agreement.

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities generally respect in practice. The ILO has criticized the Civil Service Code's denial of the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. In addition, the law prohibits strikes in essential services and petroleum production, refining, transport, and distribution. The ILO has criticized the broad restriction on strikes in petroleum-related industries. The ILO noted that labor federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike, rather than a simple majority; the ILO asserts that these requirements restrict freedom of association.

The public sector held pervasive and long-lasting strikes throughout the year. High school teachers and doctors and other medical workers in public hospitals went on strike on numerous occasions to demand additional salary raises or to protest proposed changes to civil service pay and benefits.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, except that the law prohibits strikes. There are approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. There are approximately 180 export-oriented assembly manufacturing firms located inside and outside EPZs. The Honduran Apparel Manufacturers Association (AHM) and worker representatives routinely meet to reduce potential tensions within the industry. At year's end, approximately 48 of the country's 180 maquiladora firms were unionized. Approximately 12 percent of the 118,000 maquiladora work force is unionized, according to May statistics from the Ministry of Labor.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Mem-

bers of AHM, both industrial park owners and company owners, are asked to sign the code of conduct to join the AHM. The conditions are not monitored or verified by the AHM, but the AHM does act as arbiter when unions, the Ministry of Labor, or other partners complain about labor conditions in a factory. Workers and supervisors were trained on the elements of this code during the year. Organized labor has equivalent rights and protection inside and outside EPZs.

In the absence of unions and collective bargaining, the management of several plants in free trade zones has instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others use the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (see Section 6.e.).

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code. They criticize the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant amendment. The Ministry of Labor sought to address these deficiencies by requesting increased funding in the government's budget, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by strengthening regional offices to facilitate worker access to Ministry of Labor services, and by continuing a painstaking, ongoing review of the Labor Code since 1995. During the year the Ministry of Labor continued its work to strengthen a special maquiladora inspectorate office and an office for female workers.

There are 101 general labor inspectors, an increase from 95 in 2002. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August, the Ministry of Labor issued a legal notice that clarified the obligation of employers to grant access to labor inspectors.

The Government, private sector, and worker representatives participated in a regional program funded by an international donor to improve the right of freedom of association and collective bargaining throughout Central America. This program aimed to provide technical assistance and to strengthen the enforcement capabilities of the Central American labor ministries in these fields.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the law prohibit forced or bonded labor, including by children; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who make up an estimated 64 percent of the work force in the maquiladora sector. Prison labor can be compulsory for convicted criminals.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 14 years of age is permitted to work with parental and Ministry of Labor permission; however, child labor is a significant problem. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 400,000 children work illegally. The Children's Code prohibits a child under 14 years of age from working, even with parental permission, and establishes prison sentences of 3 to 5 years for persons who allow children to work illegally. This law is not enforced effectively. An employer who legally hires a 14–15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 14–15-year-old children each year. Minors are prohibited from working in undersea fishing or outside of the country's borders. Minors 14–15 years old are allowed to work only 4 hours daily and 20 hours weekly; 16–17-year-olds can work 6 hours daily and 30 hours weekly. Minors can work only until 8:00 p.m.

The Ministry of Labor does not enforce effectively child labor laws outside the maquiladora sector. The Ministry's effective enforcement of child labor laws in the maquiladora sector receives assistance from the self-policing of AHM members who in general do not hire employees under 18 years old. Violations of the Labor Code occur frequently in rural areas and in small companies. Significant child labor problems exist in family farming, agricultural export (including the melon, coffee, and sugarcane industries), and small-scale services and commerce. The Government, the ILO, and NGOs estimated that 400,000 children work illegally. A 2001 household survey reported that 9.2 percent of children between ages 5 and 15 were working, and that 26 percent of children ages 11 through 15 worked. Many children also

work in the construction industry, on family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work on lobster boats, where they dive illegally with little safety or health protection. Children who work on melon and sugarcane farms were exposed to pesticides and long hours.

There were isolated cases of the employment of children under the legal working age in the maquiladora sector. (Younger children sometimes obtain work permits by fraud or purchase forged permits.) In 2002, one foreign firm in the maquiladora sector was reported to employ minors, and the Ministry of Labor took action to penalize the employer and assure that minors no longer worked at the plant.

The Government published its National Plan of Action for the Gradual and Progressive Eradication of Child Labor in 2001. In June 2001, the Honduran Private Business Council promoted a Declaration signed by the Ministry of Labor, the First Lady, and the ILO to eradicate immediately the worst forms of child labor. In September 2001, in collaboration with the Honduran Private Business Council, the Ministry of Labor implemented a campaign to increase industry awareness on the worst forms of child labor. Within the same year, the Legislative Assembly published specific regulations on child labor, which outline activities prohibited for children and adolescents and sanctions for employers who violate these rules and regulations.

In 2002, the Government swore in new members of the interagency National Commission for the Gradual and Progressive Eradication of Child Labor. In May 2002, the ILO International Program for the Eradication of Child Labor (IPEC) launched its programs focused on the eradication of the worst forms of child labor in melon and coffee production. ILO/IPEC also has programs combating the commercial sexual exploitation of children, children working as lobster divers, children working in the garbage dump of Tegucigalpa, and child domestic workers. In addition, an international donor funded a 1-year pilot project with an NGO to help provide education to children working or at risk of working in commercial agriculture. The Ministry of Education has developed an Education for All plan to increase access to preschool and primary education; improve the quality of preschool and primary education by encouraging new teaching methods, improving curriculum, and reducing drop-out rates, repetition, and desertion rates; and increase student achievement. In October, the Government signed a Memorandum of Understanding with representatives of the World Bank and other international donors to help the country reach its Education for All goals.

*e. Acceptable Conditions of Work.*—In March, minimum wages that were renegotiated by the Government, the private employers' association, and the three labor confederations went into effect for the year (backdated to January). The daily minimum wage scale is broken down by sector and by size of business: small (1–15 workers) and large (16 or more workers). The scale ranges from \$2.79 (48.85 lempiras) for workers in small agriculture to \$4.70 (82.3 lempiras) for workers in financial/insurance companies and workers in export-oriented businesses (including maquilas and commercial agriculture such as tobacco, coffee, bananas, and seafood). Workers in areas such as construction, services, mining, transportation, communication, etc., have minimum wages in between these two rates. The raise was approximately 12 percent for workers in small agriculture, but approximately 9 percent for most other workers. Inflation was approximately 8.1 percent in 2002.

All workers are entitled to a bonus equivalent to a month's salary in June and December every year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family.

As a result of the 2000 negotiated agreement on the minimum wage, the Government committed itself to establishing an Economic and Social Council where the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. In March 2002, the Council was sworn in and it has been active on a number of issues.

The law prescribes a maximum 8-hour workday and a 44-hour workweek, equivalent to 48 hours' wages. There is a requirement of at least one 24-hour rest period for every 6 days of work. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. The law requires overtime payment for hours in excess of the standard. There are prohibitions on excessive compulsory overtime. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoy equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor is cumbersome.

The Ministry of Labor is responsible for enforcing national occupational health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance, training, and equipment from an international donor to improve its regulatory capacity. There are 14 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 52 percent of all employment according to the Ministry of Labor, is regulated and monitored poorly. Worker safety standards also are poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free trade zones and in private industrial parks (see Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. There is no comprehensive anti-trafficking law, but assorted penal, child exploitation and immigration statutes criminalize trafficking and enable the Government to prosecute traffickers. The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years' imprisonment; the penalty is increased if the traffickers are government or public employees, or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration (DGPM), is responsible for enforcing the country's immigration laws although the DGPM does not have arrest powers. Many of the government's anti-trafficking measures are conducted in the context of combating the illegal movement of migrants. Corruption, a lack of resources, and weak police, Public Ministry, and court systems hinder law enforcement efforts. While traffickers have been arrested, the Government has not prosecuted any cases. In 2002, the Government arrested and prosecuted eight "coyotes," some of whom were smuggling minors, but it was unclear if any of these cases involved trafficking. Corruption is a serious problem and renders obtaining court convictions difficult. Some officials have been investigated and dismissed for corruption. The Immigration Director fired 35–40 officers for corruption in 2002. The Frontier Police have worked with an international donor to construct a border control inspection facility that is used against traffickers.

Honduras is a source and transit country for trafficking for sexual and labor exploitation. Most victims are young women and girls, who are trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada. Women and children are trafficked internally, most often from rural to urban settings. An April 2002 raid in Texas uncovered a prostitution ring run by Hondurans in which more than three dozen Honduran women and girls had been trafficked to the United States and were subject to sexual exploitation and debt bondage. Honduran authorities participated in law enforcement investigations that led to several convictions in the United States.

Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics. Canadian authorities cooperated with Honduras during the year to identify and repatriate the minors. During the year the Government continued to work with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. According to a local children's rights group, 408 children have been reported missing from 1990 to February.

The commercial sexual exploitation of children is a serious problem, and child prostitution is a problem in tourist and border areas of the country. Casa Alianza estimated in December that there were approximately 8,335 children who are victims of some form of commercial sexual exploitation. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle during the year.

The Government, in conjunction with UNICEF, has begun a public information campaign against trafficking and commercial sexual exploitation, and it has tried to raise awareness of children and women's rights and risks associated with illegal migration. Casa Alianza has also launched a public information campaign against commercial sexual exploitation of children. A national commission attempts to combat child labor abuses and seeks to reincorporate working minors into educational programs. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children, (see Section 5).

The Government does not provide any assistance to foreign victims of trafficking, nor does it provide funding for NGOs helping victims; however, while constrained by a lack of financial resources, government officials work closely with NGOs in several areas. The government worked with ILO/IPEC and NGOs to provide training

to the press on trafficking in persons. In 2000 the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in the country. The centers' activities continued during the year, with the assistance of several international organizations. Consular officials are aware of trafficking issues when abroad. The International Organization for Migration received assistance from an international donor to build a shelter for third country illegal immigrants pending deportation to their home countries.

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## JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties, the People's National Party (PNP) and the Jamaica Labour Party (JLP), have alternated in power since the first elections under universal adult suffrage in 1944. In the October 2002 general elections, Prime Minister P.J. Patterson's PNP won 24 of the 60 seats in Parliament. In the June 19 local elections, the opposition JLP won 12 out of 13 parish councils. The judiciary is independent but lacked adequate resources.

The Jamaica Constabulary Force (JCF) had primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF—army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest, unless so ordered by the Prime Minister. The Prime Minister occasionally gave the JDF powers to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses.

The market economy was based largely on tourism, production of primary products (bauxite and alumina, sugar, bananas), and remittances. The country's population was approximately 2.6 million. The economy grew by an estimated 2 percent during the year, compared with 1 percent in 2002. There remains a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed unlawful killings. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. There were reports of arbitrary arrest and detention. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities, while treatment of members of the Rastafarian religion improved. Violence against individuals suspected or known to be homosexuals occurred, as did violence and discrimination against persons living with HIV/AIDS. Child labor was a problem, as was trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reportedly eight politically motivated killings during the year, committed by supporters of various political factions. The police committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects. There were 127 deaths, including those of 13 police officers, during police encounters with criminals, compared with 147, including 16 police, in 2002. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 37 per 100,000 persons. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols. There were targeted assaults against police officers and their families.

In October, the U.N. Commission on Human Rights released the report of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, which

stated that the country had an unacceptably high number of questionable police shootings and should hold more policemen accountable for their actions.

On May 7, members of the JCF's Crime Management Unit (CMU) killed two men and two women at a home in Crawle, Clarendon. The JCF officers involved claimed that they returned fire after someone in the home shot at them; however, witnesses to the incident disputed this claim. These allegations led to the disbanding of the CMU and the reassignment of its Senior Superintendent to a desk job. The JCF Commissioner requested foreign assistance in investigating the incident. London's Metropolitan Police Service sent detectives to investigate. On October 30, they submitted a report to the Department of Public Prosecutions (DPP), where it remained at year's end.

In November, police fatally shot two elderly men and wounded a woman in the community of Flankers, St. James. The Commissioner of Police and the Minister of National Security later apologized to the community for the incident. The police presented their findings to the DPP, where the case remained at year's end.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police (see Section 1.d.).

In July 2002, police shot and killed 7-year-old Romaine Edwards during what police said was a shoot-out with gang members in Lawrence Tavern, St. Andrew. On March 21, the Bureau of Special Investigations (BSI) submitted the case file to the DPP, where it remained at year's end.

In the case of the November 2002 police killing of Daemon Roache, the BSI was still preparing it for referral to the DPP at year's end.

During the year, at least five detainees died while in police lockups; some of the deaths involved negligence (see Section 1.c.).

On June 16, the judge presiding over the trial of the police officer charged with the 2001 murder of Dave Steele discharged the jury members after the jury foreman reportedly was seen conversing with a lawyer who was observing the proceedings on behalf of Steele's family. Although the trial was rescheduled for October, it had not resumed as of year's end.

On March 14, 2 years after the CMU shot and killed seven youths in Braeton, St. Catherine parish, Amnesty International (AI) issued a report of its own investigation into the incident, with the assistance of an independent U.K. firearms expert, stating that it found new evidence that supported the ongoing investigation of the case by the DPP. The authorities brought charges against six police officers, and their trial was expected to begin in mid-2004.

In August, the coroner's court found that the security forces were not "criminally responsible" for the 2001 death of Andrew Stephens, a JLP "don" (gang leader), which reportedly occurred in a shoot-out with police.

In May, a three-member panel of Supreme Court judges ruled that the case against the police involved in the 1999 death of Patrick Genius was insufficient for further investigation.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 19 vigilante killings during the year, the motives for which varied—some victims were targeted, while others were the result of spontaneous mob action. On March 14, the body of an accused car thief, Ricardo Anglin, was found in a cesspool at the University of Technology where he tried to escape an angry mob. Reports indicated that the mob set fire to the grass surrounding the cesspool to prevent Anglin from escaping, and he later drowned. Human rights advocates contended that police did not consider such murders a priority and expressed concern that the perpetrators rarely were charged.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

At year's end, the case involving accusations of police use of excessive force against demonstrators protesting the 2001 demolition of 17 squatters' homes was still pending with the DPP.

In April 2002, the DPP ruled that two police officers should be charged with wounding with intent and malicious destruction of property for a 2000 incident in which police fired on a minibus when the driver failed to stop at a roadblock. The case was still before the courts at year's end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care were typical. There were no reports of prison riots. The majority of pretrial detainees were held in police lockups. The new Ho-



rizon Remand Center, placed under JDF control in 2002, received prisoners, which relieved some overcrowding. However, due to construction problems and staffing shortages, the facility could not receive its full capacity of 1,026 prisoners. At year's end, the Remand Center held only 500 inmates and had a skeleton staff supplemented by JCF and JDF personnel. In July, the Ministry of Health ordered the removal of approximately 65 inmates from the Spanish Town lockup due to problems with the facility's sewage system.

A separate prison for women—the Ft. Augusta Women's Prison—was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Ft. Augusta was also relatively safer and had less violence than the men's prisons. However, inmates at Ft. Augusta complained of beatings by guards.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles were held with adults. On July 16, Jamaicans for Justice, a local human rights nongovernmental organization (NGO), released a report citing incidences of rape, statutory rape, beatings, use of physical restraints, and harsh punishment against children housed in state-run "places of safety."

In January, the U.K. Privy Council upheld a 2000 Court of Appeals ruling that it was unconstitutional for juveniles to be held "at the Governor General's pleasure."

At year's end, the proceedings brought by the Public Defender seeking compensation from the Government for a prisoner who died in March 2002 at Mandeville police station as a result of being beaten by other prisoners were still pending.

At year's end, two 2002 cases of prisoners in Bull Bay and Manchester police lockups who died in police custody were still under investigation.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. There were some reported incidents of arbitrary arrest during the year, and the authorities continued to detain suspects, particularly those from poor neighborhoods, without bringing them before a judge within the prescribed period.

Human rights organizations were satisfied with the progress of the policy requiring that each new case involving detention of persons deemed "unfit to plead" for reasons of mental illness be brought to the court's attention once per month.

The Jamaica Constabulary Force falls under the direction of the Ministry of National Security. It is headed by a Commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Generally, the JCF was effective, although corruption and impunity were problems. In June, the Government dismantled the controversial police Crime Management Unit after another incident in which citizens were killed by police during an alleged shootout (see Section 1 a.).

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 29 investigators, specifically addresses police shootings. The BSI completed investigations of 37 of 323 shooting incidents during the year and sent them to the DPP. The DPP ruled on 10 cases and sent 3 to criminal courts. One officer was found criminally liable. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had 12 investigators.

On December 8, the JCF Commissioner signed a memorandum of understanding with police officers' representatives that outlined a new policy statement on human rights and police use of force and firearms. The statement incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

The JCF continued an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The Police Federation conducted lectures to educate policemen in citizens' rights. The Government, the Independent Jamaica Council for Human Rights, and foreign governments developed human rights materials to be used in all subjects at the primary and secondary levels, which were being tested in selected classrooms at year's end. Part of the test involved 1,000 coloring books, depicting human rights and corresponding responsibilities, distributed to two primary schools in the Kingston area.

In September, over a year after the Privy Council overturned Randall Dixon's 1996 conviction for murder and returned his case to the Appeals Court to determine

whether he should be freed or retried, the Appeals Court ordered his release. Prison officials hampered earlier attempts to remove Dixon from death row and return him to the general prison population. Dixon was originally convicted on the word of a police officer who picked him out of a lineup, even though two other witnesses at the scene of the crime failed to identify him.

The law requires police to present a detainee in court within a reasonable time period, but the authorities continued to detain suspects beyond such a period, which the Government attributed to an overburdened court system that could not accommodate large numbers of such presentations in a timely manner (see Section 1.e.). Magistrates inquired at least once a week into the welfare of each person listed by the JCF as detained. There was a functioning bail system.

The law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them.

The Constitution prohibits forced exile, and there were no reports that it occurred.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was overburdened and operated with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try misdemeanors. A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also was faced with a large backlog. On June 30, 22 state prosecutors refused to work for 3 days in an effort to improve their working conditions. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located. A night court had some success in reducing the backlog of cases. The Supreme Court began using mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The Resident Magistrate Courts also used alternative dispute resolution in limited cases.

Defendants have the right to counsel. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for persons who have had their constitutional rights violated. The Public Defender's Office contracted private attorneys to represent clients; however, funds were insufficient to meet the demand, and attorneys sometimes requested payment from clients.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions; however, the revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

The 2000 case of three persons accused of wiretapping telephones without proper authorization remained pending at year's end.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The four largest newspapers, all privately owned, regularly reported on alleged human rights abuses, particularly those involving the JCF. Foreign publications were widely available. There were 3 television stations and 16 radio stations. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions were unregulated and widely available through satellite antennas and cable operators.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. There were several community protests against police actions during the year. Security personnel generally acted with restraint during public demonstrations.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. In February, the Public Defender's office won a case in the Constitutional Court that gained government recognition of the religion. The Constitutional Court allowed clergy of the Church of Haile Selassie I to visit and worship with prisoners in prison chapels and to perform baptism and marriage ceremonies. The law continues to prohibit the use of marijuana as a sacrament of worship.

For a more detailed discussion, see the 2003 International Religious Freedom report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the rights of free movement and travel, and the Government generally respected them in practice.

There was no specific implementing legislation providing for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government established an interagency committee and formal procedures to review claims to refugee status. As of December 18, there were 18 pending claims for asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote. Although there is a history of political violence and killings in the period leading up to elections, the June 19 local elections were less violent than previous elections. There were few reports of intimidation of voters and party agents.

Two political parties—the PNP and the JLP—have alternated in power since the first elections in 1944. Since the October 2002 general elections, the PNP holds 34 of the 60 seats in Parliament. In the June elections, the opposition JLP won 12 of the 13 parish councils.

Improvements in the electoral system, including introduction of new voter's identification cards, the inclusion of voter's pictures on the voter's list, and fingerprinting of voters at registration helped to reduce fraudulent voting.

There were no legal restrictions on the participation of women in politics. Women held approximately 8 percent of all political offices and 30 percent of the senior civil service positions. Three of the 17 cabinet members were women.

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

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

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice, created in 1999 in response to concerns about police impunity, focused on the issues of extrajudicial killing and excessive use of force by the police and wrote a weekly newspaper column. Jamaicans for Justice reported that undercover police regularly attended its meetings; nevertheless, the group professed to have a cordial relationship with the police and sat on two of the police consultative boards.

In February, representatives of several local NGOs concerned with police abuse were denied entry to a press conference given by Asma Jahongir, the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office incorporated the former post of Parliamentary Ombudsman, which was intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights were infringed. The office contracted private attorneys to bring suits against the Government on behalf of private citizens. During the year, the Public Defender began working on an overall anti-discrimination bill, which would create an Anti-Discrimination Commission to make decisions about grievances. The Public Defender also sought compensation for the families of victims killed during the 2001 shoot-out in Tivoli Gardens, West Kingston between members of the community, the JCF, and the JDF. A class-action lawsuit was pending at year's end.

On March 31, the Government launched the Corruption Prevention Commission, a governmental body with responsibility to investigate allegations of acts of corruption committed by public officials. In addition, the commission requires certain categories of public servants, including all police and military personnel, those working in customs, immigration and revenue collection, and officials making over approximately \$34,000 (J\$2 million) per year, to file annual asset declarations. Under the law, individuals who do not file their declarations or who are found guilty of committing an act of corruption will face fines or imprisonment.

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

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities (see Section 3).

The Jamaica Forum for Lesbians, All Sexuals, and Gays continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of gay patients by hospital and prison staff, and targeted shootings of homosexuals. During the year, the United Kingdom granted one gay Jamaican asylum based on his fear of persecution, and other such asylum applications reportedly were pending. Individuals committed acts of violence against suspected homosexuals; for example, in July three men chased a homosexual into a restaurant and began beating him. When the restaurant's security guard discovered that the man was homosexual, he joined the other men in the beating. The homosexual man freed himself and locked himself in the employee bathroom until the police arrived. Although the police took a report, they did not follow up or arrest anyone in relation to the incident.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws provide protection against discrimination for persons living with HIV/AIDS. Human rights NGOs reported severe stigma and discrimination for this group. Although supplies of universal precautions were adequate in health care facilities, health care workers neglected patients with HIV/AIDS.

*Women.*—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. During the year, the number of reported incidents of rape increased by 2 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other non-custodial sentencing. However, the Act only covers relationships maintained in the same household. Couples who reside in separate domiciles are not covered under this act. Breaching a restraining order is punishable by a fine of up to approximately \$200 (J\$10,000) and 6 months' imprisonment.

In January, a court gave a suspended sentence to a man in Montego Bay charged with beating his girlfriend so severely that she was blinded in one eye, and it ordered him to pay the woman's medical bills as compensation. The judge found that the man was "obviously a good and just man" because he was married with three children. The girlfriend's reputation was a mitigating circumstance in the judge's decision.

In March, a woman in Kingston freed herself from a room where her partner had held her captive for many years. She showed scars and signs of years of physical abuse and starvation. Police investigators questioned the community about the situation. Neighbors admitted that they knew about the abuse, but they were afraid to report it to the police for fear of retribution by her partner. The man accused of the abuse was still at large at year's end.

There is no legislation that addresses sexual harassment, and it was a problem. There were no reports of sexual harassment of women by the police, but some observers believed that women did not report such incidents because there was no legal remedy.

The law prohibits prostitution; however, it was widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women. During the year, the Bureau completed a review of 32 laws for gender bias and forwarded its recommendations to Parliament.

There was an active community of women's rights groups. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

*Children.*—The Government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government's programs for children. The Educational Act stipulates that all children between 6 and 12 years of age must attend elementary school. However, due to economic circumstances, thousands of children were kept home to help with housework and avoid school fees.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, especially in inner cities. NGOs reported that inner city "dons" or gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 274 cases of statutory rape—sex with girls under 16—reported through September 21, a 23 percent increase over the same period in 2002. The Government expressed concern about child abuse and admitted that incidents were underreported.

Child prostitution was a problem (see Section 6.f.). Reports indicated that children were being trafficked within the country for the purposes of sexual exploitation. The Government pledged to address this problem and worked in conjunction with the International Labor Organization (ILO) International Program for the Elimination of Child Labor (IPEC). The ILO/IPEC office planned to release the findings of a survey on child labor in early 2004.

In April, the Government created the Child Development Agency (CDA) under the Ministry of Health, which combines services previously provided by the Children's Services Division, the Adoption Board, and the Child Support Division. The Agency's main objectives include advocating for children's rights, facilitating the best use of resources, improving the welfare of all children in need, and strengthening monitoring mechanisms under its control. In November, the CDA launched an action plan for orphans and other children made vulnerable by HIV/AIDS.

In July, Jamaicans for Justice issued a highly critical report about the conditions of private and state-run children's homes and places of safety, which fell under the CDA's responsibility upon its creation. The report indicated that rape, statutory rape, beatings, physical restraints and harsh punishments occurred frequently in these facilities. The Ministry of Health and the CDA pledged to address these problems, and the CDA instituted new policies and procedures to manage critical incidents in child care facilities.

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles.

*Persons with Disabilities.*—No laws mandate accessibility for persons with disabilities, who encountered discrimination in employment and denial of access to schools. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Minister of State for Labor and Social Security, who is blind, reported that out of a disabled population of approximately 250,000, only about 200 persons were gainfully employed—90 percent by the Government. The Government trained persons with disabilities for jobs within the information technology sector and added two buses equipped with hydraulic lifts for wheelchairs during the year.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions functioned freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits, a practice that is considered legal as long as workers receive severance pay. The LRIDA prohibits anti-union discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Trade unions could and did affiliate with regional or international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforced the LRIDA and other labor regulations. All parties were committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contended that this would unduly lengthen negotiations.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes did occur. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs. Other than in the case of prison guards, there was no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of “essential services” are prohibited from striking, a provision the ILO repeatedly criticized as overly inclusive.

There were a few strikes during the year. In October, 300 workers at 12 branches of a bank went on strike over pay disputes.

Domestic labor laws applied equally to the “free zones” (export processing zones). However, there were no unionized companies in any of the 3 publicly owned zones, which employed 7,813 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, but attempts to organize plants within the zones continued. Company-controlled “workers’ councils” handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performed them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution does not specifically prohibit forced or bonded labor by either adults or children, but there were no reports that this practice occurred, other than child prostitution (see Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from

industrial employment. The police are mandated with conducting child labor inspections, and the Ministry of Health is charged with finding places of safety for children. However, according to Ministry officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 were seen peddling goods and services or begging on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see Section 5).

In October, the Government ratified ILO Conventions 138 and 182, which address the minimum age for labor and the worst forms of child labor. In 2002, the Government established a National Steering Committee for the Protection of Children in conjunction with the ILO/IPEC, which was mapping out a "master strategy" to deal with child labor. As part of this, the Government undertook several sector-specific programs to study and combat child labor. These included a data collection component, awareness raising activities, and direct action to identify and withdraw children from the worst forms of child labor, particularly prostitution, fishing, tourism, and the informal sectors. An ILO adviser overseeing the project was assigned to the Labor Ministry and conducted various assessments of the problem; the results of a child labor survey were being compiled at year's end.

*e. Acceptable Conditions of Work.*—The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage, raised from \$25 (J\$1,200) to \$38 (J\$1,800) per week during the year, was considered to be inadequate to provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. Trafficking in children was a problem; a 2000 ILO study found child prostitution, involving girls as young as 10 years old, to be widespread in all parts of the country. The Government took steps to address these children in need (see Section 5).

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## MEXICO

Mexico is a federal republic composed of 31 states and a federal district, with an elected president and a bicameral legislature. In July 2000, voters elected President Vicente Fox Quesada of the Alliance for Change Coalition in historic elections that observers judged to be generally free and fair, and that ended the Institutional Revolutionary Party's (PRI) 71-year hold on the presidency. In July, during federal elections to select members of Congress the PRI gained 12 seats in the Chamber of Deputies, giving it 223 of the 500 seats. The National Action Party (PAN) came in a distant second with 154 seats, down from its previous total of 205 seats. On the whole, the elections were judged fair and free by observers. The judiciary is generally independent; however, on occasion, it was influenced by government authorities, particularly at the state level. Corruption, inefficiency, impunity, disregard of the law, and lack of training were major problems.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and various police auxiliary forces, have primary responsibility for law enforcement and maintenance of order within the country. However, the military played a large role in some law enforcement functions, primarily counternarcotics. There were approximately 5,300 active duty military personnel in the PFP. Elected civilian officials maintained effective control over the police and the military; however, corruption was widespread within police ranks and also was a problem in the military. There have also been instances of state and local police involvement in kidnappings and extortion. The military maintained a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers committed human rights abuses.

During the year, the market-based economy began to show tentative signs of recovery. Gross domestic product in this period grew at an annualized rate of 1.5 percent, according to official estimates at year's end, after 0.9 percent growth in 2002. Leading exports included petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. Tourism and remittances from citizens living abroad were respectively the second and third largest earners of foreign exchange after petroleum. In June, manufacturing exports picked up for the first time since they started to weaken in 2001. Average manufacturing wages increased by 1.7 percent during 2002, much less than the 5.2 percent rate of inflation in the same period, and less than the government's target rate of 4.5 percent. An estimated 25 percent of the population resided in rural areas where subsistence agriculture is common. Income distribution remained skewed: in 2000, the top 10 percent of the population earned 37.8 percent of total income, while the bottom 20 percent earned only an estimated 3.6 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remained in several areas, and in some states, especially Guerrero, Chiapas and Oaxaca, a poor climate of respect for human rights presented special concern. State law enforcement officials were accused of committing unlawful killings. There were reports of vigilante killings. There were documented reports of disappearances. The police sometimes tortured persons to obtain information. Prosecutors used this evidence in courts, and the courts continued to admit as evidence confessions extracted under torture. There were cases of police torture of suspects in custody that resulted in deaths. Impunity remained a problem among the security forces, although the Government continued to sanction public officials, police officers, and members of the military. Alleged police involvement, especially at the state level, in narcotics-related crime, continued, and police abuse and inefficiency hampered investigations.

Narcotics-related killings and violence increased, particularly in the northern states and Mexico City. Prison conditions were poor. The police continued to arrest and detain citizens arbitrarily. During the year, judicial reforms began to take effect; however, lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. Indigenous people's access to the justice system continued to be inadequate. The authorities on occasion violated citizens' privacy. Human rights groups reported that armed civilian groups in the state of Chiapas continued to commit human rights abuses. Zapatista National Liberation Army (EZLN) sympathizers continued to denounce increased military presence in Chiapas as well as the increasing activity of armed civilian groups. Journalists, particularly in the northern states, practiced self-censorship in response to threats from narcotics traffickers. Corrupt members of the police sometimes violated the rights of illegal immigrants. Human rights workers continued to be subjected to attacks and harassment; however, reports of such attacks diminished. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDs persisted. Sexual exploitation of children continued to be a problem. There were credible reports of limits on freedom of association and worker rights. There was extensive child labor in agriculture and the informal economy. Trafficking in persons, including children, remained a problem, and there were credible reports that police and other officials were involved in trafficking.

The Government appeared to stall in its attempt to improve the domestic human rights situation, with a few exceptions.

The peace process remained stalled at year's end. The break in contacts between the Government and the EZLN, that occurred when Zapatistas rejected the Law on Indigenous Culture and Rights passed in 2001 as a watered-down version of the San Andres Accords, continued during the year. In August, the Government called for a resumption of the dialogue. Conditions such as poverty and inequality that gave rise to the armed conflict in 1994 persisted. Sporadic outbursts of politically motivated violence continued to occur throughout the country, particularly in the southern states of Chiapas, Guerrero, and Oaxaca.

In July, the Attorney General's office (PGR) restructured its organization to elevate the director of the human rights office in the PGR to a Deputy Attorney General. On August 11, the Secretariat of Foreign Relations (SRE) announced that the Under-Secretariat for Human Rights and Democracy would be eliminated as of September 1, which domestic and international human rights organizations viewed as reflective of a diminishing interest in a human rights agenda by the Government. On December 8, the Office of the U.N. High Commissioner for Human Rights presented the President with an analysis of the human rights situation in the country. President Fox commissioned the study in 2000, and upon its receipt promised to implement its 32 recommendations.



On March 25, Amnesty International (AI) published a report that accused all branches of the security forces of using torture. In July, Human Rights Watch released a report that criticized PGR's Special Prosecutor for Investigating Human Rights Abuses Against Social and Political Movements of the Past (FEMOSPP) for its lack of results in investigating human rights abuses of the 1960s, 1970s, and 1980s. The report also criticized the Fox administration for not providing the office the support needed to carry out its mandate. On August 11, AI released a report on the federal, state and municipal governments' failure to achieve progress in solving the killings of women in Ciudad Juarez over the past 10 years.

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 political killings. Members of the federal and state police, as well as military personnel, were accused of committing killings during the year.

Police were accused of killing 22-year-old Fernando Garcia Morales on January 11, during an operation against "street racers" in Tulancingo, Hidalgo. Margarito Escamilla Asian, Juan Rubio Juarez, Ricardo Moreno Hernandez, and Claudio Lopez Perez, all police officers assigned to the Tulancingo region, were arrested for killing Garcia. The officers stated that Garcia Morales "accelerated the vehicle he was driving and tried to run them over."

On August 23, agents of the Guerrero State Judicial Police arrested Jesus Hernandez Miranda and Raymundo Lorenzo Leyva, members of the Acapulco Municipal Preventive Police, for the August 20 killing of Jose Manuel Rodriguez del Castillo, a hotel cashier.

On July 12, agents of the Chiapas state Attorney General's Office PGJE accused Andres Vidales Segovia, a soldier assigned to the 31 Military Zone in Chiapas, and three others, of killing Abelino Encino Guzman, an indigenous Tzeltal on July 10 in Tenejapa, Chiapas. The investigation into the death continued at year's end.

In March, a federal court determined that the March 2002 death of Guillermo Velez Mendoza at the hands of Federal Investigative Agent Hugo Armando Muro Arellano was accidental. The court revoked the arrest order for homicide against Muro Arellano. The authorities continued to investigate him for improper detention and dereliction of duty at year's end.

On August 4, the Federal District Commission on Human Rights (CDHDF), although unable to determine the cause of death with certainty, concluded that in 2002 the State Public Security police (SSP) police violated the rights of Jose Gabriel Martinez Romero when they inflicted severe injuries on his person while in custody.

The criminal charges against Sergio Martinez Acosta, Juan Manuel Gutierrez Navarro, Juan Cruz Rosales, and Jorge Julio Estupinon de la Rosa for abuse of authority, torture, and homicide the 2002 death of Francisco Medellin Alberto were still pending before courts in the state of Nuevo Leon at year's end.

In 2002, the Nuevo Leon State Human Rights Commission conducted a preliminary investigation into the death of Roberto Carlos Mendoza, and then referred the case to the National Commission for Human Rights (CNDH) since the agents involved were members of the PGR, a federal entity. There was no further information available at year's end.

There were no developments in the June 2002 shooting of Jesus Ulises Cruz Banda by Mexico City police.

In 2002, criminal charges for homicide were filed against 14 defendants in the 2002 massacre of peasant farmers near Agua Fria, Oaxaca. Charges were still pending against seven of them. The remaining accused persons were released. Two other persons implicated in the incident, who were minors, were detained but later released as wards under the custody of the state. The investigation remained open at year's end. On March 1, Samuel Alfonso Castellanos Pinon, attorney for the defendants, received an anonymous death threat if he did not stop defending the accused. According to AI, that evening Castellanos noticed unknown persons, with obvious weapons, followed him home.

On July 19, the Mexico City's Attorney General's office (PGJDF) Special Prosecutor assigned to investigate the 2001 death of human rights activist Digna Ochoa announced that she had committed suicide (see Section 4).

There were no developments in the July 2001 killing of Everardo Obregon Sosa. On November 10, a final hearing was held in the case against Vicente Pena Zuniga, Efrain Cruz Bruno, and Nicasio Bernardino Gomez for the 2001 killing of Fidel Bautista Mejia in Putla, Oaxaca. The final verdict was pending at year's end.

There were no developments in the case against military personnel for the 2001 killings of Esteban Martinez Rosario and Rodrigo Torres Silvain.

There were no developments in the 2001 abduction and killing of Raul Varela Meza, Juan Antonio Chavez, Eduardo Ramirez, and Lorenzo Barraza in Ciudad Juarez, Chihuahua.

There were at least two deaths in prison, one in Sinaloa and one in Nuevo Laredo, Tamaulipas state.

There were numerous reports of executions carried out by rival drug gangs, whose members included both active and former federal, state, and municipal security personnel. Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking increased. In August, local press reported that there had been 177 killings in Tijuana, Baja California since January. The press also reported in September that there had been at least 56 killings during the year in Nuevo Laredo. At least 36 of the killings were associated with drug trafficking. Between January and August 31, 24 killings with presumed or proven drug connections occurred in the Ciudad Juarez area.

There were several instances in which members of security forces have been apprehended for working for or with narcotics traffickers.

There were no developments in the 2001 killing of 12 persons in the town of El Limoncito, Sinaloa.

In May, the CNDH stated that it would present to the Federal Government evidence of irregularities in the investigation into the 1997 killing of 45 persons in Acteal, Chiapas. These irregularities included the obtaining of statements in Spanish from accused individuals who did not speak the language and were never provided translators, and shell casings collected at the scene that did not match weapons confiscated and supposedly used in the killings.

In February, attorneys in the suicide case of Air Force Lieutenant Jose Raul Vargas Cortez, which was reopened in 2002 by the Attorney General of Military Justice, announced that military officials covered up details surrounding the death of Vargas. Investigations continued at year's end to determine if Vargas was murdered.

In May, members of the Supreme Court (SCJN) analyzed the possibility of having the PGR reopen the 1995 case of the massacre of 17 indigenous farmers in Aguas Blancas. Former Guerrero state governor Ruben Figueroa Alcocer was implicated in the case.

The CNDH received 281 complaints against members of the military between March 2002 and July, including unlawful killings and excessive use of force. The CNDH also reported that within the same timeframe it had given 61 seminars on human rights to 15,724 members of the Armed Forces, including 1,200 flag officers. In addition, 12 military instructors have been trained to teach human rights courses.

There were no developments in the investigation into the 2001 killings of two federal judges in Mazatlan, Sinaloa state.

There were incidents of vigilante justice, and at least four occasions in which authorities prevented such incidents. However, on March 17, residents of Tlayecac, in Morelos state, lynched 21-year-old Mariano Garcia Escamilla, accused of cattle rustling in 2000. Garcia had been banned from the community since 2000 and was hung from a tree when he reappeared in the community. Investigations were ongoing at year's end.

*b. Disappearance.*—There were two credible reports of disappearances. There were various cases of disappearances in Ciudad Juarez; however, none had been linked to state actors.

On April 27, Marcelino Santiago Pacheco, leader of the Organization of Indigenous Zapotec People (OPIZ), disappeared, according to the Association of Families of Victims of Human Rights Violations and Disappeared of Mexico (AFADEM). On June 25, his brother Anselmo Santiago Pacheco, who took over leadership of OPIZ, also disappeared. Elements of the state Judicial Police (PJE) previously abducted Marcelino in 1997, and he reappeared in custody 8 months later charged with illegal possession of firearms only to be acquitted in judicial proceedings.

On July 3, Human Rights NGOs brought the 2002 disappearance case of Jesus Angel Gutierrez Olvera before the Inter-American Human Rights Commission. Gutierrez Olvera was last seen in police custody in March 2002.

On January 27, the judge in the case of the 2001 disappearance of Faustino Jimenez Alvarez, in Guerrero, ordered arrest warrants issued for Raul and Arturo Valle Alvarez, who together with state Attorney General's office officials, were accused of kidnapping. The two were fugitives from justice, while an investigation into the disappearance continued at year's end.

On April 21, Ignacio Carrillo Prieto, the Special Prosecutor investigating disappearances and human rights abuses during the "Dirty War" of the 1960s and 1970s requested arrest warrants against Miguel Nazar Haro and Luis de la Barra

Moreno, former directors of the Federal Security Directorate (DFS) during the 1970s, and Carlos Solana, former head of the Judicial Police, charged with violating the civil rights of student leader Jesus Piedra Ibarra in 1975. However, on April 22, a state judge in Nuevo Leon ruled that statute of limitations for the crimes contained in the first cases submitted by the FEMOSPP had expired, therefore no arrest warrants could be issued against the accused. On November 5, the Supreme Court ruled that the statute of limitations on abduction does not begin to run if the victim's body remains missing, which allowed for trials in these cases. In late November, the special prosecutor issued an arrest warrant for Isidro Galeana, a former Guerrero police commander, accused of kidnapping a leftist teacher in 1974. At year's end, Galeana was a fugitive. In late November, unidentified persons killed Horacio Zacarias Barrientos, a peasant who had helped build 11 cases and was to testify against former federal officials in a "dirty war" case, in the city of Chilpancingo, Guerrero. On December 5, the Government issued arrest warrants for two former secret police chiefs, Miguel Nazar Haro and Luis de la Barreda Moreno, who were suspected of having directed the arrest, torture, and disappearance of Jesus Piedra, and for Juventino Romero Cisneros, a Nuevo Leon state police official who testified to having participated in the abduction of Piedra from a Monterrey street corner.

In July, HRW published a report that examined the causes of a perceived lack of progress by the special prosecutor. The report identified three reasons; limited resources, limited access to government documents, and limited military cooperation. HRW recommended that resources and training be expanded for the investigators and prosecutors, that declassified documents be made readily available to the prosecutor's office and the general public, that military officials provide all requested information and cease to assert jurisdiction over cases under investigation, and that information gathered by the Prosecutor's office regarding past human rights abuses be disseminated to the public. On November 26, HRW noted that some of the abuses mentioned in its previous report had been addressed, and it commended the Supreme Court for its decision on the statute of limitations.

The military justice trial of Generals Francisco Quiroz Hermosillo and Arturo Acosta Chaparro, implicated in the death or disappearance of 143 persons during the 1970s, continued during the year. However, in March, the Supreme Military Tribunal ruled that Quiroz and Acosta could only be processed for the deaths of 22 persons.

In February, the Attorney General's office reported that there were 106 kidnappings for ransom during the period from 2001-02.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the law prohibit torture; however, it continued to be a serious problem. The Constitution excludes as evidence confessions obtained in the absence of the accused person's defense attorney, and the law excludes coerced confessions, including those extracted under torture (see Section 1.e.). To be admissible as evidence, confessions must be made to the Public Ministry or a judge and in the presence of a defense attorney. However, the police regularly obtain information through torture, prosecutors use this evidence in courts, and the courts continue to admit as evidence confessions extracted under torture. The military also has been accused of using torture. Many victims were afraid to report or follow through on complaints against the police, thereby hampering prosecution of the perpetrators. In January, human rights organizations claimed that Victor Garcia Uribe and Gustavo Gonzalez Meza confessed under torture by hooded policemen to killing eight women in Ciudad Juarez. The human rights organizations demanded their release. Gonzalez Mesa died in prison in February. In late October, the president of the Chihuahua Supreme Court announced that by late November he would issue his decision regarding all of the suspects arrested for involvement in the alleged serial killings; however, no decision was reported at year's end.

In February, the CNDH in its annual report to Congress noted that it had received 19 complaints of torture during 2002, twice the 9 received in 2001.

On March 25, AI published a report that accused all branches of the security forces of using torture. After detailing the defects in the police/judicial system that enable the use of torture, the report recommended that the Government condemn torture, reform national legislation to forbid torture, end the practice of arbitrary detentions, and admit only those confessions that are made in front of a judge and a qualified defense lawyer. Other recommendations concern the Public Ministry, police, and judicial changes. In June, Amnesty repeated the same charges regarding the use of torture.

During the year, the Baja California (BC) State Human Rights Office denounced the February 4 torture of 13 migrants by elements of the military in the Rumorosa zone. The victims said members of the military kicked them and placed plastic bags

over their heads to force them to confess to migrant trafficking. The case was turned over to the CNDH, which has jurisdiction over violations committed by federal entities.

The authorities rarely punish officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Many human rights groups linked torture to the prevalence of arbitrary detention and claimed that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (see Section 1.d.). Poorly trained and inadequately equipped to investigate crimes, police officers often attempted to solve crimes by rounding up likely suspects and extracting confessions from them by force.

On January 23, Mexico City police arrested 18-year-old Nadia Ernestina Zepeda Molina and charged her with selling drugs. Zepeda complained that the police had sexually molested her and tried to rape her, and then beat her when she tried to defend herself. In August, 32 human rights organizations in the country called for her release. The human rights organizations charged the police with discrimination, abuse of authority, and violence against a woman. They demanded that the Government adhere to the U.N. Convention to Eliminate All Types of Discrimination Against Women and the Americas Convention to Prevent, Punish and Eradicate Violence Against Women.

In April, the Journal of the American Medical Association published an investigation by Michele Heisler, which concluded that torture continued to be a serious problem in the country. Physicians conducted medical evaluations of 13,000 federal detainees, and estimated they had documented evidence of torture in up to 1,090 cases.

The CNDH reported that its recommendation to the PGR regarding the 2001 torture of Norberto Jesus Suarez Gomez in Chihuahua had been satisfied. There were no further developments in the case during the year.

There was no progress in the case of 17-year-old Valentina Rosendo Cantu, allegedly raped by members of the 41st Infantry Battalion in February 2002 when she was washing clothes by a creek. According to reports, the CNDH could not verify the accusation because the incident was reported late, and when Rosendo was examined, no evidence of the rape remained. The human rights NGO following the case will bring the case before the Inter-American Human Rights Commission since all legal recourse within the country's judicial system had been exhausted.

Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

On March 16, 16-year-old Viviana Rayas disappeared from her parent's home in Chihuahua City. On May 29, the Chihuahua daily *El Herald* quoted a Chihuahua state police spokesman who stated that human remains found on the outskirts of town were those of a 35- to 40-year-old woman. Frustrated at the Chihuahua State Police's inability to solve his daughter's disappearance, on May 30, Viviana's father and powerful union leader Jose Cirilo Rayas threatened to paralyze Chihuahua state construction projects if his daughter was not found soon. Days later, the police changed their story and enlisted a government dentist to claim that the remains were those of 16-year-old Viviana's. Within days, the police arrested foreign resident Cynthia Kiecker, her husband Ulises Perzabal, and three friends of the couple, who all alleged that they were tortured physically and psychologically to extract false testimony regarding the murder of the young girl. Kiecker alleged that the police put a bag over her head, showered her with water, and tortured her repeatedly with electric shocks. She said she was forced to participate in a videotaped confession to the murder. All five later recanted their statements. As of September, hearings in this case continued in the First Penal State court in Chihuahua City, and Kiecker remained in prison. The Chihuahua state government had taken no substantive action to address allegations of torture by its police officers.

At year's end, one of the bus drivers accused of the 2001 murder of eight young women in Ciudad Juarez remained in prison pending sentencing. In February, the other accused driver died under suspicious circumstances in his prison cell. Authorities initially said he had died after complications from a recent hernia operation, but later stated that he had died of a heart attack (see Section 5).

Prison conditions remained poor. Many prisons are staffed by undertrained and corrupt guards. Prisoners complained that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. In many prisons inmates exercise authority, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs are the chief methods of control used by prisoners against their fellow inmates. Prisons vary widely in their ability to meet basic needs of life, keep

prisoners safe and healthy, and provide opportunities for work and education; however, almost all fall short in some of these areas.

On June 14, a 20-year-old unidentified male claimed that another inmate at the Aldama police station in Ciudad Juarez had robbed and raped him. An investigation by the Internal Affairs division of the municipal police to determine the responsibility of the guards was ongoing at year's end.

The penal system consists of 448 facilities: 5 federal penitentiaries, 8 federal district prisons, 336 state prisons, and 99 municipal and regional jails. Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were disregarded routinely as a result of overcrowding. Prison overcrowding continued to be a common problem, despite an early release program endorsed by the CNDH, legal reforms that reduced the number of crimes that carry mandatory prison sentences, and the construction of new prisons. According to press reports, the country's 448 penal facilities were overpopulated by approximately 19 percent; 175,253 prisoners were being held in facilities that have a capacity of 141,790 prisoners. Mexico City's Varonil Norte prison has the capacity to hold 4,892 prisoners; however, it held 8,335; Varonil Oriente's capacity is 4,766 with an actual population of 7,927; Varonil Sur's capacity is 2,998 with an actual population of 4,181; Femenil Oriente's capacity is 156 with an actual population of 526; Femenil Norte's capacity is 200 with an actual population of 468. The prison population in Ciudad Juarez is 4,100. Construction on the new prison has experienced delays. Originally scheduled for completion in 2000, a part of the prison may be complete and ready to hold approximately 800 to 1,000 federal prisoners by early 2004. Approximately 160 juvenile detainees who were scheduled to move to a new facility in the fall of 2002 were expected to move in December, with administrative operations moving there in early 2004 and full operations by April.

On March 8, La Loma 1 prison in Nuevo Laredo placed 160 prisoners in a 2-room area (13 by 16 feet) for processing. Severe overcrowding, along with an almost total lack of sanitation facilities and limited windows to allow for ventilation, caused several inmates to become unconscious and one to die from asphyxiation.

Health and sanitary conditions are poor, especially in rural poorer states such as Michoacan and Chiapas. Often prisoners must pay for their own prescription medicine. According to the CNDH, most prisons do not have any facilities for treating those requiring psychiatric care.

Female prisoners are held separately from men. Women make up approximately 4.6 percent or approximately 8,000 of the total prison population. Of the 448 prison facilities in the country, 230 of them house female prisoners.

There were 27 pregnant women in prison in Mexico City, and during the year, there had been 29 births in Mexico City prisons.

In May, the CNDH announced the results of a study that revealed the vulnerability of more than 8,000 female prisoners across the country. The study found that female inmates across the country engage in prostitution under the direction of inmates and with the acquiescence of prison officials. It singled out the prisons in Tijuana, Baja California; Torreon, Coahuila; Juchitan and Etla in Oaxaca; San Cristobal de las Casas, Chiapas; and Morelia and Uruapan in Michoacan as having the most serious problems.

A new prison for men in Mexico City was completed in March. The prison has the capacity to house 2,364 inmates, thereby alleviating some of the prison overcrowding in the Federal District.

Juveniles are held separately from adults.

In July, the CNDH reported that it had detected serious violations of basic rights in the majority of 54 juvenile reformatories in the country. The violations included overpopulation, physical abuse and mistreatment, and dormitories with metallic mesh that resemble cages. The CNDH found that the worst centers were located in Chiapas, followed by those in Veracruz. In Sonora, minors had to sleep on concrete slabs because there were no beds. In Veracruz, 7-year-olds were held together with 17-year-olds. In Chiapas, two minors lived with their babies in the centers (see Section 5).

In May, the CDHDF issued a recommendation against the General Directorate of Prevention and Social Readaptation regarding the torture and abuse of inmate Martin Banuelos Gonzalez by six public servants at the Reclusorio Norte in 2002. The recommendation requested that the Secretaría de Gobernacion investigate the case to determine responsibility of the six officials for the abuse.

On January 15, a raid in the Centro de Rehabilitacion Social (CERESO) of Ciudad Juarez turned up over 400 weapons including knives, razors, and a small quantity of drugs.

There is no specific law or regulation that prohibits human rights organizations or other NGOs from visiting prisons, and some do; however, in practice, the CNDH

and state human rights commissions conduct the majority of prison visits focused on human rights issues.

In February, authorities of the San Juan El Alto prison in the capital of Queretaro state denied U.N. High Commissioner for Human Rights representative Anders Kompass access to modules "I" and "Z", which are the inmate punishment areas.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily (see Section 1.b.). Arbitrary arrest and detention continued to be among the most common human rights abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime. In 2001, the federal legislature criminalized forced disappearance, including illegal detentions; the law also prohibits sponsoring or covering up an illegal detention (see Section 1.b.).

The country's police, at both the federal and state level, are divided into preventive police and judicial police. The preventive police maintain order and public security in cities and towns. They do not investigate crimes and only assist prosecutors (Public Ministry) at their request. The judicial police, an investigative force, are an auxiliary to the Public Ministry and act under its authority and command. A recent academic study concluded that there are more than 350,000 police officers in the country and about 3,000 different forces at municipal, state, and federal levels.

Police corruption is a problem. Police have been involved in kidnappings, armed robbery, and extortion, as well as protection of criminals and drug traffickers. From January to July, in Mexico City alone, 502 policemen were imprisoned for various crimes, compared with 257 in 2001 and 624 in 2002. During the year, the Ciudad Juarez municipal police received over 300 complaints against police officers for corruption, bribery, threats, abuse, murder, kidnapping, and extortion of victims apprehended for minor traffic violations.

NGO sources report that a great number of disappearances eventually were found to be cases of arbitrary detention by security forces (see Section 1.b.). Many human rights groups linked torture to the prevalence of arbitrary detention and claimed that torture often followed an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempted to justify the detention by securing a confession to a crime (see Section 1.c.). According to PRODH, incommunicado detention was a frequent practice (see Section 1.c.).

Reports of arbitrary detention occurred with greatest frequency in Chiapas, Oaxaca, Guerrero, the Federal District, and Tabasco. The states attorney general's personnel, state police, and the army were the most frequent abusers of detention laws.

In January, AI reported that arbitrary detention, mistreatment, and torture by police forces and Public Ministry agents continued to occur. AI also cited the incapacity of those same authorities to provide redress to the victims.

In February, the U.N. released a 22-page report made by a U.N. Working Group on Arbitrary Detention that visited the country from October 27 to November 10, 2002. The Working Group found that the lack of procedural guarantees, the existence of an inquisitorial justice system, difficulties in obtaining adequate defense, lack of resources, and sentences disproportionate to the crime all contributed to the prevalence of arbitrary detentions.

In April, the Mexico City Human Rights Commission (CDHDF) in its annual report stated that it had received 399 complaints of arbitrary detention between April 2002 and March.

On March 29, Chihuahua state police arrested Isidro Baldenegro, a Tarahumara indigenous leader of Colorada de la Virgen and community activist opposed to illegal logging, in the Sierra Madre mountains of the state and accused him of illegal possession of firearms. According to witnesses, the police planted AK-47s and handguns at the scene after the arrest.

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. In practice, judicial and police authorities frequently ignored these time limits (see Section 1.e.). There were previous reports that police demanded bribes to release suspects (see Section 1.c.). Many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges (see Section 1.e.). Those able to pay were released from custody. Corruption in the criminal justice system persisted, although the Government continued its efforts to address it.

Judges often failed to sentence indigenous detainees within legally mandated periods (see Section 1.e.).

On May 17, local police arrested Agustin Lopez Luna near San Cristobal de las Casas, Chiapas and accused him of belonging to a Zapatista group and illegally squatting on a piece of property. Six days later, he was released.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities were in fact political detainees. The Government asserted that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

The law does not permit forced exile, and it was not practiced.

*e. Denial of Fair Public Trial.*—The judiciary is generally independent; however, on occasion, especially at the state level, it has been influenced by government authorities. Corruption, inefficiency, impunity, disregard of the law, and lack of training continue to be major problems. Judicial reforms have begun to address some of these problems, but full resolution of these problems requires significant additional time and effort. In 1999, the Congress and the states passed constitutional reforms designed to streamline the administration of justice and repeal archaic laws. Human rights groups criticized these reforms, claiming that they effectively allow prosecutors to disregard defendants' allegations of violation of due process during criminal proceedings.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. However, in 2001 AI alleged that judges often were not present at hearings when defendants give testimony. Court officials may add notarized documents that are not authenticated into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although by special motion the party may have access to it.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government generally respected these rights in practice. In general, court hearings are open to the public, and it is common to find not only the accused, but also relatives of the accused and journalists in the courtroom. However, human rights groups complained that many hearings take place in busy judicial offices where the public generally must stand at a distance and often cannot hear the proceedings well. In some courtrooms glass or plastic panels have been placed between the tables where the proceedings take place and the public.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often did not ensure adequate representation for many poor defendants. Moreover, the public defender system is not adequate to meet the demand, although improvements in salaries and benefits have ameliorated this situation. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings. Prosecutor salaries and benefits varied by region and agency. Federal prosecutors usually were paid better than state prosecutors.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often complicated. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely provide translators for indigenous defendants at all stages of criminal proceedings, and thus defendants may be unaware of the status of their cases. Provision of translators to non-Spanish speaking defendants, including indigenous ones, is provided for but poorly implemented, resulting in prisoners being convicted without fully understanding the documents they have been required to sign. The CNDH, through the Fourth Inspector General's office, has a program to assist incarcerated indigenous defendants. The CNDH does not have authority to intervene in judicial proceedings, but can provide guidance on defense of rights. CNDH has a program for the liberation of indigenous prisoners that in conjunction with other agencies such as the PGR and SSP, reviewed cases that merit release such as commutation of a sentence. Formerly, the National Indigenous Institute (INI) provided judicial assistance programs for indigenous defendants and provided counsel on their behalf. The INI also distributed legal, educational, and informational material in indigenous languages.

A particularly serious abuse of due process is the prosecution's ability to base its case on evidence gathered by means of torture. While torture itself is a criminal act, judges allow statements coerced through torture to be used as evidence against the accused (see Section 1.c.) and confessions were the primary evidence in many criminal convictions. A number of NGOs declared that judges give greater evidentiary

value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to overturn such declarations.

The law does not require civilian trials of soldiers involved in civilian crimes, and the military continued to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction. In August 2002, the judicial branch reaffirmed that members of the military assigned to the PFP would be tried by military courts unless a civilian was involved.

In March, the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Kumaraswamy, returned to the country. In a keynote address to the Ibero-American University, he reiterated the findings in his 2002 report, that corruption and impunity impeded access to justice. He also said that human rights NGOs had noted a high level of impunity for members of the military who commit human rights violations. In his 2002 report, the Special Rapporteur questioned the independence and effectiveness of judicial power in the country. He expressed concern about the lack of knowledge that judges have regarding international law, particularly human rights, and their ignorance of indigenous uses and customs. He wrote that 50 to 70 percent of the judges in the country were corrupt.

In August, a Federal Court in Toluca, Mexico state in a ruling on an injunction (amparo) filed in December 2002 by General Francisco Gallardo, decided that recommendations issued by the Inter-American Commission on Human Rights (IACHR) are not binding and are not subject to an injunction to force compliance.

In April, Union de Empresarios para la Tecnologia en la Educacion UNETE (founded in 1999 to improve the educational level through the use of new technologies such as computer, Internet, and television), and the Technological Institute of Monterrey completed an evaluation of courts and judges in each state. On a scale of 1 to 10, only Aguascalientes scored an 8, while Campeche and Coahuila scored 7. All other courts scored between 5 and 6, with Jalisco scoring 4. The study evaluated the professionalism, impartiality, and caliber of verdicts issued.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the law requires search warrants; however, in the past, there were credible reports that unlawful searches without warrants were common. The law allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance for electoral, civil, commercial, labor, or administrative purposes; however, there were reports of illegal surveillance during the year.

In April, federal judges in Mexico state authorized the state Attorney General's office to carry out telephonic espionage in the state. It was the first time the court had put into effect the new state Attorney General organic law passed in 2002 that authorizes wiretapping.

On August 25, a 121-page publication containing transcripts of the private phone conversations of PRI Secretary General and Congresswomen Elba Esther Gordillo appeared in political circles. The Ignacio M. Altamirano Association, unheard of before this incident, issued the publication. The company listed as the printer turned out to be nonexistent. Authorities were investigating the incident at year's end.

The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without a woman's consent. The CNDH reported that it received seven complaints during the year that were related to forced contraception and issued one Recommendation (see Section 5).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During much of the year, the Government maintained approximately 14,000 to 20,000 troops in selected areas of Chiapas, and a smaller number in Guerrero. Two relatively small rebel groups, the Popular Revolutionary Army (EPR) and the Revolutionary Army of the People's Insurgency (ERPI), continued to be problems in Guerrero. Incidents of conflict in Chiapas between security forces and EZLN sympathizers, and in Guerrero between the army and the EPR and the ERPI, led to accusations of the use of excessive force; however, the confused circumstances of these clashes made those allegations difficult to substantiate.



In February, the Association of Families of Disappeared and Victims of Human Rights Violations (AFADEM) based in Guerrero state, severely criticized the harassment of family members of slain guerrilla leader Lucio Cabanas Barrientos by the Military Attorney General's office (PJM). The harassment consisted of issuing citations to appear before the PJM to testify.

Human rights NGOs continued to report on the increased presence of the military in Chiapas. In early August, the military was on alert due to the re-emergence of Zapatista leader Sub-Commandante Marcos.

In the most detailed report on displaced persons, the Fray Bartolome de las Casas Human Rights Center (FRAYBA) released a 245-page report in 2002 that documented the displacement since 1995 of more than 12,000 persons from 2,400 families in Chiapas. The report accused the Government of being responsible for the displacements and not keeping its constitutional commitment to provide for the security of its citizens as well as its obligation to provide humanitarian assistance to internally displaced persons (IDPs) under international law, including human and humanitarian rights.

SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with a 4-month human rights course to teach officers to be human rights trainers. These officers were responsible for training at the different unit levels within the Army and Air Force.

In April, the Navy adopted a "Manual on Human Rights for the Mexican Navy," which complements the Disciplinary Law of the Mexican Navy.

There were credible reports of violent incidents and killings allegedly committed by armed civilian groups and local political factions in Chiapas.

In February, the Independent Organization of Mixtec-Tlapanec Peoples (OIPMT) and the Organization of Indigenous Peoples severely criticized the existence of approximately 40 armed civilian groups in the Mixtec and Tlapanec areas of Guerrero state. They stated that both armed civilian groups and military committed human rights abuses in the area.

In June, the Federal Office of Environmental Protection (PROFEPA) announced the existence of approximately 100 armed civilian groups at the service of illegal loggers. PROFEPA said the groups were found throughout the country in Chihuahua, Durango, Oaxaca, Mexico state, and in Mexico City itself. PROFEPA said that in the state of Michoacan alone, there were over 30 groups.

On July 4, unknown persons killed four peasants accused of having ties with armed civilian groups in the community of Barranca de Guadalupe, in the Ayutla region of Guerrero.

In August, the Center for Political and Economic Investigations for Communal Action (CIEPAC) reported that armed civilian groups such as Paz y Justicia, Movimiento Indigena Revolucionario (MIRA), Mascara Roja, Los Chinchulines, and Los Aguilar act with complete impunity in the Chiapas indigenous regions.

In October 2002, a court sentenced Diego Vazquez, one of the principal leaders of the armed civilian group known as Paz y Justicia, to 16 years in prison for the crime of kidnapping.

In the past, there have been violent confrontations between EZLN sympathizers and armed civilian groups.

Human rights NGOs have accused the Chiapas state governor's administration of tolerating armed civilian groups.

*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. While the overall state of freedom of expression improved and expanded under the Fox administration, threats, libel actions, defamation suits, and harassment of journalists by politicians, local authorities, police, and narcotics trafficking organizations in the northern part of the country continued. Journalists outside the capital or large cities were the most threatened, as the majority of harassment cases originated in states outside the capital and in the northern part of the country. The national print and broadcast media no longer encountered serious obstruction from the Federal Government; however, journalists believed that there was a need for legislative reform of the criminal libel laws. Although no journalists were killed during the year, one radio journalist disappeared.

The June 2002 Law for Transparency and Access to Information created the Instituto Federal de Acceso a la Informacion Publica (IFAI), an autonomous entity, which was charged with providing access to information, protecting personal data, and promoting a culture of transparency and the accountability of civil servants under the new law. IFAI served as an intermediary and resolves cases where access to information has been denied by determining whether the requested information

is public, restricted, or confidential. IFAI registered the number of requests that were submitted to federal offices. According to the Organization of American States' Special Rapporteur on Free Expression, Eduardo Bertoni, in June and July IFAI tracked approximately 12,000 petitions for information, 130 of which were denied by the agencies. IFAI then requested clarification from the denying agency.

The OAS Special Rapporteur, on a 9-day visit in August, cautioned that a "culture of secrecy" persisted in many sectors of the Government and that this culture should be unequivocally rejected to ensure true transparency in public administration, both at the federal and local levels.

In February, a federal court overturned the conviction of two men in the killing of Philip True and remanded the case to the state court to review the entire case. Various magistrates continually recused themselves from the case and a formal review was never begun. In November, one of the members of the defense team of the indigenous people accused of killing True, held a press conference, where she admitted that the indigenous people had confessed to her that they had indeed killed Philip True.

The Federal Government tolerated and did not attempt to impede criticism of the Government; however, local officials frequently reacted to criticism and unfavorable news articles by harassing journalists and suing them under criminal libel laws. In addition, government officials at all levels often attempted to obtain the names of journalists' confidential sources. In March, the Inter-American Press Association (IAPA) at its midwinter meeting adopted a resolution that called on the Government to pass legislation that would protect the confidentiality of journalists' sources.

There were approximately 300 newspapers operating in the country. Of these, there were approximately 10 main national newspapers. All were privately owned and operated. Approximately 150 foreign correspondents for international news agencies, newspapers and magazines operated in the country. Broadcast media were privately held; however, the Government operated six radio stations within Grupo IMER (Instituto Mexicano de Radio); two national television channels (TV Azteca and Televisa); and some local stations.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers. Moreover, as much of the national media has developed higher journalistic standards and independence in recent years, government influence has declined. The media showed a high degree of editorial independence, particularly in the capital and other major urban centers. Direct criticism of the Government, especially in radio and the print media, was common.

Privately owned companies controlled the publication of books with a half a dozen major publishing houses and many minor companies. The Fondo de Cultura Económica (FCE) was jointly owned by the Government and private investors; however, the director was a political appointee. During the year, FCE began distributing books from public publishing companies as well as from its own stock.

As in 2002, numerous attacks on journalists constituted the most serious problem for freedom of the press. Abuses against the press included physical violence and verbal assaults, but included arrests, lawsuits, censorship, economic pressure, and other sophisticated administrative and bureaucratic forms of harassment. Outright attacks and intimidation of journalists were underreported and usually relayed indirectly to NGOs that monitor freedom of the press and the security of journalists. There were no comprehensive nationwide studies of these incidents; however, preliminary data indicated that the number of incidents of physical violence against journalists had not increased since 2002. In October, the IAPA at its General Assembly meeting submitted a report that listed some seven attacks upon journalists up to September 4.

The influence of narcotics traffickers on the press appeared to be strong in the northern border states.

Politically motivated criminal charges were often used on a state level to deter investigations of local authorities, and several journalists during the year were summoned to court to reveal their sources. According to AI, "Journalists frequently face attack or threats as a result of their work to expose human rights violations or corrupt practices, and often live in fear of reprisals from people or organizations they have written about."

From January 1 to April 30, the NGO Periodistas Frente a la Corrupción recorded 20 acts of aggression against journalists. The OAS Special Rapporteur on Free Expression stated that, "Attacks (on the press) are directed at silencing accusations of serious human rights violations, and investigations into drug trafficking and politically sensitive issues." He also said, "Some accusations signal that police officials and army personnel are among the aggressors."

In February, IAPA reported the killings of 37 journalists in the country in the previous 14 years. On July 13, radio journalist Jesus Mejia Lechuga of Radio MS-Noticias in Martinez de la Torre, Veracruz state disappeared. According to the NGO Reporters Without Borders (RSF), Mejia was last seen on July 12 when he interviewed Alfonso Alegretti, a PRI representative in the local municipal government. According to RWB, "In his programs A Primera Hora and Voz y Palabra, Mejia had accused Guillermo Zorilla Perez, a PRI representative in the federal parliament, of having links to local drug traffickers."

The Government did not investigate sufficiently the cases that were reported, such as those included in the Recuento de Danos (Damages Inventory), a summary published by The Mexican Network for the Protection of Journalists and Communication (La Red Mexicana de Protección a Periodistas y Medios de Comunicación). The OAS Special Rapporteur for Freedom of Expression, during his recent trip stated, "The lack of investigation into acts of intimidation helps create a climate that discourages investigation and provokes self-censorship."

On February 20, in response to an October 2002 letter from IAPA, President Fox announced that his administration would consider federal jurisdiction for crimes against journalists instead of state or local jurisdiction to ensure that these cases were dealt with speedily and openly. Following additional IAPA protests, the Government set up a committee that included representatives of human rights and press organizations to review the status of inquiries into other crimes against journalists. At year's end, the committee had 59 cases for review.

All human rights NGOs, especially those that concentrated on press freedom, agreed that the laws on defamation were restrictive and undermined freedom of expression. In August, the OAS Special Rapporteur for Freedom of Expression, in his preliminary report, noted the subjection of over 20 journalists in Chiapas state to criminal defamation charges and the frequent harassment of local journalists in the interior of the country, the Distrito Federal, and Ciudad Juarez in the state of Chihuahua for reporting on local authorities and other public officials. Under the law, libel charges always carry a prison term.

During the year, the mayor of Zimapan, Hidalgo, Rosalina Gomez Rosas, filed a defamation suit against Juan Lozano Trejo and other journalists from the regional paper El Huarache for publishing information about presumed irregularities in the municipality. On July 1, the Hidalgo state Attorney General's Office called on Lozano Trejo, director of El Huarache, to identify the authors of the articles. In a letter to Hidalgo Attorney General Juan Manuel Sepulveda, Journalists Against Corruption (Periodistas Frente a la Corrupcion) requested that the complaint against the journalists be dismissed and protested that "cases of supposed insults against the honor of government officials or individuals in the public eye become criminal matters in Hidalgo." This was the latest in a series of incidents between Hidalgo government officials or political leaders and media workers, relating to the publication of information about cases of corruption and improper conduct.

Angel Mario Ksheratto Flores, author of a column published in the Cuarto Poder newspaper in the town of San Cristobal de las Casas, Chiapas, reportedly received several death threats and was facing charges that may be politically motivated. According to an alert issued by AI, in August 2002, Cuarto Poder published the results of an investigation by Flores into alleged irregularities in the state-run Schools Construction Committee (Comite de Construccion de Escuelas). In December 2002, Flores received a death threat. On January 2, agents of the State Attorney General's Office detained Flores as a result of a defamation complaint filed by a senior state official on the Comite de Construccion de Escuelas in Chiapas. The court granted Flores bail and released him from custody pending prosecution for defamation.

On March 4, agents of the state of Chihuahua in Chihuahua City detained journalist and author Isabel Arvide, who has written many articles about corruption and violence, the connections between drug traffickers and police in the state of Chihuahua, as well as the book "Muerte en Juarez" (Death in Juarez). Arvide must appear every 2 weeks before a judge of the Second Penal Court in Chihuahua City, in connection with a 2002 criminal defamation complaint filed against her for a 2001 newspaper and Internet article that alleged that a number of state government officials and a newspaper publisher had organized a new drug cartel in Chihuahua. Arvide spent almost a day isolated in jail before being released on bail that was set at \$20,000 (200,000 pesos). Arvide faces 6 months' to 2 years' imprisonment if convicted.

In June, according to Journalists Against Corruption, Senator José Antonio Hagenbick filed a criminal complaint for defamation against "the person or persons responsible" for reporting about a disturbance that he caused while inebriated in a bar in the city of Huetjutla de Reyes, Hidalgo. The Senator's complaint named several newspapers and journalists who published articles on the incident, including

Federico La Mont of the Organizacion Editorial Mexicana; Adrian Trejo of El Economista; Roberto Ramos Valencia of Ovaciones; Rafael Gonzalez of Excelsior; and the newspapers El Herald, Reforma, El Universal, Milenio, and La Cronica. The Senator denied the story and said that reporters had confused him with someone else.

According to the August preliminary report of the OAS Special Rapporteur for Freedom of Expression, the following journalists were summoned to appear in court to reveal their sources: reporter Adriana Varillas de Cancun; Maribel Gutierrez, reporter and editor of the Guerrero edition of the newspaper El Sur; Daniel Morelos, journalist and director of information for El Universal; and Enrique Mendez, Gustavo Castillo, Ruben Villalpando, Andrea Becerril, Ciro Perez, and Roberto Garduno, all from the newspaper La Jornada.

In August, Chihuahua journalists presented several cases before Special Rapporteur Eduardo Bertoni, claiming the state government was blocking their ability to report the news freely. Ciudad Juarez newspaper Norte reported on their cases and indicated that Manuel Quevedo Reyes, a former mayor of Ciudad Juarez, and Osvaldo Rodriguez, the owner of the local paper El Diario, may be using their business relationship to Chihuahua Governor Patricio Martinez to influence reporting. In addition, Cynthia Kiecker's lawyer claimed that the governor had banned reporting on her murder trial (see Section 1.c.).

In reaction to the threats of criminal defamation suits and other forms of harassment by government officials, especially at the local level, many journalists practice self-censorship.

The Government did not restrict Internet access, which was widely available across the nation, especially in major cities. Internet access was growing; however, some segments of the population, predominantly the poor and the elderly, cannot afford to use the Internet or do not possess sufficient computer skills.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly, and the Government generally respected this right in practice. The only requirement for holding demonstrations is that groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country.

There were many demonstrations during the year. During March, there were a number of demonstrations to protest hostilities in Iraq. During one of the demonstrations, protestors threw rocks at an embassy building, causing damages. On November 28, an estimated 45,000 persons marched through Mexico City to protest energy and tax reforms proposed by the President.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties, opposition groups, and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political parties as well as political associations. Political associations can participate in elections through an agreement with a political party; however, they cannot use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the Federal Electoral Institute (IFE). The IFE has recognized 10 political parties and 36 political groups. Parties must receive at least 2 percent of the vote in national elections to maintain their registration. During the July congressional elections, 6 of the 10 political parties retained their registration. Four parties were unable to obtain the necessary 2 percent of the vote to maintain their registration.

Citizens are free to associate and may form private or charitable associations. However, in 1998 the Mexico City legislature passed a law that gave the city government more influence over private charities. According to the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, in 2002 there were 5,339 NGOs active in the country, which played an important and vocal role in the promotion of civil society.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and Congress may not enact laws that establish or prohibit any religion; and the Government generally respected this right in practice; however, there were some restrictions at the local level. State and municipal governments generally protected this right; however, some village and tribal officials infringed on religious freedom, especially in the South. A generally amicable relationship among the various religions in society contributed to religious freedom; however, in some parts of southern Mexico, political, cultural, and religious tensions continued to limit the free practice of religion within some communities. Most such incidents occurred in the state of Chiapas.

Religious associations must register with the Under Secretariat of Religious Affairs of the Federal Secretariat of Government (SSAR) to operate legally. Although the Government rejects applications because of incomplete documentation, the registration process is routine. An estimated 6,619 religious associations are registered.

To be registered as a religious association, a group must articulate its fundamental doctrines and religious beliefs, must not be organized primarily to make money, and must not promote acts physically harmful or dangerous to its members. Religious groups must be registered to apply for official building permits, to receive tax exemptions, and to hold religious meetings outside of their places of worship.

The SSAR promotes religious tolerance and investigates cases of religious intolerance. All religious associations have equal access to the SSAR for registering complaints.

The Constitution provides that education should not favor one religion over another. Religious instruction is prohibited in public schools; however, religious associations are free to maintain their own private schools, which receive no public funds.

On March 1, the CNDH called for the Secretary of Public Education (SEP) and governors to issue instructions to all entities within their jurisdiction to stop the practice of sanctioning students who, because of their religious beliefs, do not participate in civic ceremonies rendering honors to the national anthem and flag. The practice has been particularly discriminatory to students of Jehovah's Witnesses. According to the CNDH, it received 1,110 complaints of discrimination on religious grounds, especially against Jehovah's Witnesses adherents, during the period June 1991 to March. The CNDH also called on the Governor of Michoacan to reinstate seven students of the indigenous Mazahua community of Cresencio Morales belonging to Jehovah's Witnesses who were expelled from the Benito Juarez school in 2001.

The Government requires religious groups to apply for a permit to construct new buildings or to convert existing buildings into new churches.

The Constitution bars members of the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the State.

To visit the country for religious purposes, foreign religious workers must secure Government permission. The Federal Government limits the number of visas each religious group is allowed. However, the Government has granted 58,640 such visas since 1992.

There were incidents of violence between religious groups, principally in Chiapas, during the year. The situation in Chiapas is a result of a complex mix of economic, ethnic, political, and religious tensions. There is a history of religious intolerance in, and expulsions from, certain indigenous communities whose residents follow syncretistic (Catholic/Mayan) religious practices and view other religious practices as a threat to indigenous culture. In parts of Chiapas, local leaders of indigenous communities sometimes regard evangelical groups as unwelcome outside influences and potential economic and political threats. As a result, these leaders sometimes acquiesced in, or actually ordered, the harassment or expulsion of individuals belonging primarily, but not exclusively, to Protestant evangelical groups. In many cases, these expulsions involved the burning of homes and crops, closing down of churches, beatings, and, occasionally, killings.

On February 28, traditional Catholics in the Los Pozos municipality of Huixtan, Chiapas prevented evangelical churchgoers from celebrating the fourth anniversary of the church's founding. On March 2, the traditional Catholics burnt the evangelical church, and local traditional leaders jailed eight of the evangelicals for several days.

The most common incidents of intolerance arose in connection with traditional community celebrations. Protestant evangelicals often resist making financial donations demanded by community norms that will go partly to local celebrations of Catholic religious holidays and resist participating in festivals involving alcohol. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were most often the basic cause of the problems.

The community of Mitziton, in the municipality of San Cristobal de Las Casas, was the location of two incidents in February and two other incidents in October 2002. On February 8, unidentified gunmen fired at a vehicle belonging to Sixto Heredia Gomez, an evangelical Tzotzil from the area. Heredia did not accuse any particular group but claimed that traditionalist Catholics of the area were upset because of the presence of evangelicals in the community. Two days later, on February 10, in the same community, the home of Pedro Gomez Lopez, located in the El Chiverio neighborhood, was burned down. Gomez Lopez stated that he suspected

traditionalist Catholic leaders were behind the arson. In October 2002, unknown persons cut a power line to an evangelical pastor's property in Mitzitón, leaving him without power. Later that month, 20 assailants dragged the pastor from his home, beat him, and threatened to kill him unless he left Mitzitón.

Tension between Catholic/Mayan syncretists and evangelical groups continues to be a problem in the municipality of San Juan Chamula. Approximately 130 children of evangelicals have been denied access to the local public schools in 6 communities every year since 1994.

For a more detailed discussion, see the 2003 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.

Corrupt police sometimes violated the rights of illegal immigrants. Illegal immigrants rarely file charges in cases of crimes committed against them, because the authorities generally deport immediately such persons who come to their attention. Many pending cases brought by illegal immigrants are subject to dismissal because the complainant is no longer present in the country.

On February 21, CNDH president Jose Luis Soberanes, in his annual report to Congress, recognized the Government's lack of protection for migrants. The CNDH found problems at all levels of government, including corruption, impunity and the complicity of immigration officials and local, state, and federal officials.

In March, the U.N. Special Rapporteur on Human Rights of Migrants, Gabriela Rodriguez Pizarro, reported that she found apparent complicity among traffickers, delinquents who prey on migrants, and the authorities who extort migrants. She criticized the lack of facilities at immigration detention centers in the south of the country, including the use of local jails. She noted also the precarious medical attention at migrant stations and the humiliating treatment meted out to migrants by officials.

There also were credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

Migrants who transit a halfway house in southern Chiapas have complained to the director about the double dangers of extortion by the authorities and robbery and killings by an organized gang called "Maras Salvatruchas" who prey on migrants coming from the south. There was an increase in the number of gangs preying on migrants, as well as in the level of violence. According to information received by the director from runaway gang members, killing migrants as well as rape of either sex on the roof of moving trains has become an initiation rite for gang members.

A study published by FRAYBA in 2002 found that 2,453 families totaling 12,080 persons were internally displaced from 1994 to 2000. Sporadic violence attributed variously to religious, political, land or economic disputes, mainly in the State of Chiapas, caused persons to flee their homes for fear for their lives, returning only when they felt that the potential threat had abated.

The law includes provisions for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee or asylum status. The Mexican Commission for Assistance to Refugees, which processes asylum and refuge requests, granted 40 persons asylum during the year. Since 2002, the United Nations High Commissioner on Refugees office in Mexico City no longer processes refugee documentation for cases in the country. Government authorities now process all refugee documentation.

### *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. As a result of electoral reforms approved and implemented in recent years, the political process and especially the electoral process have become more transparent. While elections are open and generally fair, accusations of abuses continued to occur, most often in state and local elections. Prior to the 2000 presidential election, the PRI had dominated politics, controlled the Federal Government, and won every presidential election since its founding in 1929. However, in 2000, voters elected President Vicente Fox, a member of the National Action Party and candidate of the Alliance for Change Coalition, with 43.3 percent of the vote. Observers, both international and domestic, judged the elections to be generally free and fair.

In the July federal elections to elect members of Congress, the PRI gained 12 seats, giving it 223 of the 500 seats in Congress. The PAN came in a distant second with 154 seats, down from its previous total of 205 seats. The PRI had a working majority in the Senate.

The legislature amended the Constitution in 2000 to allow eligible citizens who are abroad to vote in presidential elections; however, the Senate failed to act on the necessary implementing legislation that would have made overseas voting possible in the 2000 election due to differences over the costs and requirements for voting. The national debate regarding overseas voting for the 2006 presidential elections continued during the year. In August, the state legislature of Zacatecas became the first state to allow migrants to run for state office, including citizens who have never lived in, and were not born in, the country.

Presidents are elected every 6 years and cannot be reelected.

The IFE, operating with full autonomy, arranged and supervised the congressional elections. It standardized the voter registration list and recruited and trained thousands of civil society volunteers to serve as independent electoral workers at the voting booths. The IFE also provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts. During the July local elections for Mexico City government, the Mexico City IFE fielded a number of electronic voting booths at various voting centers to test voter acceptance of the electronic ballot.

In the Chamber of Deputies, the PRI holds 223 seats; the PAN 154; the PRD 96; the Green Ecologist Party (PVEM) 17; the Labor Party (PT) 5; Democracy Convergence (CD) 5. The Nationalist Society Party, the Social Alliance Party, Mexico Possible and Fuerza Ciudadana all lost their political party registration because they did not achieve the threshold 2 percent of the vote to remain a political party. The IFE later ruled that the Green Party had met the required threshold. The PRI holds 60 seats in the Senate; the PAN 46; the PRD 16; the PVEM 5; and the CD 1. Legislators can and do on occasion change their party affiliation.

On the state level, the PRI holds governorships in 17 states, the PAN 8, the PRD 3, PRD-PT, PRD-PVEM, and PRD-PAN coalitions 4. On the municipal level, multi-party pluralism is well established. The PRD governs the Federal District, and the PAN governs 12 of the 20 largest cities.

There were controversies over state and municipal elections.

Six states held elections for governor together with the federal elections in July. There were disputes over gubernatorial election results in Sonora and Campeche, but they have been resolved.

Four congressional seats, two direct vote seats and two proportional seats, were also in dispute.

There were no legal barriers to participation in politics by women. There are 23 women in the 128-seat Senate and 113 women in the 500-seat lower house. There were two women in the Cabinet and one female justice on the Supreme Court. No women serve as governors, although there have been female governors in the past. Nine women serve in the Mexico City cabinet, and 13 of the city's 23 key officials are women.

Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties were attempting to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list are female. Women candidates often led the ticket in districts where their parties had little chance of winning. According to statistics from 2002, the PRD's membership was 48 percent female, its leadership was 27 percent female, 26 percent of its representatives and 12 percent of its senators were female, and it had a female party president. The PAN has utilized more informal methods to increase female registration. An estimated 24 percent of its leadership is female, and close to 17 percent of representatives and 13 percent of its senators are female. PRI party rules mandate that 30 percent of its federal candidates be women. An estimated 24 percent of the party leadership, including its Secretary General, 16 percent of its representatives, and 18 percent of its senators are female.

There are no legal barriers to participation in politics by members of minorities or persons of indigenous descent. However, there were no statistics available regarding minority participation in the Government.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to local office according to "usages and customs," rather than federal and state electoral law. Only the states of Oaxaca and Quintana Roo have enacted implementing legislation to effect such local elections. Traditional customs vary from village to village. In some villages, women do not have the right to vote or to hold office. In others they can vote but not hold office.

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

A wide variety of domestic and international human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. Government officials were often cooperative and largely responsive to their views. According to the latest statistics available from the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, there were 979 human rights NGOs in the country. Government officials have met with NGOs in an effort to become more cooperative and responsive to NGO views.

On March 11, a decree creating a Commission for Government Policy on Human Rights was published in the Mexican Federal Register. According to the decree, the Commission is structured to convene every 3 months, be responsible for designing a government human rights policy, coordinate actions, and create mechanisms for the implementation of recommendations handed down by the CNDH and other international human rights organizations with which the Government has obligations.

On December 8, the Office of the U.N. High Commissioner for Human Rights presented the President with an analysis of the human rights situation in the country. President Fox commissioned the study in 2000, and upon its receipt promised to implement its 32 recommendations that included overhauling the judicial system in favor of one based on oral arguments; rejecting confessions obtained by torture as evidence in criminal trials; creating of a system of juvenile justice laws; changing the military justice system in which soldiers accused of human rights violations are tried in secret and the outcomes of their trials are rarely made public; and implementing new mechanisms to curb violence against women and discrimination against indigenous people. It also proposes modernizing labor laws to give workers more freedom from oppressive unions.

In 2000, President Fox eased entry requirements for those interested in observing human rights conditions. Such travelers must agree to observe the country's laws.

Reports of harassment, attacks, and detentions against human rights workers have diminished; however, they continued to occur.

In April, the IACHR requested that the Government provide protection to Samuel Castellanos Pinon, Beatriz Casas Arellanes, Jose Raymundo Diaz Taboada, Graciela Clavo Navarette and Mayra Irasema Jarquin Lujan, lawyers who received death threats while defending those accused of perpetrating the May 2002 massacre of 26 persons in Agua Fria, Oaxaca.

On July 19, after 22 months of investigation, Margarita Guerra Mexico City Attorney General's office (PGJDF) Special Prosecutor assigned to investigate the 2001 death of human rights activist Digna Ochoa, issued a decision that Digna Ochoa committed suicide while at the same time trying to make her death look like a homicide. The Ochoa family stated that they plan to appeal the decision through the "amparo" process, while human rights NGOs reserved judgment pending a review of the case files.

On August 6, an unknown assailant killed human rights defender Griselda Teresa Tirado Evangelio near her home in Puebla. Tirado, a teacher and an IFE council member in Puebla, was one of the founders of an indigenous rights association and was involved in litigation of various agrarian disputes in the indigenous communities. Police were investigating to determine if Tirado was targeted for her human rights activity or the victim of a crime.

On November 11, the Guerrero state Public Prosecutor's Office summoned lawyer and human rights defender of the Jose Maria Morelos y Pavon Human Rights Center, Luz Maria Lluvias Flores to appear the following day, regarding her representing three persons from the Vista Hermosa neighborhood whom a municipal official from Chilapa de Alvarez, his son, and his two bodyguards attacked on November 2. At the meeting, the accused official threatened Lluvias Flores. On November 18, the same municipal official also threatened Bernardo Sanchez, the president of the human rights center.

On June 10, the Supreme Court ordered the extradition of Ricardo Miguel Cavallo, an Argentine national, to stand trial in Spain for the crimes of genocide and terrorism committed in Argentina against Spanish nationals during the period 1976 to 1983. The Court's decision marked the first time that the Government has extradited a third country national to stand trial in another country for crimes committed outside the country prosecuting the crime.

The CNDH is the country's autonomous human rights ombudsman. Each state also has a state human rights office (CEDH). In theory, the CEDH are also autonomous; however, each CEDH president is chosen by the state governor. The CNDH issues an annual report to Congress on the state of human rights in the country.



The CNDH made 49 recommendations during 2002 and 52 recommendations during the year. During the year, the CNDH promoted legislation to make its recommendations binding on the recipient agency.

The CNDH withdrew its participation from the national human rights study commissioned by the Government under the auspices of the U.N. High Commissioner for Human Rights. The CNDH also canceled a human rights cooperation venture with the European Union.

Both the Senate and the Chamber of Deputies have committees that follow human rights and occasionally draft legislation concerning human rights. They play a significant role with respect to votes in Congress. However, they are not independent of government or political party control.

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

The Constitution provides that men and women are equal before the law, and that education should avoid "privileges of race, religion, groups, sexes, or individual;" however, these provisions were not enforced effectively, although the Government continued to make progress in efforts to do so. In March, a Secretariat of Foreign Relations (SRE) study revealed that 90 percent of the country's 97 million population suffered some type of discrimination. Women, indigenous groups, and persons with disabilities were the most affected.

On June 22, the 25th Annual Gay-Lesbian parade took place in Mexico City with 30 floats and an estimated 30 to 80 thousand participants.

In June, the Citizens Committee against Homophobic Hate Crimes reported that at least two killings of homosexuals in homophobic hate crimes occurred during the year; however, the figure may be as high as six. On June 1, the bodies of Jorge Armenta Penuelas, director of the Nogales, Sonora Gay-Lesbian Collective, and his partner Ramon Armando Gutierrez Enriquez, were found showing signs of torture. On June 13, the press reported that unknown persons attacked 12 gay children who congregated at Bosque de Aragon in Mexico City. One of the children was thrown from a height of 18 feet and sustained serious injuries. Local authorities said they could not intervene because the park is federal property.

According to press reports in January, various schools in Yucatan state expelled five children whose parents were HIV positive allegedly because the schools feared that the children could infect others with the virus.

*Women.*—The most pervasive violations of women's rights involve domestic and sexual violence. Both are widespread and vastly underreported. The law provides for fines equal to 30 to 180 days' pay and the detention of violators for up to 36 hours.

According to a national survey by the Secretariat of Health (SSA), one third of women in health centers and hospitals from November 2002 to March were victims of domestic violence.

In August, PGJDF's Center of Attention for Intra-family Violence (CAVI) reported that it had provided assistance to 18,500 persons, 89 percent of them women, during the first 8 months of the year.

Laws against rape include spousal rape, applying to both married and common-law couples. Under certain circumstances limited to the statutory rape of a minor between the ages of 12 and 18, the Criminal Code allows a judge to dismiss charges if the persons involved voluntarily marry. In practice, this provision rarely was invoked.

In November 2001, the bodies of eight young women who had been raped and murdered were found in an empty lot adjacent to a busy intersection in Ciudad Juarez. State authorities arrested two bus drivers accused of the crimes within 3 days but the drivers allege their confessions were obtained under torture. Their attorney was subsequently shot and killed by the State Police following a high-speed car chase during which the attorney called his father and reported that he was being pursued. The police originally alleged that he had died of injuries received when his car crashed but were forced to retract that information when it was revealed that he had been shot in the head. The officers involved in the case were questioned but never charged nor disciplined. An internal investigation cleared them of any wrongdoing. The bus drivers were jailed pending sentencing. One of them died in prison during the year under suspicious circumstances after a surgical intervention.

The State Attorney General's office claimed that following DNA identification, it had identified positively six of the eight murdered women, whose bodies the families had buried; however, subsequent information revealed that the identifications were mistaken. When the families demanded additional DNA tests, the State Police claimed the DNA evidence was lost.

In February, the remains of three young women were found in the outskirts of Ciudad Juarez. In July, federal authorities launched the United Security Program

which brought 300 Federal Preventive Police (PFP) to the city. The program put the PFP in charge of public safety in Juarez, with authority over the municipal police. The number of PFP in Juarez rose to 770 in late September. Although the program is intended to curb crime in general, it includes among its tenets the protection of, and public education on, women's rights.

In August, AI reported that during the previous 10 years, approximately 370 women had been killed in the Ciudad Juarez and Chihuahua areas, with 137 of them involving sexual violence. A number of the missing or killed women were employed in "maquiladoras," or assembly plants. Many were young, in their early teens or twenties, and had been strangled. Their bodies were then dumped in the desert. The report was highly critical of the methods of state authorities in investigating the cases.

In August, the Chihuahua Women's Institute (ICHIMU) calculated that 321 women were murdered in Ciudad Juarez since 1993, including 90 that were sex-related homicides, possibly the work of a serial murderer or murderers.

In August, a joint task force was created between the PGR and the PGJE. At year's end, the task force was investigating about 25 of the murders, of which 14 had been taken over by the PGR as having a nexus to federal crimes.

In September, a team of U.N. criminal justice experts visited Ciudad Juarez. They reported that a lack of resources and faulty techniques for evidence gathering had hampered investigations.

On October 7, the Mexican Senate approved the creation of a legislative commission to review government action on the murdered women cases.

On October 17, President Fox named Guadalupe Morfin Otero as the head of the new federal Commission to Prevent and Punish Violence Against Women in Ciudad Juarez. Morfin described her duties as crime prevention and victims' assistance.

On November 24, the CNDH published a report on the killings and disappearances of women in Ciudad Juarez that was highly critical of the investigations. The report severely criticized negligence on the part of local and state law enforcement that it characterized as a disregard for the human rights of victims and their relatives. The report described the situation in Ciudad Juarez as a public safety and law enforcement crisis.

Trafficking in women for the purpose of sexual exploitation is a problem (see Section 6.f.).

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Reports of sexual harassment in the workplace are widespread. In the latest statistics available from 2001, the CDHDF estimated that at least 80 percent of the women who work in Mexico City have experienced sexual harassment.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this principle in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support unless the child was a product of rape or cohabitation, the child resides with the father, or there is written proof of paternity.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." However, women in the work force generally are paid less than their male counterparts and are concentrated in lower-paying occupations.

Labor law provides extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breastfeeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with full pay, are prohibited from dismissing her, and must remove her from heavy or dangerous work or exposure to toxic substances. To avoid these expensive requirements, some employers, including some in the maquila industry, reportedly violate these provisions by requiring pregnancy tests in preemployment physicals, by regular examinations and inquiries into women's reproductive status (including additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. The Secretariat of Labor makes safety and hygiene inspections in private factories and public institutions to protect the labor rights of workers (see Section 6.e.).

The CNDH reported that it received seven complaints during the year that were related to forced contraception and issued one Recommendation (see Section 1.f.).

In December 2002, the CNDH charged the Secretary of Health, Julio Frenk Mora, 31 state governors, the head of the Mexico City government, as well as those respon-

sible for public health services, for implementing forced family planning methods. The CNDH found that family planning methods were forced upon indigenous men and women without their consent or knowledge of the benefits or risks. The CNDH said that public health officials used the threat of denying health and other government assistance programs, or promising material and economic resources, to intimidate persons into accepting the family planning methods. The CNDH found that this practice violated the Constitution.

In June, an NGO accused the Intermunicipal Police of Veracruz-Boca del Rio (PIVB) of detaining, beating, and confiscating the possessions of 10 sex workers.

The Friendly House (Casa Amiga) in Ciudad Juarez provides shelter for women and children in extreme need, advocates for the legal rights of women and children in the state of Chihuahua, and works closely with the sexual trauma assault resource crisis center in El Paso, Texas. It also provides training to police and administrators outreach programs. The Fundemos Foundation in Guadalajara promotes legal reforms to protect victims of domestic violence and participates in the state coordinating body for women's organizations.

*Children.*—The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remain. Children under the age of 15 make up 34 percent of the population, and the median age of the population is 21. Nine years of education are compulsory, and parents are legally liable for their children's attendance; however, SEP and the Sierra Neighborhood Foundation have maintained that only approximately 30 percent of youths between 15 and 20 years of age attend school. According to a 1998 academic study, in most areas of the country, girls and boys attend school at similar rates. In marginalized rural areas, national statistical agencies report that 60 percent of girls attend primary school compared with 70 percent of boys.

In July, the CNDH reported that it had detected serious violations to basic rights in the majority of the 54 juvenile reformatories in the country (see Section 1.c.).

In 2001, the National System of Social Assistance (DIF) in Mexico City, received 801 complaints of child abuse, and substantiated abuse in 45 percent of the cases. In 2002, DIF received 1,343 complaints and found that 28.2 percent of the complaints had merit.

Child prostitution and pornography are felonies under the law; however, sexual exploitation is a problem. Under a 2000 law, anyone convicted of corrupting a minor under 16 years of age by introducing the minor to pornography, prostitution, or any sexual exploitation can be sentenced to 5 to 10 years' imprisonment. If parents or guardians are convicted of a crime, they automatically lose custody of their children. If convicted, accomplices to sexual abuse or exploitation may be imprisoned for 6 to 10 years. When physical or psychological violence is used to abuse sexually or profit from children's exploitation, the minimum and maximum penalties for these crimes are increased by up to one-half.

A 2001 report entitled "Boy and Girl Victims of Sexual Exploitation in Mexico," jointly funded by UNICEF and DIF, remains the most authoritative publication on the subject. The report studied commercial sexual exploitation of children in six cities. Its author estimated the number of children involved in the sex trade country-wide at 16,000, although some recent estimates put the number at 30,000. Most were citizens although significant numbers were from Central America, principally Guatemala, El Salvador, and Honduras. Traffickers often promised the Central American children who enter through Chiapas employment in legitimate occupations. They were thereafter sold to the owners of bars and other establishments and forced into prostitution to pay off their debts. This debt peonage often never ends because the children accrue more debt for their meals and housing. Some children are trafficked to the U.S. and Canada. The study concludes that commercial sexual exploitation of children is a phenomenon that is present throughout the country. There were an estimated 2,500 Central American and Caribbean nationals working illegally as prostitutes in bars, clubs, restaurants, and on the streets in the Tapachula region, according to news reports.

There were 1,200 street children in Jalisco state, half of whom were believed to be victims of sexual abuse. The children were largely concentrated in Guadalajara, Puerto Vallarta, and San Juan de los Lagos, and in areas with a heavy foreign tourist presence. Trafficking in children for the purpose of sexual exploitation was a problem (see Section 6.f.). In 2000 the PGR established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children.

In January, the national daily newspaper *El Universal* published a three-part series on the trafficking of girls to brothels near San Diego. Over a 10-year period, 3 brothers kidnapped or tricked hundreds of girls, aged 12–18 years, from southern

Mexico into going into the United States. The girls provided commercial sex mainly to Mexican field hands. Many of the girls had babies either in the U.S. or in Mexico, whom the brothers and their accomplices held hostage with death threats to prevent their mothers from escaping. The gang used professional smugglers to move the girls across the U.S. border, according to the article.

In March, DIF Guerrero announced that there were 60 locations in Acapulco dedicated to sexual exploitation of minors.

In a press interview in June, the mayor of Tlacoachislahuaca, in the mountains of Guerrero, affirmed that the sale of girls for sexual exploitation was common in the area. He stated that the going price was \$2,000 to \$4,000 (20,000 to 40,000 pesos).

The Government has a Plan of Action to Prevent, Attend, and Eradicate the Commercial Sexual Exploitation of Minors. The program is administered through the DIF and is supported by numerous executive and legislative branch entities.

Child labor is a problem, particularly among migrant farming families (see Section 6.d.). The Government has attempted to make schooling easier for the children of such families by making their educational credentials transferable.

The Government and various NGOs have programs to protect the rights of children and to instill inter-generational respect for human rights through educational programs. The PGR, the National Women's Institute, UNICEF, and DIF sponsored a program called "Open your Eyes, But Don't Close your Mouth" to encourage citizens to denounce crimes, especially child prostitution and child pornography. The program was established in 2002, and continued throughout the year.

The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social services. The CNDH protects children by educating them on their rights and reviewing legislation to ensure compliance with relevant international conventions. The DIF's program for the Attention to Child Workers is aimed at preventing children from entering the work force and to encourage them to stay in school through a system of scholarships.

*Persons with Disabilities.*—There was discrimination against persons with disabilities in employment, education, and the provision of other services.

Estimates of the number of persons with disabilities range from 2 to 10 million. In the 2000 census, 1.8 million persons identified themselves as having a disability, although 2.2 million persons chose not to specify whether or not they had a disability. The President's Office for the Promotion and Social Integration of Persons with Disabilities estimates that there are 267,000 new cases a year of persons with disabilities owing to accidents, births, or diseases. According to the National Institute for Statistics, Geography, and Information (INEGI) there are 988 registered institutions of or for persons with disabilities. In Mexico City, 166 NGOs address problems affecting persons with physical disabilities.

On June 9, President Fox signed a new Anti-Discrimination Law passed by both houses of Congress that provides for access to health services, education, culture, transportation, and employment for persons with disabilities.

In May, Federal District head of government Andres Manuel Lopez Obrador announced that 64,778 pensions or stipends with a value of \$49 million (90 million pesos) had been given to the poor, the elderly, and persons with disabilities in Mexico City. The value of each stipend was \$66.00 (668 pesos).

The DIF has 62 Rehabilitation Centers in 31 states and the Federal District and more than 600 Basic Rehabilitation Units throughout the country.

A total of 27 of the 31 states have laws protecting persons with disabilities. Local law requires access for persons with disabilities to public facilities in Mexico City, but not elsewhere in the country. In practice, most public buildings and facilities in Mexico City do not comply with the law. The Federal District also mandated access for children with physical disabilities to all public and private schools. The Mexico City Secretary of Education, Health, and Social Development stated previously that 78 percent of these children received some schooling.

During the July 6 congressional elections, the Federal District Electoral Institute (IEDF) provided ballots, ballot boxes, a special ballot holder and marker for the vision and motor skill impaired voters.

*Indigenous People.*—The indigenous population has been long subject to discrimination, repression, and marginalization.

In May, a law that eliminated the National Indigenous Institute (INI) and created the National Commission for the Development of Indigenous Peoples, went into effect. The Office of Development of Indigenous People, within the presidency, was also eliminated, and its director, Xochitl Galvez was named director of the new Commission. In May, over 50 indigenous organizations complained that they had not been consulted in the creation of the new commission.

In its "National Program for the Development of Indigenous Peoples 2001–2006", the former INI estimated the registered indigenous population at 8.4 million, while the estimated overall population was 12.7 million. Estimates from other organizations varied from 8 to 10 million. The report listed: 6 million native indigenous dialect speakers over 5 years of age, 1.3 million children under 5 who live in households of native indigenous dialect speakers, and 1.1 million individuals who identified themselves as indigenous, but did not speak an indigenous dialect. Indigenous people are located principally in the central and southern regions and represent 37 percent of the population in the states of Oaxaca and Yucatan. However, these groups have remained largely outside the political and economic mainstream, as a result of longstanding patterns of economic and social development. In many cases, their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources is negligible.

The Federal Government enforces the 2001 constitutional reforms that give more autonomy and extend the rights of indigenous people. These reforms addressed economic rights, labor rights, and traditional rights related to family and land usage. According to the International Labor Organization (ILO) office in Mexico City, the Federal Government tried to enforce these new rights; however, the ILO believes the lack of resources and the fragmentation of indigenous communities made enforcement extremely difficult.

Indigenous communities continue to insist that they want to have the power to decide which commercial firms operate in their communities and which ones should close; however, only the southern state of Oaxaca has adopted a state law of Indigenous Participation.

In August, the EZLN held a "festival" in the "autonomous community" of Oventic, San Cristobal de las Casas, Chiapas, to celebrate Zapatista autonomy. Spokesman Subcomandante Marcos announced that the EZLN planned to launch "good government councils" composed of delegates from Chiapas's "autonomous municipalities," to coordinate better the activities of these organizations, called "Caracoles." Marcos claimed to speak for both the EZLN and a number of autonomous rebel municipalities in Chiapas. He said that the EZLN will cut off dialogue with all government interlocutors, including the congressional Concord and Pacification Commission (COCOPA), and all links with what he called "paternalistic" NGOs. In fact, dialogue with the Government had not taken place by year's end. On December 10, Xochitl Galvez, head of the National Commission for the Development of Indigenous People, announced that the Government planned to push for a reopening of the debate in the Congress regarding wider rights for indigenous people in 2004.

Sporadic outbursts of politically motivated and land dispute violence continued to occur in the southern states of Chiapas, Guerrero, and Oaxaca. Land disputes going back decades are also a cause of tension in the indigenous regions, especially in Oaxaca, Guerrero, and Chiapas (see Section 1.a.).

The municipality of San Juan Chamula in Chiapas has been the scene of ongoing disputes between local leaders (caciques) and dissidents especially in the community of Tres Cruces. On January 16, unknown persons destroyed water wells used by the dissidents. On January 26, unknown persons killed two members of the community who were allied with the caciques. On January 28, a large police force raided the community reportedly to arrest those responsible for the January 26 killings. During the confrontation seven persons, including four police officers, were killed. The police arrested five members of the Tres Cruces community. In February, the press reported that a criminal court judge in Chiapas confined four indigenous detainees to prison for the violence on January 28.

Judges often failed to sentence indigenous detainees within legally mandated periods (see Section 1.e.). The new National Commission for the Development of Indigenous Peoples took over programs to provide translators and bail assistance to indigenous defendants (see Section 1.d.).

Indigenous people do not live on autonomous reservations, although some indigenous communities exercise considerable local control over economic, political, and social issues. In the State of Oaxaca, for example, 70 percent of the 570 municipalities are governed according to the indigenous regime of usages and customs, which may not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation (see Section 3). These communities apply traditional practices to resolve disputes and to choose local officials. In 1998 Quintana Roo's State Legislature passed a similar usages and customs law. While the laws allow communities in these states to elect officials according to their traditions, these usages and customs tend to exclude women from the political process. Usages and customs also often infringe on other rights of women.

The law provides some protection for indigenous people, and the Government provides support for indigenous communities through social and economic assistance

programs, legal provisions, and social welfare programs. Budget constraints prevented these measures from meeting the needs of all indigenous people.

The General Education Act provides that educational instruction shall be conducted in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons speak only their native languages. Many indigenous children fail Spanish class in school and also face discrimination for speaking their native tongue.

The Government generally professed respect for indigenous people's desire to retain elements of their traditional culture in practice. The CNDH's Office of the Fourth Inspector General reviews and investigates violations of indigenous rights. More than 130 NGOs are dedicated to the promotion and protection of indigenous rights.

In June, the U.N. Special Rapporteur on the Situation of Human Rights and Basic Liberties of Indigenous Peoples, Rodolfo Stavenhagen, visited the indigenous communities in Chiapas, Chihuahua, Guerrero, Jalisco, Oaxaca, Sonora, and the Federal District. In his preliminary findings, Stavenhagen expressed his concern over the serious situation of the indigenous peoples in the country. He cited 14 serious and up to 400 other land disputes around the country as potential problems, and he called for constitutional reform to resolve the situation in Chiapas and the crisis of persons displaced by conflict.

In February, AI reported that on January 16, soldiers entered the village of Barranca Tecoani in Guerrero state and intimidated and harassed Ines Fernandez, her husband Fortunato Prisciliano, and other members of the community. The soldiers demanded that Fortunato Prisciliano withdraw a legal complaint that soldiers had raped his wife Ines in March 2002.

In April, Marcelino Santiago Pacheco, a member of the Organization of Zapotec Indigenous People in Oaxaca state, disappeared. On April 27, his relatives filed a complaint that he disappeared while on his way to the center of the city of Oaxaca. He reportedly disappeared for the first time in 1998 when the state judicial police (PJE) held him for 9 months. He was held in prison for 5 years for suspected links to the Popular Revolutionary Army (EPR), but released in July 2002 for lack of proof.

In May, AI reported that in January the Citizens' Council of Union Hidalgo (CCU), a Zapotec community, asked the Oaxaca state Congress to audit the accounts of the municipal authorities of Juchitan for possible fraud. On February 13, the CCU protested in front of the Town Hall in Union Hidalgo the failure of the legislature to carry out the audit. According to witnesses, the municipal police and other armed men, reportedly acting on the orders of the municipal president, fired on the demonstrators, killing Manuel Salinas Santiago and wounding nine others. The CCU reported the incident to the state prosecutor, who failed to take any judicial action; however, the municipal president lodged an official complaint against the CCU for criminal damage. On April 26, municipal police detained and reportedly beat Ausencia Rodriguez Orozoco and Romel Giovanni Matus. On May 13, members of the community protested against municipal works being carried out in the neighborhood of Manuel Salinas Santiago. Municipal police reportedly threatened community members, and shots were fired, resulting in various injuries. On May 14 and 15, police detained Carlos Manzo, Luis Alberto Marin, and Francisco de la Rosa and charged them with robbery, kidnapping, and attempted murder during the February protest. According to the Oaxaca State Human Rights Commission, arrest warrants were issued against four municipal officers, Sergio Cabrera Carrasco, Tomas Gutierrez Lopez, Jesus Sanchez Gomez, and Arturo Santiago Lopez for homicide and abuse of authority for the events of February 13. As of October, the officers remained detained pending disposition of charges.

On August 6, unknown persons killed Griselda Tirado Evangelio, a lawyer and member of the Totonaca Independent Organization, which defends the rights of indigenous people in Puebla state. In August, a group of persons tried to enter her family's house. When they were unable to do so, they stood outside and continued hitting the walls and doors.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade unions of their choice. Approximately 26 percent of the total work force is unionized, mostly in the formal sector, where approximately one-half the labor force is employed.

No prior approval is needed to form unions; however, they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) to function legally. Registration requirements are not onerous. As of August, 17 new labor unions registered with the STPS or the JLCA, and approximately 50 percent of these were

independent of the main labor centrals. However, the STPS or the JLCA occasionally have withheld or delayed registration of unions.

The STPS and the JLCA have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. These unions, known as "protection unions", are established before a company opens its doors. Ordinarily, the union leader charges a monthly amount to the company to guarantee that no strikes or complaints will take place. To remedy this problem, STPS officials required evidence that unions were genuine and representative; however, STPS undertook no real efforts to halt these protection unions. Genuine unions can demonstrate that they actually have members and represent the workers at the workplace. Some labor organizations have complained that they have found it difficult to obtain registration, especially from some local conciliation and arbitration boards.

The Federal Labor Board (JFCA) and the JLCA are tripartite and include the Government, union, and employer representatives. Although trade union presence on the boards usually is a positive feature, it can sometimes lead to unfair partiality in representation disputes.

Unions form federations and confederations freely without government approval. Most unions belong to such bodies, which also must register to have legal status. The largest trade union central is the Confederation of Mexican Workers (CTM), traditionally a part of the labor sector of the PRI, but affiliation is by individual unions.

During the July Chamber of Deputies elections, the formerly PRI-allied National Union of Workers (UNT), the second largest national confederation of worker's unions with 1.5 million affiliates, supported 16 candidates in 5 different political parties: PRI, PAN, PRD, Convergencia, and PT. Only five of UNT's candidates won, forming the first UNT congressional group. All five elected representatives came from PRI and PRD. Besides its representatives, the UNT has a collaboration agreement with the Partido del Trabajo (PT), a national party with six representatives. The agreement mainly establishes support from PT for a new Federal Labor Law. However, 10 federal representatives are not enough to achieve success in a 500-person Chamber.

The Revolutionary Workers and Peasants Confederation (CROC) switched from PRI to the recently created PLM (Mexican Liberal Party) for the July federal elections. Without leaving the PRI, the CROC gave its support and received candidates as federal representatives from the PLM. However, none of these candidates won.

The PRI worker's sector, CTM, continued its support of the PRI and obtained 44 seats in the Chamber of Deputies, compared with 68 seats in 2000.

The country's record for internal union democracy and transparency was spotty. Some unions were democratic, but corruption and strong-arm tactics were common in others. In October, a federal magistrate issued indictments for embezzlement against Carlos Romero Deschamps, union leader at the Mexican Petroleum Company, PEMEX. The charges stem from a \$50 million illicit donation by the union to the PRI during the party's 2000 presidential campaign.

The Constitution and the LFT protect labor organizations from government interference in their internal affairs, including strike decisions. However, this also can protect undemocratic or corrupt union leaders. The law still permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and to force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

During the year, efforts at labor reform were stymied. In March, STPS produced a draft bill for consideration in Congress that had not been debated at year's end. The opposition PRD criticized the proposal as a set of new rules that will allow old practices, such as lack of transparency in the public registry of trade unions, to continue.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union recognition election. LFT pro-union provisions led some employers to seek out or create independent "white" or company unions as an alternative to mainstream national or local unions. Representation elections are traditionally open, not secret. Traditionally, management and union officials are present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts, which in the past have resulted in the intimidation of pro-union workers and in reprisals against them, are prevailing practice but are not required by law or regula-

tion. Secret ballots are held when all parties agree. The draft bill contains provision for secret ballot elections as long as there are at least two contenders.

The 2002 Human Rights Watch World Report stated that collective bargaining agreements negotiated between management and probusiness and nonindependent unions frequently hindered legitimate organizing activity. The report stated that in other cases employers' hiring practices, such as the use of subcontractors and "permanent temporary" workers, impeded workers from organizing.

Wage restraints no longer exist, except for those caused by recession or an employer's difficult situation. Wages in most union contracts appeared to keep pace with or ahead of inflation, but most workers had not yet regained buying power lost over the past decade.

The Constitution and the LFT provide for the right to strike. The law requires 6 to 10 days' advance strike notice, followed by brief government mediation. If federal or state authorities rule a strike "nonexistent" or "illicit," employees must remain at work, return to work within 24 hours, or face dismissal. If they rule a strike legal, the company or unit must shut down completely, management officials may not enter the premises until the strike is over, and the company may not hire replacements for striking workers. Provisions for maintaining essential services are not onerous. The law also makes filing a strike notice an effective, commonly used threat that protects a failing company's assets from creditors and courts until an agreement is reached on severance pay. Although few strikes actually occur, informal stoppages are fairly common, but uncounted in statistics, and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes are rare. Informal ones are more frequent. There were 44 strikes during the year. According to the Secretariat of Labor and Social Welfare, in the 3 years that the Fox administration has been in office there were 124 strikes nationwide.

The public sector is almost completely organized. Industrial areas are organized heavily. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from anti-union discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector varied by area and sophistication of the manufacturing process. The National Council of the In-Bond Export Manufacturing Industry claimed that its members employed approximately 1.09 million persons. According to INEGI, there are 3,901 active maquiladora plants in the country. Wages have been slightly higher and job creation has been greater in this sector than in more traditional manufacturing. Compensation packages in the maquiladora sector still were lower than in the traditional manufacturing sector. There was no evidence that the Government opposed unionization of the plants, although the maquiladora sector tends to be under state jurisdiction. Protection contracts, to which the workforce is not privy, are used in the maquila sector and elsewhere to discourage the development of authentic unions. These contracts are collective bargaining agreements negotiated and signed by management and a representative of a so-called labor organization, sometimes even prior to the hiring of a single worker.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in persons, including children, for sexual exploitation and forced labor is a problem (see Sections 5 and 6.f.). There also were cases of abuses of refugees and undocumented immigrants (see Section 2.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits children under 14 years of age from working and sets the minimum legal work age at 14 years; however, child labor is a problem. Those between the ages of 14 and 16 may work only limited hours, with no night or hazardous work, which generally makes hiring them uneconomical. Enforcement was reasonably good at large and medium-sized companies, especially in maquiladoras and industries under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, and the Government's efforts to enforce the law stalled.

A 2000 report published by UNICEF and the National Action Commission in Favor of Children estimated that approximately 3.5 million children between the ages of 6 and 18 work regularly. Approximately 1.5 million children work in agriculture, particularly in the northern states. In 1999 UNICEF and the DIF, estimated that 150,000 children work in the 100 largest cities.

Reliable current statistics on child labor in the country do not exist. Most child labor is in the informal sector (including myriad underage street vendors), family-



owned workshops, or in agriculture and rural areas. According to a 1999 report published by UNICEF, Mexico City's central market employed approximately 11,000 minors between the ages of 7 and 18, who worked as cart-pushers, kitchen help, and vendors. In 1999 UNICEF and DIF estimated that 135,000 children worked on the city streets. The children did not receive a fixed wage, and most worked long shifts, starting in the early morning hours. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were unable to convince indigenous farm workers to leave their families at home, and many settled near work sites in the north. The union has had some limited success in negotiating with employers to finance education in Spanish and indigenous languages near work sites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields. Many urban child workers are migrants from rural areas, are illiterate, and have parents who are unemployed.

In May, the Chamber of Deputies reported that at least 5 million children, mainly indigenous, work in the agricultural sector, the majority in harsh conditions of exploitation. The Commission for Rural Development reported that minors were employed by large agro-businesses, especially in Guanajuato, Sonora, Sinaloa, and Baja California and received salaries much less than those paid to an adult.

The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in children is a problem (see Sections 5 and 6.f.).

*e. Acceptable Conditions of Work.*—The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective on January 1, but any of the three parties can ask that the wage commission reconvene during the year to consider a changed situation. In December, the wage commission adopted an average 4.21 percent increase, effective on January 1, based in part on the Government's projection of a 3 percent annual inflation rate.

In Acapulco, Mexico City and nearby industrial areas, southeast Veracruz state's refining and petrochemical zone, and most border areas, the minimum daily wage was set at \$4.17 (45.24 pesos). In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage was \$4.03 (43.73 pesos). In other areas, it was \$3.88 (42.11 pesos). There are higher minimums for some occupations, such as the building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (approximately 16 percent) earn only the minimum wage; most workers earn multiples of the minimum wage, and industrial workers average three to four times the minimum wage, earning more at larger, more advanced, and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits in the private sector include free social security medical treatment, pensions, individual worker housing and retirement accounts, Christmas bonuses, paid vacations, and profit sharing. Employer costs for these benefits add from approximately 27 percent of base salaries at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets 6 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is one reason why unions vigorously defend the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

There are 16 special labor arbitration and conciliation boards in Mexico City, which deal with the different industries that the LFT considers federal. Among these industries are: railroads, petrochemical, cement, petroleum, textiles, cinematograph, energy providers, mining, and tobacco. Besides these, there are 45 labor arbitration and conciliation boards in the 31 states focused on local issues.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and are responsible for workplace enforcement in plants and offices. These committees meet at least monthly to consider workplace needs and file copies of their minutes with federal labor inspectors. Federal and state authorities exchange information.

STPS and IMSS officials continued to report that compliance was reasonably good at most large companies. However, because smaller firms are far more numerous

and more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. There were not enough federal inspectors to enforce effectively health and safety standards at smaller firms. There are special problems in construction, where unskilled, untrained, poorly educated, transient labor is common, especially at many small sites and companies. Many unions, particularly in construction, are not organized effectively to provide training, to encourage members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

To protect the rights of workers, in 2002 the Secretariat of Labor made 32,818 safety and hygiene inspections in private factories and public institutions. However, while the Government increased the number of federal inspectors in 1997 and concluded agreements with more states to expand and better coordinate labor inspections, the 3,204 maquila plants far exceed the federal inspectors. There are too few inspectors to permit frequent inspections. Since 2002 there are 238 inspectors and 231 in training while working.

Many agricultural workers are internal migrants, who often travel with their families, including young children. They often are paid by volume of the work they produce, rather than by the day. Working conditions vary by area of the country and from one locality to another. In the past, allegations were made that workers, including young children accompanying them, have been exposed to pesticides and other chemicals.

Individual employees or unions also may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking was a serious problem, and there were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (see Section 2.d.).

Trafficking in persons is forbidden under the General Population Law, immigration laws, the federal organized crime law, and federal and state penal codes, all of which were used to prosecute traffickers of undocumented migrants, women, and children.

The law provides increased penalties for sexual abuse or exploitation of children. Child prostitution and pornography are felonies under the law. Penalties under the law include fines of 500 to 1,000 times Mexico City's minimum wage and possible jail time.

At its highest levels, the Government is making a good faith effort to address seriously trafficking within its budget constraints. The National Migration Institute (INM), the PGR, the National System of Integral Family Development, and the Federal Preventive Police are the key agencies devoted to combating trafficking, protecting victims and prosecuting traffickers. In 2002, the DIF and PGR rolled out their joint "Abre los Ojos pero No Cierres la Boca" (Open your Eyes but don't Shut your Mouth) public service media campaign, designed to encourage citizens to report all incidences of sexual exploitation.

The Government has prosecuted cases against traffickers, who usually are migrant smugglers, but reliable statistics were not available. For example, on May 29 a combined law enforcement operation netted the capture of 27 traffickers or smugglers ranging from the states of Sonora in the north, to Quintana Roo in the south. Among those captured were Jose Enrique and Gustavo Mora Cienfuegos, identified as two of the major traffickers to Arizona; Florinda Rojas Jimenez, alias Dona Flor, leader of one of the most important trafficking/smuggling organizations in the country. She maintained contact with organizations in Colombia, El Salvador, Honduras, and Guatemala.

The Government strengthened its cooperation with other countries. In August, immigration officials from Nicaragua, El Salvador, Honduras, Guatemala, Mexico, Ecuador, Colombia, and the U.S. met in Mexico City to discuss strategies against trafficking and smuggling in persons.

Mexico is a country of origin, transit, overwhelmingly from Central America, and destination for trafficked individuals, as well as smuggled migrants. To a much lesser extent, persons from Brazil, Ecuador, China, Taiwan, India, and some countries in Eastern Europe transit the country. The poor and less educated are more at risk for falling into the category of trafficked individuals.

Although the country is more of a concern as a transit country, to a smaller degree it is a destination country for the sex trade.

Baja California is a major transit point for illegal migrants of all types, including small and large-scale smuggling operations. Smuggling for purposes of prostitution continued throughout 2002, though in many cases with the knowledge of the traf-

ficked women of the type of activity in which they were to engage. In January, the PGR broke up a network in the border town of Tecate that recruited female maquiladora workers to work in prostitution. Press reports noted that Ukrainian, Russian, and Brazilian women regularly transited Baja California on their way to work as prostitutes in the Los Angeles area. In 2002, police broke up a prostitution ring in northern San Diego County, California, with links to Tijuana; many of the women were minors from Oaxaca, recruited to be prostitutes for field hands in the area. Underage Mexican and occasionally American girls found employment as erotic dancers and prostitutes in Tijuana, Rosarito, and Ensenada.

There is little reliable information on who are the traffickers, although those outside the law enforcement profession believe them to be international organized crime rings.

The commercial exploitation of children is a problem (see Section 5).

There are no known NGOs devoted exclusively to working on trafficking issues.

The Government supports general prevention campaigns for children and women, and administers assistance programs for children repatriated to the country. The legal framework exists to protect the victims of trafficking and provide social services to these victims. However, in practice persons illegally in the country usually are deported.

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## NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In 2001, voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election. The Supreme Electoral Council (CSE) is ostensibly an independent fourth branch of government; however, it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political influence and corruption.

The President is the supreme chief of the national defense and security forces. A civilian has led the Ministry of Defense since 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of Government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; coffee, seafood, sugar, cattle, apparel assembly, and tourism are also important. The country's population is approximately 5.4 million. A worldwide drop in coffee prices, the lack of an adequate legal framework for investors, a fragile banking system, the high level of external and domestic debt, and unresolved property disputes stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. Government officials reported 2.3 percent Gross Domestic Product growth in real terms during the year. While official figures were unavailable, a November Gallup poll found 41 percent unemployment. The economy remains heavily dependent on foreign aid and remittances from abroad.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. At year's end, there were ongoing investigations of members of the security forces accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Holding cell conditions remained harsh. Security forces arbitrarily arrested and detained citizens; however, the number of reports of arbitrary arrests and detentions decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. The new Criminal Procedures Code took effect at the end of 2002. The judiciary is subject to political influence and corruption. The weakness of the judiciary continued to hamper prosecution of human rights abusers in many cases. The human rights ombudsman, though also politicized, made publicized recommendations during the year that openly challenged the actions of the security forces. Violence against women, including domestic abuse and rape, remained a concern. Salary discrimination against women in the labor force is endemic. Violence against children and child prostitution continued. Discrimination against indigenous people also occurred. Child labor continued to be a problem. The violation of worker rights in free trade zones continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by government officials; however, the police received 20 allegations of unlawful killings by police; each of these was referred by the Inspector General of the police to the courts. All of the cases were pending before the courts at year's end.

The Inspector General's Office of the National Police received 20 reports of police killing of alleged criminals and 145 reports of instances in which police seriously wounded criminal suspects while attempting to arrest them (see Section 1.d.).

On June 9, Saturnino Varela Escalante died hours after his arrest for disrupting public order by a police patrol led by officer Javier Somarrriba in Somotillo, Chinandega. Varela allegedly resisted arrest and was kicked by Somarrriba. Forensic specialists reported that Varela died of heart injuries apparently caused by severe beating. Chinandega Police Chief Guillermo Vallecillo Ruiz condemned the incident as inconsistent with police standards and discharged dishonorably Somarrriba, who was already under investigation for theft and robbery. Somarrriba did not return to the police station after the incident and was believed to have fled to Honduras. The police sought his capture and extradition from Honduras, but he remained at large at year's end.

On August 3, police officer Dimagio Valverde shot 18-year-old Marvin Jose Miranda, after Miranda allegedly attempted to assault a taxi driver in the "El Rodeo" neighborhood in Managua. The family of the victim said that Valverde had shot Miranda in the neck even though Miranda had been trying to hide when the police arrived. Valverde's defense attorney said three of Miranda's neighbors who witnessed the confrontation confirmed that the shot had been accidentally fired in a struggle between his client and Miranda. A preliminary hearing found sufficient evidence to go to trial, which started October 3, but no information on the disposition of the case was available at year's end.

In April 2002, a court acquitted police Captain Arnulfo Rocha Mora of the charges of excessive force in the January 2002 killing of 31-year-old Santos Jose Polanco in Teustepe, Boaco. Rocha, who claimed that he shot Polanco in self-defense, was transferred and promoted to police chief in the nearby town of Santa Lucia.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. A leading human rights NGO, the Nicaraguan Center for Human Rights (CENIDH), received 293 complaints of torture or degrading treatment by the authorities during the first half of the year and verified 232 of these. The Inspector General's Office recorded 586 complaints of mistreatment by police and found 188 to have merit. The Inspector General punished 272 officers involved in these cases. Among the complaints were 145 instances in which police seriously wounded criminal suspects while attempting to arrest them. By year's end, the police had dishonorably discharged 11 officers. A total of 103 officers were referred to the courts for suspected criminal acts, including human rights infractions and corruption.

The Inspector General's Office reported that it received a total of 274 complaints of human rights violations by police officers during the year, including unlawful killings (see Section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 92 to have merit. The Inspector General's Office punished a total of 176 officers for violations of human rights. Of those punished, the police discharged 11 officers dishonorably, remanded 103 to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 15, Captain Francisco Orozco, chief of police in Rosita, Northern Autonomous Atlantic Region (RAAN), was accused of raping a 13-year-old girl at the police station. The girl's mother had brought her to the police to press rape charges against the girl's stepfather. Orozco allegedly told the mother to leave the room so he could interview the girl. A medical forensic exam revealed evidence of previous abuse as well as of a recent rape, which they forwarded for further forensic analysis. Orozco was immediately discharged pending the investigation. Human Rights Ombudsman Benjamin Perez called for serious punishment for this crime. Top national police officials vowed to prosecute Orozco should the evidence implicate him. In October, a jury acquitted Orozco of the charges.

On May 7, policeman Marcos Vasquez allegedly assaulted Humberto Torres Mendieta in front of his home in Ciudad Sandino, a Managua neighborhood. Accord-

ing to press reports, Vasquez arrested Torres without a judicial order for disrupting public order and disrespect of authority, then continued beating him at the police station along with other police officers. Vasquez was subsequently dismissed from the police force. At year's end, no information was available on criminal charges against Vasquez.

In June, policeman Lester Garcia was accused by his superior officer of raping a 25-year-old Ecuadorian woman who was detained at the Corn Island police station. The Ecuadorian national was waiting to be transferred to local immigration authorities after she entered the country illegally. The police official was suspended while the police Inspector General investigated. Lester was dismissed from the police for breaking non-fraternization regulations when the alleged victim acknowledged the relationship was consensual.

On September 5, a 29-year-old woman pressed charges against policeman Andres Montes for attempted rape while she was sleeping outside city hall offices in Siuna, RAAN, on August 25. She claimed that public defender Gloria Garcia suggested that she drop the charges to avoid negative consequences against her 14-year-old son, who was detained by the police at the time on other charges. Garcia allegedly took the victim to the police station and made her sign a release exonerating Montes. Montes was charged with rape in a local court. The trial, scheduled for December 22, was delayed and remained pending at year's end.

On September 7, a police patrol in Granada struck with rubber bullets and allegedly beat 18-year-old Octavio de la Rocha. According to the police, the patrol was rounding up suspected gang members when some of the youth responded by pulling knives and throwing rocks. The patrol claimed it then fired rubber bullets in self-defense. According to some witnesses, de la Rocha fell on the ground attempting to flee the melee, where police shot him with rubber bullets and beat him. De la Rocha was taken to a local hospital where he remained in a coma. Although de la Rocha's family acknowledged he sniffed glue, they denied he was a gang member or criminal. No details of a police investigation or criminal charges against any of the police involved were available at year's end.

In May, a court convicted and sentenced to various prison terms eight police officers including Deputy Commissioner Fidel Dominguez Alvarez and Captain Maribel Ruiz Lovo, for a February 2002 raid during which a group of nearly 30 police officers beat 15 people as they attempted to evict 13 families who were allegedly squatting on disputed land on the island of Ometepe. However, the Appeals Court in Granada overturned their conviction on August 23. Both officers continued to work with the police, Dominguez as the head of the investigative unit in Rivas and Ruiz as police chief in Altagracia on Ometepe.

Police officer Bismark Laguna was acquitted May 15 for the 2001 shooting of gang members Juan Carlos Mendoza and Lenin Calderon Mendoza in San Isidro, Matagalpa.

A new Prison Systems Organic Law went into effect at the end of the year. The new law establishes general norms and rules for the National Penitentiary System and regulates its activity in the execution of punishments and preventative measures, such as control, re-education, penal security, and social reinsertion.

Prison conditions were difficult. According to government statistics, the prisons, with an official capacity of 5,132, had a total inmate population of 5,306 in December, down from 5,624 in December 2002. Detainees were held separately from convicted prisoners (see Section 1.e.).

Prison guards received human rights training from the Human Rights Ombudsman (PPDDH), funded by international donors, and generally treated prisoners well.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. The Ministry of Health started a program to provide medical care, although it was unclear if this had made an impact on prisoner's access to health care. For all 8 penitentiaries and 5,306 prisoners, prison authorities maintained a staff of only 24 medical specialists, including doctors, psychologists, and nurses. Six medical personnel were located in Tipitapa, the country's largest prison near Managua, and there were at least two in each of the other seven facilities. Prison authorities reported that 30 percent of prisoners slept on concrete beds or floors, in contrast to the 49 percent that did so in 2002. Several churches and non-governmental organizations (NGOs) donated foodstuffs, beds, and medicine to help alleviate shortfalls.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.45 (6.8 cordobas). The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Many prisoners received additional food from visitors. Many police holding cells were dark, poorly ventilated, and unhygienic.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells throughout their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 105 prisoners. The authorities occasionally released detainees when they could no longer feed them.

Only Managua has a separate prison for women; outside Managua, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 5.7 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure prisoners' rights.

As of December, 0.7 percent of the prison population was between the ages of 15 and 18, a sixth of what it was in 1999. All youths were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

In August 2002, Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged detainees throughout the penal system. According to the survey, the police did not inform over 21 percent of the respondents at the time of their arrest why they were being detained. The police allegedly mistreated 47 percent, and 48 percent said that they were detained 3 days or more before seeing a judge. Half said they were not aware of being assigned a defense attorney, and 24 percent said they were incarcerated with adults.

In September 2002, Casa Alianza and the Center for Justice and International Law presented a complaint to the Inter-American Human Rights Commission regarding the 1999 suicide of 16-year-old Wilmer Gonzalez Rojas at the adult jail in Tipitapa. The IACHR had not decided whether to accept the case by year's end, pending the receipt of information requested from the Government.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention by the police decreased under the new Criminal Procedures Code. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Compliance with this law has increased significantly since 1999, largely due to pressure from the Police Internal Affairs office and support for compliance from the Chief of Police. Under the new code, a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested.

The National Police reduced the law enforcement role of voluntary police, private citizens used on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief. Voluntary police do not receive a salary or professional training. The police can apply no administrative sanctions to the volunteers, other than to terminate their status. In 2000, then Chief of Police Franco Montealegre terminated the use of voluntary police in Managua; however, as of September 2002, there were 1,681 voluntary police outside of Managua, a 22 percent decrease from the 2,170 in 2001. Several voluntary police were implicated in human rights abuses during the year.

The Inspector General remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and most of the cases never reach a final resolution (see Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's office normally applies administrative restrictions, such as suspension with pay or confinement to precinct. At year's end, the Inspector General had no information on how many cases were remanded to the courts or adjudicated during the year.

The Police Inspector General's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the National Police hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive training during the year.

Police trainees must receive human rights instruction to graduate from the police academy and become officers. In addition, police officers must be re-certified in human rights annually. Canadian police and the Inter-American Commission of Human Rights (IACHR) trained the instructors teaching the human rights courses. The army included human rights training in its core training curriculum (see Section 4).

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

The number of provisionally convicted prisoners awaiting trial dropped by 50 percent. In 2002, government statistics indicated that 10 percent of 5,163 prisoners had been in jail for 6 months or longer without a final verdict, up from 2 percent in 2001 and 4 percent in 2000. Although the number of prisoners in jail awaiting trial was not available, statistics from the Department of Prisons indicated that 13.7 percent of all prisoners being held were awaiting final verdicts, half as many as in 2002.

Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was highly susceptible to corruption and political influence. The judiciary was hampered by arcane legal codes and corruption. Judges' political sympathies, acceptance of bribes, or influence from political leaders often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court and, in addition to administering the judicial system, is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney General's Office rather than the police investigate crimes committed by and against juveniles. The 1994 military code requires that the civilian court system try members of the military charged with common crimes.

The Assembly continued to work on the revision of the country's outdated Criminal Code. In June 2002, the old Criminal Code was modified to include certain economic crimes, including illegal enrichment. The 1999 Judicial Organic Law contained a provision that established minimum professional standards for judicial appointees.

In 2000, the Government opened property tribunals to handle cases concerning properties seized during the Sandinista (FSLN) regime in the 1980s. In November 2002, the Supreme Court consolidated these tribunals into a single tribunal. The property tribunal has been extremely vulnerable to political pressure.

The civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, and the number of such suspects decreased, partly because of a new Criminal Code. Human rights and lawyers' groups continued to complain about the delay of justice caused by judicial inaction.

Judges were susceptible to corruption and political influence. Rulings in favor of those who are politically connected remained the most visible manifestation of judicial corruption. In June, the National Assembly elected 8 of 16 Supreme Court (CSJ) magistrates in what was widely reported to be a back-room political deal. All eight magistrates had strong political loyalties, either to former President Aleman or the FSLN. The leading political parties in the Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos Administration. As a consequence, a November Gallup poll showed only 6 percent of the population opposed reforming the CSJ.

The justice system was in the hands of the FSLN, to which approximately 70 percent of the judges belonged, and the FSLN used the judiciary to serve its political purposes. This was especially true in impeding resolution of property claims.

At year's end, the Supreme Court, deadlocked over political control, had not functioned or reviewed cases for over 2 months. This had a cascade effect on the administration of justice; many criminal and constitutional cases were left unresolved, and judicial positions in the appellate and lower courts, normally assigned by the CSJ, went unfilled. The appellate courts in several major cities, including Granada and Masaya, were forced to send appeals to other jurisdictions, which were not able to deal with these new cases because of their own backlogs. Wrangling between the FSLN and PLC over the election of Chief Justice and control of key constitutional and civil chambers within the CSJ, evenly split along political lines, remained unresolved with no apparent resolution in sight.

On December 8, Judge Juana Mendez found former President Aleman guilty of money laundering, fraud, and other charges, sentenced him to 20-years confinement at his ranch, and ordered him to pay a \$17 million fine (26,486,000 cordobas). Press reports indicated that the sentence was nearly brokered away in a backroom deal with the FSLN. The FSLN reportedly offered a reduced sentence for Aleman in exchange for control of key positions in the Supreme Court. However, the outcry from civil society and the international community derailed the deal.

In December, Iliana Perez, a judge with strong ties to the FSLN, acquitted Silvio Conrado, an influential and long-time FSLN financial advisor, of child molestation. During the trial, at least one minor testified that Conrado had sex with her and 3 other girls between the ages of 13 and 16 after Conrado's chauffeur transported them from school to a hotel room where Conrado was waiting for them. Other witnesses testified that they had seen Conrado's employees take the alleged victims to Conrado's hotel. Child molestation has serious criminal penalties under the law. Judge Perez refused to allow the testimony of these witnesses to be admitted in court, apparently in contravention of accepted procedure in child abuse trials. Numerous groups repudiated the judge's decision, including Special Ombudsman for Children Carlos Emilio Lopez, CENIDH, the Ministry of Family, and Casa Alianza, charging that the FSLN and its leader, Daniel Ortega, politically directed the dismissal to protect a key party official. Initial appeals by the prosecutor and Casa Alianza were rejected, but Casa Alianza vowed to continue the appeals process.

The Supreme Court's campaign to reduce incompetence and corruption in the judiciary continued during the year. Since the campaign began in 1997, the CSJ has removed a total of 115 judges—more than one-third of the 300 judges in the system; 10 judges were removed through July.

Until the end of 2002, the country used the Napoleonic legal system for all offenses, and that system still was used for many cases. Police had to present a detained suspect before a judge within 48 hours, who had to hold a preliminary hearing within 10 days. These constitutionally mandated deadlines were usually observed. If a judge ruled the suspect was provisionally guilty at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a five-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution was 6 months, 560 suspects were held without trial for longer periods during the most recent year that statistics were released by the CSJ.

A new Criminal Procedures Code entered into effect for serious offenses in cases brought after December 24, 2002. The new code is more adversarial and transparent and relies more on the initiative of prosecutors and less on the initiative of judges and magistrates to file charges. It prescribes an arraignment at which a judge decides whether to send the case to trial or dismiss it. Once the case reaches trial, the judge takes a neutral presiding role, and both sides present oral arguments to a jury. The new system only applied to the most serious offenses; however, by December 2004, it will apply to all new criminal cases. The new system offers greater transparency by allowing the accused greater access to the process. The new system strengthened the judiciary, reduced substantially the case backlog, and shortened the average time for a verdict to 15 days as the result of a better coordination between all parts of the law enforcement process. An outside evaluation concluded that there was greater transparency among judges applying the new code, although it documented a need for more personnel in the system, including public defenders.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a Public Defender's Office to represent indigent defendants. The office is staffed by 47 public defenders assigned to district courts across the country, up from 13 in 2002. The district court of Managua maintained a staff of 13 public defenders throughout the year. In courts other than district courts, where public defenders were not available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appointed attorneys from a standard list to represent indigent defendants. However, many attorneys paid a small fine rather than represent such clients because the State did not pay for attorneys for the indigent. Under the new criminal procedures code, the number of indigent defendants who went to trial without an attorney decreased as the judges assumed an oversight role in court proceedings.

The country still lacks an effective civil law system. Many criminal cases are really civil disputes. Often the effect of a criminal proceeding in these matters is to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverts resources from an overburdened Prosecutor's Office that otherwise could be directed toward genuine criminal matters.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all



persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press; however, the Government did not invoke these provisions to suppress the media.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public without government interference. News media covered a series of scandals and allegations of government corruption without restriction.

The Bolanos administration attempted to standardize the way government advertising funds were allocated to the various media outlets by implementing a system based on market share. This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them.

On October 22, judge Juana Mendez banned El Nuevo Diario newspaper journalist Eloisa Ibarra from reporting that Mendez had permitted former President Arnoldo Aleman to have a cell phone while in prison. Judge Juana Mendez issued a judicial order prohibiting Ibarra from covering the story because of a previous story she published that was critical of the judicial system. Mendez told other journalists that were allowed to cover the story, “So the rest of you better behave.”

In October, the Inter-American Press Association (IAPA) reported threats against reporters investigating ties between drug trafficking and government institutions. For example, on May 23, La Prensa’s correspondent in Bluefields, Sergio Leon, and La Prensa’s editor, Freddy Potoy, received death threats after publishing a series of reports that implicated the chief of the anti-drug department of the National Police of the Atlantic Coast, Oscar Larrave, in drug trafficking and illegal enrichment. The nongovernmental organization (NGO) Journalists Against Corruption asked National Chief of Police Edwin Cordero to guarantee the physical safety of both journalists.

On June 3, Pablo Lastangarth, a reputed drug dealer in the Atlantic Coast town of Puerto Cabezas, threatened La Prensa’s correspondent Walter Treminio, because of Treminio’s May 26 investigative report regarding judicial anomalies in a case related to drug trafficking.

On June 4, 50 supporters of former president Aleman threatened and physically attacked journalists from the national media who were covering the visit of Aleman’s wife, Maria Fernanda Flores, to the Managua Criminal Court. Supporters of the PLC accompanied Flores and attacked the journalists because of their reporting on Aleman corruption cases. The crowd insulted and threatened reporter Lucia Pineda Ubau from television station Canal 2. The Special Ombudsman for Human Rights condemned this and several similar confrontations with journalists.

In May, a jury acquitted Tirso Moreno of all charges in connection with his October 2002 breaking into the offices of La Prensa and holding a dozen staff members hostage for several hours. The Nicaraguan Journalist Union and IAPA criticized the verdict as “a dangerous precedent for reporters and the Nicaraguan Court of Justice.”

The news medium with the largest national audience is radio; however, polls showed that television is the primary source of news in the cities. There are 174 chartered radio stations in the country, 68 AM stations and 106 FM stations; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are 10 Managua-based television stations, 8 of which carry news programming, some with noticeable partisan political content. In addition, there are 6 cable television franchises that offer services in most large and medium-sized cities.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the right to peaceful assembly, and the Government generally respected this right in practice.

However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and marched without registering.

Throughout October, November, and December, thousands of university students organized protests in Managua regarding the Government's failure to increase the education budget. During many of these protests, some of the students became violent, injuring police and bystanders, throwing Molotov cocktails and homemade mortars, damaging property, and disrupting traffic throughout the city. The violence sparked confrontations with police, who often arrested violent participants, usually releasing them the next day. During each such violent protest, several persons, sometimes including police, were taken to local hospitals and treated for tear gas inhalation and other injuries. National Police Chief Edwin Cordero repeatedly affirmed the student's right to protest as long as they remained peaceful. In November, the Government charged six students with terrorism for their actions in instigating violence during the protests. On December 8, two students were acquitted; charges against the rest of the students were pending at year's end.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

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

The Government's requirements for legal recognition of a church are similar to its requirements for other private associations (see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which the National Assembly must approve. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation.

The Roman Catholic Church is not an official state religion; however, it has traditionally enjoyed a close relationship with the Government. Its relationship with the Bolanos Administration was more distant. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. At times, there have been allegations that government officials have given financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the freedom to practice other religions.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected these rights in practice. The right of citizens to return to the country is not established in the Constitution, but, in practice, the Government did not restrict its citizens' return.

The Constitution was amended in 2000 to affirm that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least 4 years prior to their election or appointment.

The law includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November 2001.

The Constitution distributes power and authority among the four co-equal branches of government. The President heads the Executive Branch and appoints a Cabinet. The President is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitu-

tionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office.

A single-chamber, 91-member National Assembly exercises legislative power. In 2001, voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the two autonomous regions. The outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly; however, outgoing President Aleman was removed from his seat when he was convicted on money-laundering charges. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5-year terms on January 9, 2007.

According to the Constitution, the CSE is supposed to be an independent fourth branch of government. However, the CSE was highly politicized and subject to political influence. For much of the year, the CSE did not function, paralyzed by internal political disputes and a top-heavy bureaucracy. It verged on bankruptcy, even after firing 50 percent of its workers. It could not pay the remaining employees for months on end, and many of them went on strike, suspending the issuance of national identity cards that are required to vote. Nevertheless, CSE magistrates raised their own annual salaries by 100 percent to as much as \$155,494 (2,332,500 colobas), roughly 60 percent more than the salary of government ministers. Many observers feared that CSE would have problems conducting upcoming municipal and national elections unless the situation was reversed. In 2002, the CSE prevented regional election results from being implemented for many months (see Section 5). As a consequence, the CSE retained little confidence as an institution; a November Gallup poll showed only 6 percent of the population opposed reforming the CSE, and only 38 percent had any confidence that it could manage upcoming municipal elections.

In 2001, generally free and fair national elections were held under the auspices of the CSE. Voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party president with 56 percent of the vote; Sandinista candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots.

In September 2002, in what was widely considered a political decision, Judge Mendez charged President Bolanos, Vice President Rizo, and about 30 other leaders of the PLC in a campaign finance case. The case involved the alleged misuse of government funds and foreign government donations in the PLC's 2000 municipal election campaign and its 2001 national election campaign. The President presented exculpatory evidence, although the President and Vice President enjoyed immunity from prosecution and the National Assembly did not remove that immunity. The case has not proceeded against the other individuals charged.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women held ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November 2001, out of a total of 90 elected members. In addition, 5 of the 16 Supreme Court (CSJ) justices were female, and in 2002, the Magistrates of the CSJ elected Alba Luz Ramos as President, the first woman President in the history of the Court. Women held approximately 70 percent of the judge-ships in the country.

Two members of the National Assembly claim indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

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

A wide variety of domestic (and international) human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The largest group to deal with general issues of human rights was CENIDH. Many such human rights groups focused most of their attention on controversial economic rights, such as access to employment, social security, healthcare, and education. Other groups focused on a particular area of human rights, such as Casa Alianza, which primarily concentrated on children's issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH

continued to conduct human rights workshops at the police academy, at various police headquarters, and with army units throughout the country. The military academy instituted human rights training as part of their core curriculum, and some military officers received internationally sponsored human rights training.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focused on the municipalities affected most adversely by the 1980–90 civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services helped maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year.

The PPDDH, the autonomous government-financed human rights office, struggled with budget shortfalls. In 1999 the National Assembly elected the country's first Ombudsman, Benjamin Perez, to a 5-year term. There are also special ombudsmen for children's issues, women's issues, and indigenous affairs. The PPDDH began to investigate actively human rights violations during 2000 and demonstrated independence from the administration, pursuing cases even if they contradicted government policies. The Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent. Its original budget has never been restored. The PPDDH is subject to political pressure.

By July, the PPDDH had registered a total of 2,686 complaints against the Government since President Bolanos assumed control in January 2002. Many of these cases included economic and social issues, such as access to health, education, and social security, as well as human rights issues. Ombudsman Perez criticized government institutions for their lack of response in many of these cases.

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

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice, the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

*Women.*—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. In 2002, the most recent year for which statistics were released, the National Police reported that of 41,487 reports filed by women more than 19,788 concerned physical or sexual abuse, a 47 percent increase in the number of reported cases from 2001.

The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women feared for their safety. The National Police, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, they rarely prosecuted perpetrators because victims often refused to press charges. Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison; this penalty is increased to 3 to 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. According to the most recent statistics from the National Police, the police received 1,308 rape complaints during 2002, compared with 1,170 reported instances of rape in 2001. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police manage 18 women's commissariats in 18 cities with a total staff of approximately 100 people. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited. The commissariats provide both social and legal help to women and mediate spousal conflicts. They also investigate and help prosecute criminal complaints and refer victims to other governmental and nongovernmental assistance agencies. The commissariats reported 10,227 cases of domestic violence and 2,245 cases of sexual infractions for the year, more than quadruple the figures for 2002. It is not clear that there was an actual increase in the rate of domestic abuse or if the soaring numbers were due to other factors, such as the increased confidence that victims

have in reporting their abuse to the women's commissariats and the increased number of commissariats.

In May 2002, the Appeals Court denied the appeal by Zoilamerica Narvaez of the 2001 decision by Judge Juana Mendez to drop sexual molestation, harassment, and rape charges against former President Daniel Ortega on the grounds that the 5-year statute of limitations had expired. The case was stalled before the Supreme Court at year's end. In March 2002, the IACHR held a hearing on the Narvaez case, focusing on the issue of whether the Government had denied Narvaez due process, but suspended consideration while the Government negotiated an "amicable solution" to the case with Narvaez. In September, Narvaez charged that the Government was negotiating in bad faith and returned the case to the IACHR. The IACHR had not ruled on the case by year's end.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations, and the Director of Police Economic Investigations, prostitutes work without a pimp, since prostitution is legal but pimping is not. Statistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies support this, including an intensive analysis done during the year by the University of Central America in the tourist city of Granada, in which all the under-aged prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In several raids on these businesses, police did not find underage workers, although there were reports that some workers are below the age of 18. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and a card certifying if they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports of isolated cases of the trafficking of women for prostitution (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Although the Constitution provides for equality between the sexes, discrimination against women persisted. According to a poll released in 2000 by the Nicaraguan Women's Institute in conjunction with the Government, women comprise approximately 61 percent of the public sector labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors.

Women are generally underpaid, but the majority of women have some type of employment. A 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment have some type of job, higher than the national average.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace.

*Children.*—The Government expressed its commitment to children's human rights and welfare publicly; however, government-wide budget constraints prevented it from providing adequate funding levels to children's programs or primary education. The National Council for the Development of Children and Adolescents, a broad group of government ministries and agencies concerned with youth, is responsible for the Government's policy on youth, and developed an ambitious 10-year National Action Plan for Children and Adolescents. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a university education consortium, vastly disproportionate to funding for primary and secondary education programs. Children 15 years of age and younger made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced; according to a national survey conducted by the Ministry of Labor in 2000, 49.1 percent of children and adolescents do not attend school. Another 18.6 percent said their work interferes with their school attendance. As a result, 22.1 percent of the population was classified as illiterate, according to the survey. According to census figures from 2001, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively, up from 73 and

75 percent in 1995. However, secondary school enrollment rates dropped to 35 and 45 percent from 1995 levels of 39 and 47 percent.

Juvenile offenders under the age of 17 comprise less than 1 percent of incarcerated offenders. This low figure is largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles. During the 2002, the last year for which statistics were available, 47 minors died as a result of violent crime. During the same period, victims of rape included 277 children under the age of 13 and 658 between the ages of 13 and 17. There were an estimated 1,216 reported cases of child abuse (physical and psychological), 314 cases of child kidnapping, and 100 children who disappeared. The National Police estimated that about 63 percent of sexual abuse victims were under the age of 18, and that 36 percent were younger than 13.

According to local media and the Ministry of the Family, the incidence of under-age prostitution increased, especially in Managua, but also near border cities and ports (see Section 6.f.). An intensive analysis done during the year by the University of Central America in the tourist city of Granada reported that all the under-age prostitutes interviewed told the researchers that they operated on their own. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway.

The Child and Family Law provides that juvenile prisoners cannot be held in adult facilities or for more than 24 hours without being charged (see Section 1.c.).

Child labor is a problem (see Section 6.d.).

*Persons with Disabilities.*—The National Council for Rehabilitation of the Ministry of Health addresses the needs of the 600,000 citizens with some type of disability, only 3 percent of whom received medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGOs, foreign governments, the OAS, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled.

The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that disabled persons must be considered equal to other workers. However, this law rarely is enforced.

*Indigenous People.*—Indigenous people constitute approximately 5 percent of the country's population and live primarily in the RAAN and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory, but include only 12 percent of the population. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political party known as Yatama, which has representation in regional and municipal councils. In 2000 the CSE ruled that the Yatama political party did not meet the qualifications to participate in the 2000 municipal elections; however, it reversed its decision following the election after a high rate of abstentions in Yatama-dominated areas and threats of violence by Yatama supporters. Yatama was allowed to run departmental candidates for the National Assembly in the 2001 national elections (see Section 3). In July, Yatama brought a lawsuit against the Government before the IACHR. The lawsuit claimed that by denying Yatama recognition as a political party in the 2000 municipal elections, the CSE had violated their human rights. The IACHR had not made a decision to accept the case by year's end.

In 2002, regional elections were disrupted by political manipulation on the part of the CSE. The CSE refused to certify the elections of governors and executive councils in the Autonomous Regions, largely for political reasons. This left the affected regions without regional authorities for most of that year.

As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central Government often made decisions without adequate community consultation. For example, in July 2002, the central Government decided to announce its intention to solicit bids for oil and gas exploration off the Atlantic coast without consulting with either regional leaders or communities.

In 2001, the IACHR ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country within 15 months and to pay \$30,000 (420,000 cordobas) to the Awas Tingni Sumo Community and to invest \$50,000 (700 thousand cordobas) in projects beneficial to the Sumo. Pursuant to the IACHR's decision, the Government paid the \$30,000 and said it was committed to funding more than \$50,000 in Sumo community projects. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs formed a commission that proposed a number of legal changes and mechanisms to the National Assembly, including the clear demarcation and protection of indigenous lands. This legislation was voted into law in December 2002, meeting the IACHR deadline. In July, the Government established a Territorial Demarcation Commission, as required by the legislation, to begin the process of delineating indigenous territories. The commission included substantial indigenous representation but predicted that the demarcation process would require as many as 15 years to complete because of its scope and technical nature.

In April 2002, assailants shot and killed Francisco Jose Garcia Valle, husband of Dr. Maria Acosta, lawyer for indigenous rights in the Atlantic Coast known for her work fighting the controversial sale of the Pearl Cays off the coast by private realtor Peter Tsokos. Police reported that Tsokos employed one of the killers, Ivan Rivera, as a chauffeur and security guard, and some suspected that Tsokos, along with his lawyer Peter Martinez, had instigated the crime to silence Acosta. The police arrested Wilberto Jose Ochoa, one of Rivera's accomplices, who confirmed that Rivera led the group and committed the murder. Police matched the 25-caliber murder weapon to one registered to Martinez, who alleged that the police falsified the ballistics report. In 2002, shortly after the crime was committed, local judge Julio Acuna issued an arrest warrant against Rivera but absolved Tsokos and Martinez. Another local judge, Anabel Omier, issued arrest warrants against the police for falsifying the ballistics report implicating Tsokos and Martinez. Shortly thereafter, the Disciplinary Committee of the Supreme Court removed both judges, dismissing Omier and transferring Acuna. On November 21, a Bluefields jury found both Ochoa and Rivera guilty of murder for hire. At year's end, Acosta was petitioning the Supreme Court to re-open the case against Tsokos and Martinez.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, Bonanza, Rana, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care, and deteriorating roads made medicine and health care almost completely inaccessible in many communities. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

On March 17, approximately 50 Miskito Indians took hostage 5 narcotics police officers who had been part of a task force sent to locate cocaine from a downed airplane. When the officers tried confiscate cocaine recovered by the Miskitos, they rebelled and took them hostage. After 2 days of negotiations, the Miskitos released the officers but kept the drugs. The incident demonstrated how the lack of a government presence, ethnic tensions, poverty, and drug-based economic opportunity has created an ungoverned space in the RAAN.

*National/Racial/Ethnic Minorities.*—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the RAAN and the RAAS sometimes linked the Government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code reaffirms this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. However, a September review of Nicaragua's labor laws done by the ILO at the invitation of the Minister of Labor noted that the 1996 Labor Code reform

had taken previous ILO recommendations into account. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.). The Labor Code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force is unionized. Unions are independent of the Government, although most are affiliated with political parties to varying degrees.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine persons per union. However, the Labor Code also allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes used this practice to stymie unionization attempts.

Unions freely form or join federations or confederations, although there are some limits placed on the participation of such groups in "sympathy strikes," and affiliate with and participate in international bodies.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to bargain collectively, and the Labor Code reaffirms this right. The Government generally sought to foster resolution of pressing labor conflicts through informal negotiations rather than through formal administrative or judicial processes. According to the Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

The Constitution recognizes the right to strike; however, legal strikes were rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that the process is necessary to avoid purely political bad-faith strikes in the highly politicized environment of labor relations that has existed in the country for several decades. Observers contend that the process is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect in 1996; however, during the year a strike of government workers against the Supreme Electoral Council went through the approval process relatively rapidly (see Section 3). There have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs.

There were several allegations of violations of the right to organize. The Ministry of Labor investigated these allegations and concluded that employers acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST), an important union politically associated with the FSLN in the Free Trade Zones (FTZ). In the last few years, though not during the year, the CST declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required approval of the majority of the workers. Consequently, the Ministry of Labor consistently ruled the strikes illegal. Employers then fired the striking workers based on the Ministry's ruling. In essence, employers took advantage of the extensive administrative processes required to declare a strike legal and the CST's failure to follow the prescribed rules.

On January 23, 50 workers at the FTZ garment factory Presitex held an impromptu strike over what they claimed was a unilateral breach of their contract by Presitex. The company wanted to change the wage system from a per-hour to a per-piece basis but claimed to have presented it as a proposal to the union, rather than as a unilateral contract change. Presitex also said that the proposal gave workers the option of keeping their current wage. Nevertheless, the incident escalated, and on January 28, the striking workers allegedly forced a work stoppage at the factory



by damaging equipment and intimidating non-striking workers, according to Presitex management. Presitex then locked out its workers until January 31, when they returned to work peacefully. The company petitioned the Ministry of Labor for permission to fire the union board members for organizing an illegal strike, which the Ministry of Labor eventually approved, allegedly under strong political pressure. In addition, Presitex initiated criminal and civil charges against the workers for more than \$2 million (31.08 million cordobas) in damages. In August, judge Marta Susana Gonzalez acquitted the union members of the civil and criminal charges.

The 2001 appeal by the textile firm Mil Colores of a judge's order reinstating Juan Carlos Smith Flores was settled when Smith Flores accepted a financial settlement from Mil Colores.

On July 17, an inspector from the Ministry of Labor found several infractions, including the failure to pay overtime at the rate required by the labor code, at the FTZ garment factory KB Manufacturing located in Granada. In August, the company adjusted its overtime payments accordingly. On November 18, the CST filed a lawsuit against the company in the Granada labor court for \$60,394 (940,951 cordobas) in unpaid overtime accumulated since 1999. The company agreed to pay the workers for unpaid overtime accumulated since 2002 but said its liability for the error was limited to 1 year by the Labor Code. The court had reached no final decision on the CST lawsuit at year's end.

On September 19, Alvin Guthrie was fired from his position as labor advisor at the government-owned FTZ Corporation, ostensibly due to inter-office restructuring, after attempting to form a union among the FTZ office workers. Guthrie, a founder of the CUS independent union and former governor of the RAAN, acquired signatures from 32 of the 72 workers at the FTZ, enough legally to create a union, and submitted a petition to form a union to the Minister of Labor. The FTZ Corporation management said Guthrie was released for breach of trust, since Guthrie deceived the workers and told them he was acting under management orders when he collected their signatures. Most of the workers withdrew their signatures when management approached and questioned them. The law prohibits employers from interfering in any way with the creation of a union. Since the petition no longer had enough signatures to meet the minimum requirement to form a union, the Ministry of Labor denied Guthrie's application to form a union.

On November 27, the ILO agreed to consider a case brought by the CST charging the Sandinista Mayor of Leon with breaching the labor rights of city workers. The CST claimed that the city was ignoring the collective agreement it signed with city workers and the union. The CST also charged that the Ministry of Labor did not fulfill its obligation under international treaties to enforce the collective agreement. The Ministry of Labor said that the dispute arose from confusion between agreements that the city had signed with competing unions, one of which was the CST. The case was pending before the ILO at year's end.

On November 27, CST workers at the FTZ garment factory Presitex elected a new nine-member executive board and notified the Ministry of Labor as required. According to CST, on Christmas Day Presitex fired the entire newly elected union board in contravention of specific provisions in the law that protect union board members from being fired. Presitex told the FTZ Corporation that four of the nine board members resigned. It claimed that the rest were part of the January wildcat strike, so their dismissal had previously been approved by the Ministry of Labor. It did not explain why the four board members had inexplicably resigned, nor why it had waited until December to fire the five others. The CST had not appealed the dismissals to the Ministry of Labor at year's end.

In 2001, the CST workers at the FTZ garment factory Mil Colores elected Maria Elia Martinez Rivas as union secretary general. To comply with the 20-member requirement and avoid being decertified, the CST union enlisted new members. On February 8, Mil Colores fired Martinez Rivas, who claimed that she did not infringe on any regulations and had never received a reprimand. Martinez Rivas, with the aid of the CST, took the issue to court and alleged that, by impeding the workers' right to organize, Mil Colores violated the Constitution, laws, human rights, and international agreements. In December 2002, Martinez Rivas resolved the case by accepting a financial settlement from Mil Colores.

There are 16 enterprises operating in the government-run FTZ, employing approximately 30,000 workers. Labor laws apply equally in the FTZs. In addition, there are 20 authorized private FTZs; some are still under construction, but the 51 enterprises currently operating in these zones employ some 27,990 workers, for a total of 57,990 workers in all FTZs. Sixty-four percent of the workers in the FTZs are represented by one of 43 different union organizations associated with 8 different labor confederations; however, only about 1,793 of them, or 5.9 percent, are actual union members. While some of these unions have real collective bargaining

power, others are primarily symbolic. The overwhelming majority of the workers in the FTZs are women. Ten thousand workers, or about 19 percent of those in the FTZs, belong to the labor NGO Maria Elena Cuadra Women's Labor Movement (MEC), which has a presence in 58 of the factories. While not a union, MEC is a strong independent advocate for the rights of women laborers. Union organizing efforts have encountered strong employer opposition in the FTZs.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZs, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980s, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, almost three times the minimum wage.

Fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. The maximum fine is only \$650 (10,000 cordobas), and there is no collection mechanism; companies rarely paid the penalty assessed.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor but does not specifically address forced or bonded labor by children, and such practices occurred. The Ministry of Labor continued to report that parents forced some children to beg, and that some parents rented their children to organizers of child beggars (see Sections 6.d. and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The Labor Code raised the age at which children may begin working with parental permission at 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. On October 15, the President signed an amendment to the code to strengthen its child labor provisions. The new law makes it more difficult to obtain permission for children aged 14 to 16 to work, raises fines for violators, and permits inspectors to close facilities employing child labor. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

The Government reported that child labor occurred in both urban and rural areas. The majority worked in the informal sector, often for family ventures. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Child prostitution is a serious problem (see Section 6.f.).

The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws, and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZs.

The Ministry of Family sponsors a unified national program targeting high-risk minors. This program, with a budget of \$1.2 million (18.648 million cordobas), covers up to 11,000 children nationwide, includes childcare services, return-to-school programs, and technical and vocational training.

*e. Acceptable Conditions of Work.*—The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every 6 months. A new minimum wage scale took effect in July, raising the minimum wage by 6 to 14 percent, varying by sector. As a comparison, inflation for the year was 6 percent. The majority of workers earn well above the statutory minimum rates. By sector, the minimum monthly wage was as follows: Agriculture, \$39 (615 cordobas) plus food; fisheries, \$61 (952 cordobas); mining, \$74 (1,150 cordobas); industrial manufacturing, \$53 (825 cordobas); electric, gas, and water utilities \$76 (1,178 cordobas); construction, \$93 (1,450 cordobas); restaurants and hotels, \$57 (890 cordobas); transportation, \$93 (1,178 cordobas); bank-

ing, \$93 (1,450 cordobas); community and social services, \$57 (890 cordobas); and central and municipal government (includes health and education employees), \$51 (801 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. In every sector, the minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods \$141 (2,065 cordobas).

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with one day of rest weekly. This provision was routinely ignored, although employers claimed that workers readily volunteer for these extra hours for the extra pay. The code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. During the year, the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers in identifying and resolving workplace hygiene and safety issues. The Ministry of Labor announced new standards of hygiene and safety governing all employers. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment.

On January 21, David Antonio Rodriguez Ruiz suffocated when a large pile of dirt fell from a tractor in Managua. Ruiz was repairing the tractor at the Julio Barahona repair shop. Fifteen days after the accident, family members of the deceased registered the incident with the Office of Health and Worker Security (OHSL). An investigation of the accident by OHSL never occurred because it lacked inspectors.

On March 4, a mechanical forklift crushed Jose Isidoro Rodriguez in El Rama while he was working for the construction company Corporation Meco Santa Fe. Although the company reported the accident, an OHSL investigation never occurred due to the limited number of inspectors assigned to the region of El Rama.

On March 11, William Vince Poveda received fatal injuries when he fell from an uneven staircase on a boat. Poveda was working for Estibas, a cargo company that transfers goods between San Rafael and Leon. The death was registered by the business; however, the OHSL did not initiate an investigation because it did not have sufficient inspectors.

On April 11, Daniel Bladimir Molina Pozo received fatal injuries from an explosion at the Triton Mine in Leon. The explosion occurred when a large borer made contact with an explosive that was left behind from a previous excavation. The death was registered by the company that owned Triton Mine. The OHSL Inspector for the Department of Leon investigated the incident and mandated corrective measures, including more strict regulation of explosive materials and verification of their disposal, a clearer definition of minimal safe distances for detonations, and mandatory participation for workers in safety training. OHSL had not verified compliance by year's end.

On June 3, Eddy Zeron Diaz Castillo received fatal injuries when he was struck by a vehicle on the highway in Managua while removing traffic cones for Corporation Meco Santa Fe, a construction company. The company registered the accident; however, no investigation by OHSL followed due to a lack of inspectors.

On August 12, Gabriel Urbina Robles was fatally injured when he fell from the top of a water tank of a truck while working for Rural Roads Program, a contractor for the city of Managua. The back wheel of the truck crushed Robles after his fall. The company reported this accident to OHSL. However, OHSL does not have an inspector general for the Jinotega-La Concordia area and did not investigate.

On August 23, Erick Benard Salinas suffered fatal injuries in Puerto Cabezas due to faulty diving equipment. While trapping lobsters for the business Copescharly, Salinas suffered decompression. No investigation was initiated because the region of Puerto Cabezas does not have an OHSL inspector.

On August 28, Jorge Francisco Laguna Mendoza fell 25 feet to his death in Rio San Juan while cutting tree branches for Union Fenosa, the electricity distribution company, after he contacted high-tension power lines. Union Fonesa reported the accident to OHSL, but no investigation was initiated because OHSL has no inspectors in the area.

On December 2, Yesse Eliet Garcia, a worker at the FTZ garment factory Chao Sing International, suffered a miscarriage when she was not permitted to leave the factory. At about 8 a.m. Garcia, 5 months pregnant, experienced light vaginal bleed-

ing and requested permission to seek medical treatment. She said that her line supervisor Huang Ji denied her permission to leave because she had no doctor's appointment. At 1 p.m. the bleeding became worse. Supervisor Jacqueline Aviles refused another request to seek medical treatment. Garcia's bleeding continued and at 4 p.m. she felt strong vaginal pain. She was finally taken to a hospital at 5 p.m. and treated for the miscarriage. An inspector from the Ministry of Labor investigated and verified Garcia's account of the incident. At the end of the year, Garcia was negotiating with the company for compensation.

The enactment of a 2001 law aimed at foreign companies prompted the filing of lawsuits on behalf of thousands of individuals claiming to be banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal. In December 2002, a judge issued the first decision on one suit, a \$489 million (7.599 billion cordobas) judgment on behalf of 583 plaintiffs. None of the companies named as defendants participated in the short evidentiary process that led to this judgment, and the court, citing the law, refused to hear their legal arguments or accept contrary evidence. The court also apparently did not consider a non-binding opinion circulated earlier that year by the acting Attorney General that cited apparent constitutional flaws in the law. In May, the claimants filed suit in a foreign court seeking enforcement of the decision. In October, the court judge dismissed the case. In December, one of the companies named as defendants filed suit in a foreign court against some of the plaintiffs, alleging abuse of power and malicious prosecution. Several hundred lawsuits claiming over \$10 billion (155.4 billion cordobas) in damages were pending in the country's courts.

*f. Trafficking in Persons.*—The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was little documented evidence of a substantial trafficking problem within the country; however, there was some limited evidence that the country is a source for trafficking in women and children to other countries for purposes of sexual exploitation.

The Government instituted an awareness campaign with border police and immigration officials at entry points to Honduras to identify and question young women who are not accompanied by family members. In addition, the Government formed a 56-member Anti-Trafficking in Persons Unit within the police. The Women's Commissariats of the Police ran a nationwide trafficking awareness campaign to high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. According to the Ministry of Labor, strip clubs are inspected several times each year to ensure that there are no underage workers at these clubs.

On October 15, the National Council for Attention and Protection of Children (CONAPINA), a quasi-governmental institution composed of high-level state, non-state, and international actors and charged with national policy on children, approved a National Strategy Against Commercial Sexual Exploitation of Children and Adolescents, including trafficking of children. The highly detailed plan was integrated with CONAPINA's 10-year national policy on children and developed as a national consensus, with broad participation. It designates the Ministries of Family, Health, and Education as the principal governmental organizations to create and enforce policies against trafficking in persons and other forms of commercial sexual exploitation. The plan strongly encourages the participation of local government and civil society for its implementation. It sets out 12 clearly defined objectives and 9 strategies for implementation, including prevention, victim protection, victim attention, and prosecution of traffickers. The plan also has detailed measures for evaluating progress.

The law does not make prostitution illegal, though it bans its promotion. The Child and Family Law, which took effect in 1998, defines statutory rape as sexual relations with children 13 years old and younger; thus, there is no legal prohibition on prostitution by juveniles 14 and older (see Section 5).

On July 4, 12-year-old Ana Francis Pineda was kidnapped by Maritza Lopez Cortedano from her house in Matagalpa and taken to Costa Rica, apparently to elicit a high price as a virgin. The police worked through Interpol to alert the Costa Rican authorities, who located her in Santa Clara on August 5 in the custody of a Costa Rican. They returned her to her family on August 8. A doctor who examined the girl reported no evidence Pineda was sexually abused during her captivity. The Costa Rican authorities detained at least one of the girl's captors.

During the year, officials from the Government, NGOs, and other organizations characterized the trafficking problem as small—Casa Alianza knew of only two documented cases of trafficking in the last 3 years—but identified three potential problem areas: Teenage prostitution in the Atlantic Coast, teenage prostitution at massage parlors, and child pornography. There was no knowledge of any persons traf-

ficked by organized rings, although there were reports of adult prostitutes voluntarily seeking better opportunities in other regional countries (see Section 5).

In August, the Consular Affairs Office of the Ministry of Foreign Relations reported it had repatriated two minors from Guatemala. The minors, reported missing by their families earlier in the year, had been found working at a nightclub in Guatemala and detained. The Consular Affairs office worked with the Guatemalan authorities to ensure that the victims were not penalized and provided for their return to their families.

At the end of November, Salvadoran border police arrested three Nicaraguans, Doris Maritza Rivas, Jose Antonio Marin, and Carlos Martinez Gutierrez for attempting to smuggle two Nicaraguan and two Salvadoran minors to Guatemala. A Salvadoran police spokesman indicated that they believed the minors were headed for Guatemala or Mexico for prostitution purposes without elaborating the basis for this suspicion.

On December 3, members of civil society and the Government formed a national Alliance Against Trafficking in Persons. The Alliance is designed to coordinate action against trafficking in persons by training and empowering national institutions to find and combat trafficking activity.

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## PANAMA

Panama is a representative democracy with an elected executive composed of a president and 2 vice presidents, an elected 71-member unicameral legislature, and an appointed judiciary. In 1999, voters elected President Mireya Moscoso of the Arnulfista party. The Constitution provides for an independent judiciary; however, the judicial system was subject to corruption and political manipulation.

The country has had no military forces since 1989. The Panamanian Public Forces consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). A 1994 constitutional amendment formally prohibits the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Ministry of Government and Justice oversaw the PNP, the SMN, and the SAN; the Ministry of the Presidency supervised the SPI. Police forces responded to civilian authority, had civilian directors, and had internal review procedures to deal with police misconduct. There were occasional reports of abuse by some members of the security forces.

The economy, which uses the U.S. dollar as currency (calling it the Balboa), was based primarily on a well-developed services sector that accounted for approximately 79 percent of gross domestic product (GDP). The country had an estimated population of 2.9 million. GDP growth was negligible for the past 3 years, poverty worsened, and income distribution remained highly skewed, with growing disparities between rich and poor. Unemployment was officially estimated at 13.2 percent; however, private economists believed that it might be several points higher.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Overall prison conditions remained harsh, with reports of abuse by prison guards and regular outbreaks of internal prison violence. Prolonged pretrial detention was a problem. The judiciary was subject to political manipulation, and the criminal justice system was inefficient and often corrupt. There were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches and monitored communications. The media were subject to political pressure, libel suits, and punitive action by the Government. Women held some high positions in Government, including the presidency; however, discrimination against women persisted, and violence against women remained a serious problem. Discrimination against indigenous people and ethnic minorities continued to be a problem. Worker rights were limited in export processing zones and among government workers. Child labor and trafficking in persons were problems.

### RESPECT FOR HUMAN RIGHTS

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

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

At year's end, a court case was pending and the investigation continued into the July 2002 killing of a 13-year-old indigenous Wounaan girl, Aida (or Ayda) Chirimia,

in the Darien village of Biroquera, reportedly within the local national police compound.

In 2001, the bodies of two men were found on the beach in Punta Chame. Their deaths were linked to two off-duty PNP officers who were dismissed and detained. An investigation into the killings, conducted by the Fourth Superior Prosecutor, continued at year's end; the PNP officers remained in jail.

In April 2002, the Truth Commission established in 2001 to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship released its final report to President Moscoso and Attorney General Sossa. Among the cases investigated was that of an unmarked grave discovered in 1999 on the grounds of a former military base near Panama City that contained the remains of leftist leader Heliodoro Portugal. In mid-year, the Second Superior Tribunal dismissed charges against nine members of the former National Guard, including captains Rigoberto Garibaldo, Aquilino Sieiro, and Moises Correa, for their alleged roles in the Portugal case. The court ruled that a 20-year statute of limitations applies to murder cases (Portugal was killed in the early 1970s). The ruling can be appealed to the Supreme Court.

Guerrillas from the terrorist organization Revolutionary Armed Forces of Colombia (FARC) and other Colombian armed groups operated along the border with Colombia and made occasional incursions into the country. In January, four indigenous leaders of the border town of Paya were killed by a group of insurgents from Colombia, reportedly members of the United Self-Defense Forces of Colombia (AUC) terrorist organization.

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

In December 2002, the head of the Truth Commission asked the Attorney General to reopen investigations into four additional disappearances from the late 1960s and early 1970s. During the year, the Truth Commission remained active and the Government considered its recommendations.

The Hector Gallego Committee for Disappeared Relatives maintained a list of 120 persons who disappeared during the military dictatorships and who remained missing.

FARC guerrillas (and possibly other Colombian armed groups) engaged in occasional kidnappings of persons along the border with Colombia, and sometimes deeper into Darien Province; they also harassed and raped residents in that province. Indigenous populations living in remote areas, away from state control, were especially vulnerable to these attacks.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees, and the public security forces generally performed in a professional and restrained manner. However, there was at least one reported case of excessive use of force against prison inmates during the year, and abuse by prison guards was an occasional problem. The General Penitentiary Directorate (DGSP) asserted that the problem had been reduced and that only minor incidents occurred.

During the year, police generally exercised restraint in their treatment of street protesters. In September, there were large protests and demonstrations in Panama, Colon, David, and other cities regarding the social security system. Police used tear gas and rubber bullets, arrested 20 people, and reported 14 people injured (see Section 2.b.).

Prison conditions remained harsh and, in some cases, life threatening, due largely to budget constraints. As of mid-December, the prison system, which had an official capacity of approximately 7,400 persons, held 11,491 prisoners. Most prisons were dilapidated and overcrowded. Many of the problems within the prisons resulted not only from obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Pretrial detainees shared cells with sentenced prisoners, in part due to lack of space.

Medical care was inadequate. AIDS, tuberculosis, and other communicable diseases were common among the prison population. Several prisons suffered from water shortages during the year. The European Union funded some legal, medical, and dental staff for prisons, and there was at least one doctor in each major facility. As of November, 15 inmates had died, 8 from AIDS.

In August, a new law that partially reorganized the prison system took effect. The new law gives civil service protection to guards and wardens, some of whom were former political activists who obtained their jobs through political patronage. The law also specifies new procedures to discipline inmates who violate prison rules and for the issuance of work release permits for those who are incarcerated.

There were some minor improvements in the prison system overall, including two orientation sessions for new civilian prison guards, who received courses on inmates' rights and penitentiary procedures. The DGSP announced that it was in the process of hiring some 150 new civilian guards. Other improvements included increased Internet access and computer literacy training for the first time in some women's prisons, and more opportunities for work and training in prison.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were only 365 civilian corrections officers (or "custodians") for the entire prison system. As a result, regular PNP officers still were used to fill staffing gaps. PNP officers were sometimes untrained for prison duty and found the assignment distasteful, which contributed to tension and abuses within the prison system. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, and the central women's prison, which used only female officers. El Renacer prison had civilian custodians during daylight hours, after which PNP guards took over. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials acknowledged that they received and investigated 37 cases during the year; 2 for abuse of authority, 6 for physical mistreatment of prisoners, and 1 for rape.

The main prisons in Panama City included La Joya (a maximum-security facility), Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. One additional facility, El Renacer, held inmates generally accused of less serious crimes. The island penal colony of Coiba, where conditions were particularly harsh, remained open but held only 38 inmates.

In Nueva Esperanza prison in Colon province, both male and female pavilions had separate sections for inmates convicted of administrative felonies, so they were not put together with inmates convicted of violent crimes.

There were prisons of significant size in David, Santiago, and other towns. Small jails attached to local police stations around the country sometimes held prisoners for the entire length of their sentence. The authorities frequently did not address cases of abuse and neglect in these provincial jails, due to their low profile in the prison system.

Throughout the country, conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

While there was one modern juvenile detention center near Panama City, several juvenile detention centers throughout the country suffered from inadequate resources to provide for education or adequate supervision of children, many of whom spent the majority of their time in a bare cell.

The law and the Penal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence; however, this provision was not implemented consistently in practice. A conditional release program was part of the organizational reforms that authorities introduced in 1998. During the year, the DGSP provided conditional release forms to the President for her signature in a more timely manner than in previous years.

The Government generally allowed prison visits by independent human rights observers. However, the authorities arranged appointments ahead of time, and monitors generally spoke to prisoners in the presence of guards or administrators. Prisoners expressed fear of retaliation if they complained. Justicia y Paz, the Catholic Church's human rights monitoring group, brought prison abuses to the attention of the authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respected this provision in practice. Exceptions were permitted when an officer apprehended a person during the commission of a crime, or when an individual interfered with an officer's actions. The Constitution also provides that suspects are to be brought promptly before a judge; however, lack of prompt arraignment remained a problem. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel, to be provided to the indigent by the State (see Section 1.e.). Police arrested and detained children for minor infractions during neighborhood sweeps (see Section 5).

The PNP falls under the civilian authority of the Minister of Government and Justice. There were approximately 15,000 police officers with an estimated total budget of \$160 million. Although its primary mission is law enforcement, the PNP is detailed for prison and border security. The Judicial Technical Police (PTJ), a

semiautonomous body with leadership appointed by the Supreme Court, was a separate branch of law enforcement under the Attorney General's Office and performed criminal investigations in support of public prosecutors. The law providing the legal basis for the PNP includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although not all PNP personnel were trained in the use of force, the PNP provided more training during the year. Courses on human rights were also included in some police training, including training for border police.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed in which, upon completion of the process, the respective director of the PTJ or PNP has the final authority to determine the disposition of each case.

The PNP deputy director and the secretary general addressed human rights problems that arose in the police force. The offices of professional responsibility were well known in the community, and the rate of complaints remained generally constant in the PTJ office. During the year, the Office of the Human Rights Ombudsman (known as the Defensoria) also received 52 complaints against the police for abuse of authority (see Section 4). Through late December, the PNP Office of Professional Responsibility received 467 complaints, an average of 9 complaints per week, a decrease from 11 per week in 2002. The office penalized officers in 59 cases for corruption, abuse of authority, burglary, or bribery. Penalties included reduction in rank, and in severe cases, criminal prosecution. There were no dismissals during the year, only administrative sanctions.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By late November, the PTJ Office of Professional Responsibility had conducted 170 investigations, which resulted in the dismissal of 34 agents. The majority of open cases were for misconduct or improper behavior (47), mishandling official property such as misplacing guns or radios (39), corruption (31), and negligence (19).

Corruption among police officers remained a problem. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers with proven involvement in illicit activities; however, both organizations only reacted to egregious abuses, due to a lack of staff, independence, and institutional priority. In July, there was a high profile case of several incoming PTJ officer candidates caught cheating on the entrance exam. They were dismissed from the exam and barred from reapplying.

The Constitution provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. Under the law, the preliminary investigation phase may last from 8 days to 2 months and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently granted extensions of time limits, leaving those accused in detention for long periods without having been charged formally. The law permits these extensions; however, many legal authorities (including court officials) criticized judges for excessive use of this measure.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, as of November, 6,367 prisoners, or about 55 percent of the prison population, were pretrial detainees. The average period of pretrial custody was 12 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

Legal alternatives to prison existed; however, they were not implemented widely. Options such as house arrest were used in some cases involving the elderly or minors but required that the defendants have access to and understanding of their legal options. There was a limited program of work or study in lieu of some sentences.

The Constitution prohibits exile, and there were no reports of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was susceptible to corruption and outside influence, including manipulation by other branches of government.

The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly ratification. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be



made under a merit-based system, but the top-down appointment system lent itself to political influence and undue interference by higher-level judges in lower-level cases in which they often had no jurisdiction.

At the local level, mayors appoint administrative judges, or “corregidores,” who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. In the past, this system had serious shortcomings: Defendants lacked adequate procedural safeguards; administrative judges outside of Panama City usually were not attorneys; many had not completed secondary education; and some were corrupt. In practice, appeal procedures were nonexistent. The authorities encouraged corregidores to improve their procedures, and the number of local sentences imposed declined from 3,000 to 500 over 3 years. Nonetheless, affluent defendants still tended to pay fines while poorer defendants went to jail, which contributed to prison overcrowding (see Section 1.c.).

A judicial reform program started in 1998 by the Inter-American Development Bank and the Government improved judicial training, strengthened the investigative capabilities of the Attorney General’s office, and reduced the civil courts’ backlog of cases. The program was scheduled to continue through 2004.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding. Judges may order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials were conducted on the basis of evidence presented by the public prosecutor. Under limited circumstances, the law permits trials without the accused being present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant’s election, but only in cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders were appointed late in the investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders’ caseloads remained extremely high, averaging some 550 cases per attorney per year. Only 5 new public defenders have been hired since 1992; there were 38 nationwide, with a similar number of assistants. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial. The inadequate number of public defenders also caused a backlog in trial dates, which also contributed to the problem of prison overcrowding.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, private papers, and telephonic communications, and the Government generally respected these rights in practice; however, there were complaints that in some cases, law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ’s divisions. The authorities may not enter private residences except with the owner’s permission or by written order from the appropriate authority for specific purposes, such as entry to assist the victims of crime or disaster or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority and in the presence of the owner, a family member, or two neighbors.

Although the Constitution prohibits all wiretapping, the Government maintained that wiretapping with judicial approval was legal and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. The law allows the Public Ministry to engage in undercover operations, including “videotaping and recording of conversations and telephonic communications.” In November 2002, a controversy developed when it was reported that wiretapping took place under presidential authority for alleged national security reasons. The Supreme Court had not issued a final ruling on whether wiretapping was constitutional, but it remained an established 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, the Government sometimes did not respect these rights in practice, and at times the media were subject to political and economic pressure. The Government and public figures made frequent use of libel and “disrespect for authority” laws to confront and attempt to intimidate journalists who allegedly were

“irresponsible” or who besmirched the honor of a particular government institution or leader.

There was an active and often adversarial press and a broad range of print and electronic media outlets, including newspapers, radio and television broadcasts, and domestic and foreign cable stations. Five national daily newspapers, 4 commercial television stations, 2 educational television stations, and approximately 100 radio stations provided a broad choice of informational sources; all were privately or institutionally owned except for 1 government-owned educational television station. The law prohibits newspapers from holding radio and television concessions, and vice versa. The media carried a wide variety of political commentaries and other perspectives, both local and foreign.

There was a concentration of control of television outlets in the hands of close relatives and associates of former President Perez Balladares, who was a leader of the largest opposition party. According to a survey of the payment and placement of advertisements by the Government, there were clearly newspapers that were favored, and not based on circulation. During the first 4 months of the year, 40 percent of all government newspaper advertisements were placed with a newspaper with the fourth lowest circulation of the five major dailies, but one that was widely and clearly identified with the ruling party.

Domestic and foreign journalists worked and traveled freely throughout the country. The law requires directors and deputy directors of media outlets to be citizens.

The Government continued to impede, disregard, or otherwise challenge a 2002 “transparency law” that provides public access to information from and about public entities. In June 2002, the President issued an executive decree that limited the law’s effect by imposing new and highly cumbersome regulations for those wishing to acquire such public information. Several dozen requests were made under the new law, and most were not honored by the institutions; as of December, of 48 information requests, 15 had not yet been decided, 10 had been granted, and 13 denied. The Ombudsman, Solicitor General, Transparency International, the Electoral Tribunal, and other groups asked that the decree be declared unconstitutional. In 2002, the Solicitor General opined that it was unlawful and asked for a three-member bench of the Supreme Court to review it, which was still under way at year’s end.

In August, the Comptroller denied a request of a journalist for the list of public officials who had failed to submit the legally required declaration of assets, and the Supreme Court subsequently upheld that denial. A majority of the Court cited the Moscoso administration’s “personal stake” requirement for individuals and the press to obtain such government information.

Also in August, the Supreme Court rejected a request by the Partido Popular political party to review the contract by which a Costa Rican citizen was hired as an aide to the Ministry of the Presidency. The judges held that since the requestor had no “personal stake” in the appointment, he had no right to know about it.

A 1999 law eliminated “gag laws” dating from the military dictatorship; however, legal actions against many journalists remained pending, and vestiges of the former gag laws still provided a means for charging journalists with defamation. The IACHR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. The domestic media faced increased pressure during the year from elements in the Government for criticizing policies or officials. As of December, the Ombudsman reported 80 active cases of journalists facing defamation charges brought under the criminal justice system. In 47 completed cases, the courts sentenced journalists in 13 instances; the others were dismissed or the accused found not guilty.

In August, a municipal court dismissed charges brought by the Moscoso administration against four journalists who were reportedly observing and photographing the presidential beach house from a nearby public beach. Presidential guards detained the journalists, confiscated their photographic equipment, brought them onto the presidential compound’s grounds, and then charged them with trespassing in a restricted area and attacking the integrity of the state. A judge later ruled that the journalists did not commit a crime.

The press laws provide for the establishment of a censorship board, which monitored radio transmissions and had the authority to fine stations that violated norms regarding vulgar, profane, or obscene language. Despite occasional public protests over the content of radio programs, no stations were fined.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*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. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. The police generally showed restraint

and professionalism while monitoring large protests by students, political activists, prisoners, and workers; however, police commonly used tear gas against protesters.

There were several public demonstrations during the year. In September, there were large protests and demonstrations in Panama, Colon, David, and other cities regarding the social security system. Police used tear gas and rubber bullets, arrested 20 people, and there were reportedly 14 people injured. However, police generally used restraint.

The Constitution provides for the right of association, and the Government generally respected this right in practice. Citizens had the right to form associations and professional or civic groups. New political parties must meet strict membership and organizational standards to gain official recognition and participate in national campaigns.

*c. Freedom of Religion.*—The Constitution, although recognizing Catholicism as “the religion of the majority of Panamanians,” provides for free exercise of all religious beliefs, provided that “Christian morality and public order” are respected. The Government generally respected religious freedom in practice, and there was a broad diversity of religions.

The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. However, Catholicism enjoyed certain state-sanctioned advantages over other faiths. For example, the Constitution mandates that Catholicism be taught in public schools, although parents had the right to exempt their children from religious instruction.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remained in effect, although enforcement generally was lax.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A 1998 decree grants protection to all persons entering the country due to “state persecution based on race, gender, religion, nationality, social group, or political opinion.” The decree grants 2 months’ temporary protection to “displaced persons” in the case of a large influx. The U.N. High Commissioner for Refugees (UNHCR) criticized the decree because it put persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. In practice, the Government did not enforce the 2-month time limit. Some Colombians have lived in the country for years without formal refugee status. According to the UNHCR, there were about 1,000 Colombians under temporary protective status in the country.

Large groups of displaced persons periodically fled violence in Colombia by crossing the border into Panama. The Government offered Colombians the chance to participate in a voluntary repatriation program in coordination with the Government of Colombia, and many agreed to return. The Government, along with the UNHCR, the Catholic Church, and NGOs provided displaced Colombians with food, medical care, and access to public services, including schools and clinics. The Government provided these services in Jaque and other areas of the Darien. However, many displaced Colombians living in the remote Darien border area were beyond the reach of organized assistance from the Government or other groups.

In April, the Government repatriated 109 Colombians living in the border town of Punusa. The Government claimed that this group was infiltrated by the FARC and asserted that military and communications equipment was found among the group. The Panamanian and Colombian Ombudsmen, the UNHCR, and human rights groups called the operation a forced repatriation and said that the Government violated the 1951 and 1967 U.N. conventions.

In mid-December, the Government together with the Colombian Government and the UNHCR successfully conducted a voluntary and transparent repatriation of 85 Colombians from Jaque.

The 1998 decree contains provisions for temporary protection, but the Government’s Refugee Commission did not meet during the year and reviewed no cases. The Government improved cooperation with the office of the UNHCR and other humanitarian organizations in assisting refugees. However, the Government generally was reluctant to classify displaced Colombians as refugees because of historic ties and the amount of movement between border communities. The UNHCR regularly visited the country to monitor and to aid displaced Colombians. In September, the UNHCR and Government of Panama formally agreed on an arrangement that would allow the UNHCR to have a 6-month official presence.

The authorities continued to refuse entry to many Colombians who arrived by air and could not show that they had at least \$500.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens freely exercised this right in the 1999 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections. While the Constitution provides for independent legislative and judicial branches, the executive dominated in practice. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

In May 1999, Arnulfista presidential candidate Mireya Moscoso defeated Democratic Revolutionary Party (PRD) candidate Martin Torrijos and Christian Democratic Party candidate Alberto Vallarino, winning 44.8 percent of the popular vote. Domestic and international observers characterized the elections as generally free and fair; however, several local contests were marred by reports of vote buying. Until September 2000, President Moscoso maintained a one-vote majority in the Legislative Assembly, which she lost when the party's coalition realigned. In September 2002, Moscoso's party regained control of the Assembly through an ad hoc coalition that included opposition party legislators.

The country has a strong executive branch, but continued allegations of undue presidential influence over the judiciary on electoral matters during the year remained unsubstantiated by indictments or convictions. The Electoral Tribunal has remained fully autonomous, maintaining the integrity of the civil registry and electoral processes.

There were no legal barriers to participation in government or politics by women, members of minorities, or persons of indigenous descent. Mireya Moscoso was the country's first female president. Women held 8 of 71 Legislative Assembly seats. Three women held positions in the 13-member Cabinet, 1 female judge remained on the Supreme Court, and a woman was the director of the Public Registry.

The Government provided semiautonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Embera Wounaan, Kuna de Madugandi, and Kuna de Wargandi comarcas (reserves). There were dedicated seats for two Kuna Yala legislators in the Legislative Assembly, and three will be added for the Ngobe-Bugle comarca in the 2004 elections. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators, but each had a separate governor. In addition to the two Kuna Yala seats, legislators who were Ngobe-Bugle and Embera represented other districts in the Assembly.

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

A number of human rights organizations, including both religious and secular groups, operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views, but there were problems in Darien province.

The office of Human Rights Ombudsman received complaints from citizens regarding abuses or violations committed by public servants or government institutions, collected information, confronted accused public institutions or employees, and conducted studies to promote international human rights standards. Although the Ombudsman had no coercive authority, he could confront public institutions and employees with their misdeeds. In 2001, the Legislative Assembly elected attorney Juan Antonio Tejada Espino as Ombudsman for a 5-year term.

During the year, the Ombudsman's Office received 1,697 complaints against the Government. Of this number, 1,611 were against public institutions, and 86 were against businesses operating under a government concession. The Ombudsman opened regional offices, improved its comprehensive web site, and enhanced public access to its services.

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

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, or political views. A 2002 law specifically prohibits discrimination and any kind of "right of admission" to any public or commercial establishment and sets fines from \$250 to \$1,000. However, societal prejudices persisted. Cases of discrimination were difficult to prove, and legal remedies for victims were complicated, time-consuming, and costly. Early in the year, a joint Om-

budsman—Panama City investigation revealed that many commercial establishments continued to openly operate a “right of admission” policy, which discriminated against dark-skinned persons.

*Women.*—Domestic violence against women continued to be a serious problem. The Family Code criminalizes family violence (including psychological, physical, or sexual abuse), but convictions were rare unless a death occurred. As of November, the PTJ registered 1,519 cases of domestic violence during the year, compared with 1,801 during 2002. The PTJ also received 515 cases of rape and 92 cases of attempted rape through November, compared with 506 cases of rape and 99 cases of attempted rape in all of 2002. The Center for Women’s Development estimated that victims reported as few as 20 percent of sexual assaults to judicial or law enforcement authorities. Spouses or other family members frequently were the perpetrators. The Foundation for the Promotion of the Woman, among other women’s advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Trafficking in women was a problem (see Section 6.f.).

The Labor Code prohibits sexual harassment; however, it remained a problem. Anecdotal evidence suggested that many women were propositioned for sexual favors at the time of their initial job interview.

A 1998 law prohibits discrimination on the basis of sex. The Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code’s provisions effectively. According to a Supreme Court justice, 80 family judges were required to handle this caseload; however, only 20 had been appointed due to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women were on average 30 to 35 percent lower and increased at a slower rate, according to a 2002 study. There were credible reports of irregular hiring practices based upon age and “appearance.”

Through the National Directorate of Women and the Center for Gender Training, the Ministry of Women, Youth, Family, and Childhood promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women’s rights groups concentrated on disseminating information about women’s rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

*Children.*—The Government is committed to children’s rights and welfare. Education is compulsory through the equivalent of 9th grade, but children did not always attend school due to traditional attitudes, financial considerations of the family, lack of transportation, and insufficient government resources to enforce the requirement. The problem was most extreme in Darien Province and among indigenous groups. The Government furnished basic health care for children through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. A central children’s hospital in Panama City operated with government funds as well as private donations.

The Ministry of Women, Youth, Family, and Childhood concentrated on child welfare problems such as children begging in the streets and roaming cities at night, infant and child malnutrition, and juvenile delinquency and gangs.

The Superior Tribunal for Minors and Superior Tribunal for Families are judicial authorities charged with overseeing the protection and care of minors. The Minister of Women, Youth, Family, and Childhood acted much like an ombudsman, and the office proposed and reviewed laws and monitored government performance. Through November, the PTJ registered 327 cases of child abuse and neglect, compared with 224 through November 2002. Sexual abuse, including incest, accounted for 131 of the cases. Lack of reporting remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. Neglect of children also was a problem. Malnutrition and inadequate medical care were generalized problems, most severe among rural indigenous groups.

Inadequate resources and training available to the family courts continued to result in controversial decisions, including cases in which children were returned to abusive situations. Juvenile courts continued to report a high incidence of juvenile delinquency in major urban areas. The authorities reported a continued increase in such crimes as drug trafficking, armed robberies, kidnappings, car thefts, and murders attributed to juveniles. Youth participation in criminal gangs was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

Child labor and trafficking in children were problems (see Sections 6.d. and 6.f.).

*Persons with Disabilities.*—There were an estimated 50,000 persons in the country with various disabilities. The Ministry of Education was responsible for educating and training minors with disabilities, while the Ministry of Women, Youth, Family, and Childhood protected the rights of adults with disabilities. Children with disabilities traditionally were separated from the general population; however, the law requires schools to integrate children with special needs into the student body, and this law generally was enforced. The law also mandates that new or remodeled public spaces be accessible to persons with disabilities.

The Ministry of Labor was responsible for placing workers with disabilities in suitable jobs. Placement remained difficult despite a 1993 executive order granting tax incentives to firms that hire disabled employees. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects be accessible to persons with disabilities, with fines from \$100 to \$500 for noncompliance. A national law with similar requirements for new construction projects generally was enforced. Awareness of disability issues has increased, and commercial establishments increasingly provided and enforced handicapped parking spaces. However, basic services such as handicapped-accessible sidewalks and bathrooms were largely unavailable.

*Indigenous People.*—The Constitution protects the ethnic identity and native languages of indigenous people and requires the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people numbered approximately 229,000 (8 percent of the population) and had the same political and legal rights as other citizens. There are indigenous reserves for five of the country's seven native groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. Tribal chiefs govern each reserve. The much smaller Bri-Bri (1,500 members) and Naso (2,800 members) tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups had considerable autonomy. For example, the Government recognized traditional indigenous marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the entire indigenous population was estimated between 85 and 96 percent, depending on the group. Discrimination against indigenous people was widespread.

Although their population suffers from poverty and malnutrition, Kuna leaders have succeeded in enforcing their territorial boundaries and maintaining their cultural integrity. There were two Kuna-Yala legislators (see Section 3). Other indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence. Most lived in extreme poverty and isolation.

Since indigenous populations infrequently mastered Spanish and were unfamiliar with the legal system, they often misunderstood their rights and failed to employ legal channels when threatened. The problem was exacerbated by government inattention to indigenous problems. For example, many Embera-Wounaan in the Darien were forced out of their reserves due to encroachment by settlers, loggers, and Colombian immigrants. The Ngobe also were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. Indigenous workers consistently did not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations worked under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with housing or food, and their children were much more likely to work long hours of heavy farm labor than nonindigenous children (see Section 6.d.).

Land disputes in Darien Province between and among indigenous groups, farmers and peasants, and Afro-Panamanians escalated during the year, sometimes resulting in violent confrontations.

*National/Racial/Ethnic Minorities.*—The country is racially diverse, and minority groups generally have been integrated into mainstream society with overall success; however, discrimination against the country's newer immigrants, especially Chinese, sometimes was overt. There were an estimated 150,000 to 200,000 persons of Chinese descent or admixture. Cultural differences and language difficulties hindered

and possibly prevented many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resented Chinese immigrants. Racial slurs directed at Asians were used openly among the general population, and substantial numbers of first generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as distinct from recent immigrants and generally were accepted in society.

Middle Eastern and Indian residents, like the Chinese, also suffered from racially motivated discriminatory treatment. All three groups often worked in the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, were accorded fewer legal protections than were citizens for their trade activities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks occurred, although it generally was expressed in subtle terms. Afro-Panamanians made up about 14 percent of the population and mixed black and mestizo accounted for about 40 percent; however, blacks were conspicuously absent from positions of political and economic power. The clustering of Afro-Panamanians in the economically depressed province of Colon and poorer neighborhoods of Panama City heightened their isolation from mainstream society.

Black canal workers traditionally commanded significantly greater financial resources compared with blacks elsewhere in society, but many retired or emigrated, and there was some anecdotal evidence that the rest were being replaced by white personnel.

Mainstream political elites generally were unconcerned by the economic and social problems of black populations and a concomitant rise in drug use, crime, and gang violence. The country's white elite successfully marginalized citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector. The predominantly Afro-Panamanian city of Colon, the country's second largest city, suffered from a conspicuous lack of government services.

Racial discrimination against all ethnic groups was evident in the workplace. In general, light-skinned persons were represented disproportionately in management positions and jobs that required dealing with the public (such as bank tellers and receptionists).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Private sector workers had the right to form and join unions of their choice, subject to the union's registration by the Government. The Labor Code establishes the minimum size of unions at 40 workers and permits only one union per establishment. The code provides that if the Government does not respond to a registration application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. In 1997–98, the International Labor Organization (ILO) criticized this 40-person limit and asked the Government to change it, with no response. The code also allows labor leaders to keep their union positions if fired from their jobs.

In August, the Government announced that it had fully complied with a 2001 ruling by the Inter-American Court of Human Rights that found the firing in 1990 of 270 public sector electricity and telecommunications workers to be improper, and said it had made final payments to the claimants. The claimants and the Court disagreed and said that the Government still owed a substantial amount of back payments and fines.

Approximately 10 percent of the total employed labor force was organized. There were 341 active unions, grouped under 39 federations and 10 confederations representing approximately 130,000 members in the private sector. Neither the Government nor political parties outwardly controlled or financed unions; however, the Government and political parties exercised political, ideological, or financial influence over some unions. The labor sector traditionally supported the PRD.

The Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. However, the law has proven insufficient to protect the country's 150,000 government workers, because only a small percentage were career members of the administrative civil service and therefore enjoyed job security. The ILO's Committee of Experts has observed for some years that the prohibition of public servants' associations is inconsistent with the country's obligations under ILO Convention 87.

Union organizations at every level may and do affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides most workers, including all private sector workers, with the right to organize and bargain collectively, and unions exercised it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration.

The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike, except for those in areas vital to public welfare and security, such as the police and health workers. At least 50 percent of the workforce must continue to work to provide minimum service. While the right to strike applied to some of the 10,000 career members, it did not apply to the approximately 140,000 other government workers. Public workers formed a union, but it had very limited rights and could not strike or bargain collectively.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 9,200 employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety.

There were some strikes and protests during the year, especially in the banana and construction industries. None of the strikes led to widespread violence.

Employers commonly hired temporary workers to circumvent labor code requirements for permanent workers. Temporary workers were excluded from social security benefits, job security, and vacation time. In lower-skilled service jobs, employers often had some employees under “3-month contracts” for years, sometimes sent such employees home for a month, and then rehired them. Employers also circumvented the law requiring a 2-week notice for discharges by laying off some employees 1 day before the 3-month time period expired, or 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees of 2 years or more, it was not uncommon to hire workers for 1 year and 11 months and then to lay them off.

Labor law requires companies to submit copies of all labor contracts for permanent workers to the Labor Ministry for review to ensure compliance and requires the Labor Ministry to conduct periodic inspections of the work force. The Labor Ministry may levy fines against companies not in compliance with the law; however, these measures proved ineffective in practice. According to union sources, the practice of “blank” contracts that did not specify starting dates, in order that the employer could avoid longevity issues, was becoming more widespread.

Over the past 6 years, the Government issued cabinet decrees that precluded effective organization of unions in export processing zones (EPZs), including by restricting strikes and permitting direct negotiations with selected workers who were already represented by a union. Unions asserted that this latter practice resulted in negotiations with employee groups that were dominated by employers. There were no collective bargaining contracts in the EPZs. The law requires mandatory arbitration of disputes, and it allows for the participation of an unrepresentative worker delegate in the tripartite (government, labor, and industry) arbitration commission. A strike is considered legal only after 36 workdays of conciliation were exhausted; otherwise, striking workers could be fined or fired. A 1998 ILO ruling noted that this regulation did not mention arbitration or specify procedures to resolve disputes in the courts and called on the Government to amend the EPZ labor regulations to conform with international norms; however, the Government did not make any changes in response to the ruling. Minimum wage provisions did not apply in the EPZs, and wages were usually lower, an incentive cited to attract investment in the EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced or bonded labor by adults and children; however, trafficking in women and children was a problem (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under 14 years of age with some exceptions, and also prohibits the employment of children under age 15 if the child has not completed primary school. However, a 2000 government report estimated that 27,000 children between the ages of 12 and 14 work, and child labor was a problem in some provinces and some economic sectors.

Children under age 16 legally cannot work overtime, and those under age 18 cannot work at night. Children between the ages of 12 and 15 may perform light farm or domestic work, with the authorization of the Labor Ministry, as long as it does not interfere with their schooling. Many children reportedly worked on rural coffee and sugar plantations, as well as in the informal sector of the economy. The Labor Code provides that children between the ages of 14 and 16 may work 6-hour shifts



per day that do not exceed 36 hours a week. The Labor Code includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these provisions in response to complaints and could order the termination of unauthorized employment. The Government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections, due to insufficient staff.

Child labor violations occurred most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, and tomatoes. Farm owners usually paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work. In many small rural communities, the entire able-bodied population participated in the harvest, and parents were not willing to leave their children behind unattended. Many children also were involved extensively in subsistence agriculture producing coffee and sugar; they worked with their families or were employed by independent plantations.

The problem of child labor in agricultural areas fell most heavily on indigenous families, who often were forced to migrate out of their isolated reserves in search of paid work (see Section 5). These frequent migrations not only interrupted schooling but also left the family vulnerable to sometimes unscrupulous contractors. The Government claimed that due to insufficient staff, it was unable to enforce child labor provisions in rural areas such as in the coffee and banana plantations near the border with Costa Rica, where government resources were especially scarce, and children faced difficult conditions (see Section 6.e.).

Urban supermarkets used an estimated 1,500 children who bagged groceries for tips. Some of the children were as young as age 9, and many of them worked late hours, in violation of the Labor Code. Some supermarket managers claimed that the children actually were not employed by their firm, despite the fact that "baggers" conformed to schedules, wore uniforms, complied with company codes of conduct, and took orders from managers as if they were direct employees. The Government failed to act to reduce the general problem of urban child labor and did not challenge the larger supermarket chains where large numbers of children worked. Urban child labor problems also included children working as street vendors or performers, washing cars, and running errands for businesses or local criminal groups.

*e. Acceptable Conditions of Work.*—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranged from \$0.80 per hour to \$1.50 per hour, depending on the region and sector. This wage was not sufficient to provide a decent standard of living for a worker and family. In August, the Government raised the base minimum wage by an average of 4 to 5 percent, depending on sector, region, and company size as part of a legally required review of the minimum wage. Public workers do not fall under the Labor Code and were not included in the group of beneficiaries. Most workers formally employed in urban areas earned the minimum wage or more; however, about one-third of the population worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned \$3 to \$6 per day, without benefits; the Government did not enforce labor laws in most rural areas. The minimum wage did not apply in the EPZs (see Section 6.b.).

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

The Ministry of Labor is responsible for enforcing health and safety standards and generally did so. The standards are fairly broad and generally emphasize safety over long-term health hazards. Inspectors from both the Labor Ministry and the occupational health section in the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints; however, the Government failed adequately to enforce health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures. In rural areas, the most severe lack of oversight in basic safety measures occurred in the banana industry, where poisoning by chemical agents was a recurrent problem. Workers complained of sterility and of adverse skin conditions as a result of exposure to the chemicals. In several plantations, indigenous workers were not provided with shelters, sanitary or cooking facilities, or fresh water; they also did not have machetes or gloves for their work. Complaints of health problems also continued in the cement and milling industries.

The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate but may request a health and safety inspection to determine the extent and nature of the hazard.

*f. Trafficking in Persons.*—The law prohibits trafficking in women and children, but trafficking in persons was a problem. NGO reports and government officials had credible evidence of the problem; however, its magnitude was difficult to determine because the country is a transit point for illegal economic migrants who were not forced into prostitution or debt bondage but used similar smuggling routes.

The Penal Code prohibits trafficking in women and children. Statutory limitations, including the need for a complaint for an investigation to be initiated, hampered the effectiveness of the Sex Crimes Unit within the PTJ and other government agencies. Limited financial and material resources, few formal education programs, and lack of victims' programs diminished the Government's efforts to combat trafficking. A comprehensive enhancement of the Penal Code that included stronger penalties, better legal definitions of trafficking and pornography, and enhanced investigations was proposed but had not been passed by the Legislature at year's end.

In August, Xiomara Hubbard, also known as Madame Tonya, received a 3-year prison term for her role in promoting underage prostitution but was released pending appeal. Two accomplices were sentenced to 3 years and 2 years and 3 months, respectively. There were four other formal investigations, and one case was transferred to the State Prosecutor's office for prosecution. Information sharing between the Government and neighboring countries is limited, but the PTJ received leads from Interpol.

Panama is a destination country for trafficked women. There was little evidence that children were trafficked to or from Panama. Colombia was the primary country of origin, followed by the Dominican Republic. Many Colombian women came to work legally, knowingly, and temporarily as escorts ("alternadoras") in clubs and massage parlors. The police reported that some Colombian women were trafficking victims in that their freedom of movement may be limited, and they were forced to pay off large contractual debts. Approximately 450 alternadora visas were granted during the year. Women from countries other than Colombia are not eligible for this visa. The number of Dominicans who were trafficking victims was unknown; many came willingly to the country apparently intending to become prostitutes. Anecdotal evidence suggested that some were forced, against their will, to continue as prostitutes.

Panama was a transit point for Colombian sex workers in other Central American countries and the United States. Some of these women were assumed to be trafficking victims, but evidence of total numbers was lacking. Alien smuggling was a more prevalent problem. Most smuggled aliens were Chinese and Indians who arrived from Ecuador or Peru in route to the United States. There was limited anecdotal evidence that some were trafficked for debt bondage.

The PNP and the Immigration Department conducted raids every 2 to 3 months on bars and brothels and deported an estimated total of 125 foreigners for working in illegal prostitution. Few of the deportees were minors. Immigration officials also conducted ad-hoc investigations and raids based on tips and other leads but did not work cooperatively with the PTJ Sex Crimes Unit.

Commercial sexual exploitation of minors was a problem. ILO studies indicated there were at least 100 minors who were victims of commercial sexual exploitation. Commercial sexual exploitation was primarily an internal issue, and there was limited evidence of international trafficking networks of minors to or through Panama. NGOs and government efforts in prevention and education were limited by lack of resources, legal technicalities, and coordination problems.

## PARAGUAY

Paraguay is a constitutional republic with three branches of government. The President is the head of government and head of state; he cannot succeed himself. In April, voters elected Nicanor Duarte Frutos of the Colorado Party, as President in generally free and fair elections. In August, Duarte was inaugurated, succeeding Luis Gonzales Macchi. The bicameral Congress consists of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party, the dominant political party, controlled the Chamber of Deputies, while a coalition of five opposition parties controlled the Senate. The Constitution provides for an independent judiciary; however, the courts remained inefficient and subject to corruption and political pressure.

The military generally did not play an overt role in politics; however, members of two army units and a group of National Police officers participated in an attempted coup in 2000. The National Police has responsibility for maintaining internal security and public order and reports to the Ministry of the Interior. On several

occasions during the year, generally in response to increased crime, the Government called on the military to assist the police in maintaining public order. The civilian authorities generally maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

The country has a market economy with a large state presence and a large informal sector. The population was approximately 5.8 million. An estimated 32 percent of the population was employed in agriculture, which provided 30 percent of the gross domestic product (GDP) and more than 90 percent of export earnings. In 2002, the per capita GDP fell to \$934, its lowest level in 17 years. The Central Bank projected 2 percent growth for the year, after a 2.2 percent contraction in 2002. The informal economy, estimated to equal the value of the formal sector, also has shrunk considerably in recent years.

The Government generally respected the human rights of its citizens in most areas; however, there were serious problems in some areas. There were killings by the police and military. Incidents of torture and abuse of convicted prisoners and other detainees continued, including an unresolved case of abduction and torture of two kidnaping suspects, allegedly directed by government agents. The Human Rights Ombudsman prosecuted cases of human rights abuses committed during the 1954–89 Stroessner regime. Prisons were overcrowded and violent. Other problems included arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights. The Government took steps to reduce illegal military conscription and treatment of conscripts improved; however, recruitment and conscription of minors continued. Police used force against illegal but peaceful demonstrations. Violence and discrimination against women, abuse of children, and discrimination against persons with disabilities and indigenous people were problems. Worker rights were not protected adequately, and child labor was a problem. Trafficking in persons was a problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, the police and military were responsible for some killings involving the use of unwarranted or excessive force. There were reports that police officers killed persons while acting outside the scope of their duties and of deaths in custody.

In August, a police officer killed 17-year-old Christian Bernardo Vega Moran with a gunshot to the head and injured two other minors. The policeman claimed that the youths had opened fire on him and was not charged.

In September, authorities arrested a member of the National Police, Adrian Martinez, and charged him with killing two 15-year-old boys, Oscar Romero Salinas and Rumilio Caceres. Prosecutors alleged that he sexually abused the boys before shooting each in the head. The case had not come to trial by year's end.

In response to a request by Human Rights Watch that it investigate deaths among military recruits, the armed forces began to enforce rigidly the requirement that conscripts be 18 years of age. There have been no reported deaths among recruits since the armed forces adopted this practice.

Military investigators investigated the 2002 death of Luis Bobadilla Acuna, a 16-year-old military recruit. Military policemen detained Bobadilla after they found him drunk while on leave. While in custody, Bobadilla died of a gunshot wound to the temple. Investigators determined that the shooting was either accidental or a suicide. His family replied that he was shot in the right side of the head, but that he was left-handed. He was the first conscript to die in more than a year. The military refused to investigate the issue further.

No new information was available on the continuing investigation into the June 2002 police killing of rural demonstrator Calixto Cabral.

In the pending investigation of three police officers involved in the killing of Cynthia Fretes, a January ballistics test demonstrated that she died from a bullet fired by police officer Roque Fretes. The case remained on court dockets but had not come to trial by year's end.

There were no new developments in the pending trial of police officer Adan Ramirez Olazar in the killing of Roberto Carlos Paniagua Jara.

In June, a judge freed former President Raul Cubas from house arrest. The charges Cubas faced over the deaths of seven demonstrators in 1999 remained in place, although the judge declared that Cubas bore no responsibility for the deaths. A petition to dismiss the charges remained pending at year's end.

In September, the Congress passed legislation to create a Truth and Justice Commission to deal with former President Stroessner's abuses. Human rights nongovernmental organizations (NGOs), as well as the National Movement of Victims

of the Stroessner Dictatorship, lobbied for 6 months for the creation of the commission.

In September 2002, lawyers from the Committee of Churches, an NGO, petitioned the Foreign Ministry to continue prosecuting a motion to extradite Stroessner from Brazil to stand trial for a murder committed in 1987. By year's end, the Ministry had not acted on a 2001 petition to extradite Stroessner for the 1976 killings of Rodolfo and Benjamin Ramirez.

*b. Disappearance.*—There were no reports of politically motivated disappearances. In January 2002, law enforcement agents from the Attorney General's office allegedly kidnapped, tortured, and threatened the lives of leftist political figures Juan Arrom and Asuncion Marti. Arrom and Marti, suspects in the kidnapping of Maria Bordon de Debernardi, allegedly were held captive for 2 weeks. They were freed by family members, who claimed they were tipped off about Arrom and Marti's whereabouts by neighbors and police. Interior Minister Julio Cesar Fanego, Justice and Labor Minister Silvio Ferreira, Police Chief Blas Chamorro, and Investigations Chief Roberto Gonzalez Cuquejo all resigned shortly after the Arrom/Marti incident.

In December 2002, prosecutors filed kidnapping charges against Arrom and Marti. In July, police raided a house in the Department of San Pedro and seized a large cache of arms belonging to the Arrom-led Patria Libre Party, which had been stored at the residence of a party member and intermixed with dozens of boxes of party campaign literature. Carmen Villalba, wanted in the Debernardi case, was arrested. Her husband, Alcides Oviedo, escaped and remained in hiding at year's end. In August, Arrom and Marti, who were free on bail, disappeared days before their trial began. In December, Arrom and Marti appeared in Brazil, where they had been granted political refugee status. The Government continued to work with Brazilian authorities to revoke their refugee status and return them. They were being tried in absentia at year's end.

The Supreme Court maintained documents related to abuses committed during the Stroessner regime in an Archives of Terror that were available for research by academics and the general public. During the investigation of the alleged Arrom/Marti abduction, authorities discovered additional documents that were added to the Archives.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 NGOs, civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees. The Attorney General's office and the NGO, Committee of Churches, compiled numerous examples of police abuse. In September, Elvio Riquelme, one of the accused in the killing of the entertainer Luis Rios, claimed that four policemen tortured him in the course of questioning.

In 2000, several persons arrested during the state of exception following the abortive 2000 coup reported that former Interior Minister and legislator Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. In August 2001, prosecutors charged Bower with torture and other crimes for his actions following the abortive coup. Bower's trial continued, although it reached the 3-year point since the alleged torture took place, triggering the automatic dismissal of the charges, as stipulated by law. Prosecutors successfully launched a special appeal to keep the case alive on the basis that the 3-year limit does not apply in the case of torture allegations.

Police used force to disperse illegal but nonviolent protesters on several occasions, sometimes killing or seriously injuring civilians.

The Constitution allows the Human Rights Ombudsman (Defensor del Pueblo) to prosecute hundreds of cases of human rights abuses stemming from the 1954–89 Stroessner regime for monetary compensation. Since his appointment in November 2001, the Ombudsman, Manuel Paez Monges, has ruled that 35 persons were entitled to compensation. In October 2002, Paez Monges announced that 13 victims of repression during the Stroessner dictatorship would receive compensatory awards; this was the first relief awarded by the Ombudsman's Office.

Prison facilities were deficient, and prison conditions were extremely poor. Overcrowding, unsanitary living conditions, and mistreatment were the most serious problems affecting all prisoners. Tacumbu Prison—the largest in Asuncion—was built to hold 800 inmates but held 2,470 as of mid-year. A majority of those held were awaiting trial. Other regional prisons generally held approximately three times more inmates than originally planned. UNICEF reported that conditions were sub-

standard in other facilities around the country, especially in the Coronel Oviedo prison, where more than 500 inmates were confined in a facility built for 100.

Security was a problem throughout the prison system. For example, there were 120 guards for nearly 2,500 prisoners at Tacumbu Prison. Inmates frequently had weapons, particularly at the Emboscada prison in Minas. Escapes and escape attempts were frequent. In April, police prevented an escape by 13 prisoners from the Nemby facility. They were subsequently transferred to the Tacumbu prison.

In August, Judge Pedro Mayor Martinez ordered the Minister of Justice and Labor to issue a report on conditions inside Tacumbu. The Committee of Churches petitioned the judge on behalf of more than 1,000 prisoners at the facility. The Committee highlighted in its complaint the lack of medical attention afforded to inmates.

In September, the Public Defender's Office released a report that revealed that the budget for feeding prisoners at Tacumbu amounted to \$0.11 (687 guaranies) per prisoner per day. There were no funds available to provide medicine for ill prisoners. The Ministry of Justice and Labor responded that the food budget was in fact \$0.67 (4,187 guaranies) per prisoner per day.

In the same month, human rights prosecutor Juan Avalos filed a complaint with the Attorney General that guards at the Educational Center of Itagua, a facility for young offenders, routinely put 12 prisoners into cells with only 2 beds. He reported finding numerous untreated cases of scabies, a parasitic skin infection, at the facility, along with signs of malnutrition.

Female prisoners were generally held in separate facilities from male prisoners. Although some smaller institutions held prisoners of both sexes, it was government policy to hold them in separate wings.

Juvenile prisoners were generally held in separate institutions; however, in smaller, regional prisons outside the capital, adults and juvenile prisoners continued to be held together.

There were a number of instances of prisoners killing other prisoners. In April, Isidro Nunez, a prisoner transferred to Tacumbu, was stabbed during the night by a cellmate.

Corruption among prison guards remained a problem. In September, prosecutors and agents from SENAD, the anti-narcotics secretariat, began an investigation into alleged drug dealing by guards at the Regional Penitentiary in Ciudad del Este, after a police raid uncovered knives and paraphernalia for smoking marijuana.

The Government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives were granted access to prisons for announced and unannounced visits.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement; however, arbitrary arrest and detention were persistent problems. The police may arrest persons without a warrant if they catch them in the act of committing a crime, but they must notify a prosecutor. In practice the authorities did not always comply with these provisions.

The main police agency is the National Police, which is under the authority of the Minister of Interior. The police were inadequately funded, poorly trained, and generally corrupt. The Government took steps to control and punish human rights violations committed by police officers; however, the police generally enjoyed impunity for their actions. There were reports that police were involved in narcotics trafficking and provided support to the more notorious kidnapping rings. Large-scale retirements, separations, and transfers of senior police officers implemented by the new administration did not result in a noticeable improvement in services by year's end.

Under the Penal and Criminal Procedures Code introduced in 2000, once the police make an arrest they have up to 6 hours to notify the Prosecutor's Office, at which point the Prosecutor's Office has up to 24 hours to notify a judge whether it will prosecute the case.

The new code reduced the backlog of pending criminal cases, and the average length of a criminal proceeding dropped by 75 percent, resulting in a reduction of the length of pretrial detention. The average time from arrest to trial was approximately 240 days. While the law encourages speedy trials, the Constitution permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurred in practice. Judges have the discretion to permit "substitute measures," such as house arrest, in place of bail for most crimes. Judges frequently set relatively high bail, and many accused persons were unable to post bond. The Supreme Court and many criminal court judges made periodic visits to the prisons to identify and release improperly detained individuals.

The law grants accused criminals the right to counsel; however, the Government lacked the resources to provide counsel to poor defendants, and many continued to go to trial without representation. The Government permitted criminals with access to money to hire attorneys. Inmates were allowed regular visits from family members, including conjugal visits.

The Constitution expressly prohibits exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, courts remained inefficient and subject to corruption and political influence. Politicians and other interested parties often pressured judges, although the judiciary was not allied with any one political group.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the Magistrate's Council. There are five types of appellate tribunals: Civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace fall within four functional areas: Civil and commercial, criminal, labor, and juvenile. The military has its own judicial system.

The Penal Procedures Code provides the legal basis for the protection of fundamental human rights. The new code introduced expedited oral proceedings and requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal his or her sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

The Supreme Court took steps to combat corruption in the judicial system. In February, it intervened against a Ciudad del Este trial judge who freed organized crime convicts and other suspects on bail, apparently in return for bribes. The plaintiffs had been accused of tax evasion, extortion, racketeering, and arms trafficking charges. The judge was suspended without pay.

In September 2002, the Supreme Court voided provisions of the new criminal code that would have dismissed those cases filed under the old system that were still pending on February 28. Human rights advocates hailed this decision, which they felt would prevent defendants from avoiding prosecution by delaying their cases until that deadline. In June, the Supreme Court rejected the Attorney General's constitutional challenge of the articles in the Penal Code that limit the duration of court cases to 3 years. The courts invoked these articles to dismiss the charges against 18 military officers and others accused of attempting to overthrow the Government in May 2000 (see Section 1.c.).

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary; however, this right often was not respected in practice. Many destitute suspects received little legal assistance, and few had access to an attorney sufficiently in advance of the trial to prepare a defense. The 148 public defenders in the country, including 44 in Asuncion, lacked the resources to perform their jobs adequately.

There were several reports of the political intimidation of prosecutors attempting to investigate official corruption. In April, a judicial panel ordered the firing of prosecutor Alejandro Nissen, accusing him of malfeasance and grandstanding. The firing came the day after Nissen accused the Chamber of the Deputies president of possession of a stolen car.

In August, Basilia Vasquez, the leading prosecutor in Ciudad del Este, came under attack by cigarette smugglers. Media outlets controlled by contraband dealers published calls for a formal investigation into her actions. The Attorney General's report on the affair stated that there was no basis for the accusations.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits police entry into private homes except to prevent a crime in progress or when the police possess a judicial warrant; however, at times the Government infringed on citizens' privacy rights. While the Government and its security forces generally did not interfere in the private lives of citizens, human rights activists claimed that local officials and police officers abused their authority by entering homes or businesses without warrants and harassing private citizens. There were allegations that some government offices occasionally spied on individuals and monitored communications for partisan or personal reasons.

During the year, the Government took steps to reduce the illegal conscription of minors, the mistreatment of recruits, and the unexplained deaths of recruits (see Sections 1.a. and 1.c.). The Government's Inter-Institutional Committee, including judges, attorneys, legislators, and NGO representatives, continued its visits around

the country during the year to inspect conscripts' records and identify any minor soldiers. The Committee had the power to investigate and report on abuses and conditions.

The Government established review procedures for military recruits to prevent future enlistment of minors, although it was unclear whether they were implemented. The Government ordered all military officers responsible for recruiting to ensure that all conscripts met the legally minimum mandated requirement age of 18 for military service. The armed forces no longer allowed 17-year-olds to enlist with parental permission, and they experienced considerable success in implementing the policy. However, there were reported violations, including allegations that military recruiters encouraged underage recruits and assisted them in obtaining false birth certificates.

The Constitution provides for the deferral of military service for conscientious objectors, but there is no legal framework guiding the military's treatment of those claiming the status. In August, the Senate rejected a bill that would have codified the rights of conscientious objectors. Since 1993, 120,000 conscripts have been recognized as conscientious objectors. During the year, a campaign for a constitutional amendment to abolish conscription organized by a group of conscientious objectors gained strength, and General Jose Key Kanazawa, Commander of Military Forces, stated that the future of conscription was a decision for elected officials.

In September, the Ministry of Defense closed its human rights office in the wake of anonymous complaints from within the Ministry. The office had been created in 2001, as part of an agreement with the Inter-American Commission on Human Rights (IACHR).

In the same month, the Association of Families of Military Victims announced plans to open a clinic for conscripts suffering from mental problems brought on by compulsory military service. They complained that soldiers displaying mental problems were routinely interned in the Neuropsychiatric Hospital, where they were abused instead of treated. The group asked the military to provide space for such a clinic.

In May, residents of Marquetalia, a squatter settlement founded in 1999 in San Lorenzo, invaded areas surrounding their camp, seizing private homes and taking their owners hostage. The Government defused the crisis by purchasing the invaded land and turning it over to the squatters.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression and the press, and the Government generally respected these rights in practice.

The print and electronic media were independently owned; some media outlets were tied closely to political parties, particularly the Colorado Party, factions of this party, or business entities. The media commonly criticized the Government and freely discussed opposition viewpoints.

In June, a television network investigative program, "The Informer," tried to air a story accusing several Colorado Party activists of participating in a ring that counterfeited foreign currency. The party threatened to sue the network for libel. The network avoided the lawsuit by not airing the item, and the journalistic team that produced the show resigned in protest. Authorities made no official investigation into the journalists' allegations.

Chinese groups involved in contraband from the Ciudad del Este area reportedly threatened the life of Ultima Hora journalist Gustavo Garcia for investigating them.

The Sindicato de Periodistas journalists' union complained that media outlets regularly censored reports that did not conform to the political views of their proprietors.

In June, a Ciudad del Este television station fired journalist Nidia Farina after she criticized the city's mayor. The journalists' union claimed that the station's proprietors forced the journalist to go to the mayor's office to deliver an apology for the reports.

In June, the (IACHR) reported on the torture of radio journalist Fausto Coronel of Radio Nueva Esperanza by San Lorenzo municipal authorities for reporting on instances of corruption. The municipality blocked attempts to organize an internal investigation.

In September, Judge Marcos Kohn issued an injunction that prohibited Telecomio, a political satire program, from airing any material dealing with the trial of Juan Arrom and Asuncion Marti for the kidnapping of Maria Edith de Debernardi.

Libel law is applied very irregularly, and plaintiffs can often obtain a favorable ruling regardless of the merits of a case by offering to share the settlement with the judge. In March, a court ordered historian Luis Veron to pay approximately \$1,800 (11,250,000 guaranies) in punitive damages to architect Luis Fernando Pe-

reira. In one of his works, Veron criticized the design of a church developed by Pereira.

The Government did not restrict use of the Internet, nor did it censor Internet content.

The Government generally did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice; however, in some cases police used violent force against nonviolent assemblies.

The law restricts demonstrations in Asuncion to certain times and places, and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. Some groups have opposed these restrictions. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. In addition, the law prohibits public gatherings in the congressional plaza in Asuncion, the traditional focal point for many demonstrations, during daylight hours on workdays. The police may ban a demonstration but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. The Constitution prohibits closing roads as a form of protest; however, demonstrators did so on several occasions during the year.

The organizers of the Paraguay Libre rural movement claimed that departmental governments controlled by the Colorado Party harassed laborers in the countryside. In a 2-week period after giving a speech near Ciudad del Este, one organizer reported the theft of two vehicles and a break-in at his house.

The Coordinating Group of the National Organization of Rural Workers organized a series of peaceful demonstrations in July. Members blocked several national highways, and presented a manifesto to leaders of the Congress calling for a reduction in rural electricity charges, agricultural reforms, and the release of Raul Marin, a public defender jailed for being the leader of the Marquetalia land invasion.

The Constitution provides for the right of all citizens to free association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government required that all religious groups register with the Ministry of Education and Culture but imposed no controls on these groups, and many informal churches existed.

For a more detailed discussion, see the 2003 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. On the day President Gonzalez Macchi left office, Judge Hugo Sosa Pasmor barred him from leaving the country. During his term, Gonzalez Macchi was the subject of an investigation into the illegal diversion of \$16 million from liquidated banks into foreign accounts and has since been indicted for his role in the case.

The law provides for the granting of asylum and refugee status to persons who meet the definitions in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and Interior and the NGO Committee of Churches. According to the Committee of Churches, there were 21 individuals with refugee status in the country, with another 11 foreign nationals whose petitions were pending. Russia, Vietnam, and Cuba together accounted for 27 of the 32 cases.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution and the Electoral Code mandate general elections every 5 years with voting by secret ballot.

In February, the Senate held an impeachment trial for then-President Gonzalez Macchi on charges of corruption. The trial ended in the president's acquittal. Multiple parties and candidates contested the country's leadership positions in the April presidential and congressional elections. Five parties were represented in the Con-



gress that assumed office in July. The opposition Liberal Party won several of the departmental governorships. Debate in Congress was free and frank, and the Congress often rejected the executive branch's proposals. For the first time, the Senate came under control of the opposition. However, partisan court intervention permitted the Colorado Party to retain control of the Chamber of Deputies when a judge blocked several opposition members from taking their seats until several days after the new Congress convened, allowing the Colorado candidate for Chamber president to be elected on the first day of the session.

Observers from the Organization of American States characterized the April elections as free and fair. There were no reports of systematic nationwide irregularities, although Transparency Paraguay, an NGO, cited irregularities at several polling stations. Turnout was approximately 70 percent. For the first time in a national election, about half of voters cast their ballots on electronic voting terminals, which were less prone to manipulation than paper ballots. In response to political pressure from the Colorado Party, the electoral tribunal slightly scaled back the number of polling stations using the machines.

There are no legal impediments to women's participation in government and politics. There were 12 women in Congress (5 of 45 senators and 7 of 80 national deputies), 1 woman elected as a departmental governor, and 3 women headed government ministries. The Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women. Women served as judges (although not on the Supreme Court) and prosecutors.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right grew significantly in recent years. The inhabitants of some indigenous communities reported that they were threatened and prohibited from fully exercising their political rights.

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

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, the Government had a mixed record in cooperating with or responding to recommendations from such groups.

Local NGO human rights groups included the Committee of Churches (an interdenominational group that monitored human rights, investigated refugee claims, and provided legal assistance), Tekojoja (a group dedicated to the protection of children's rights), and SERPAJ (a group that defended conscientious objectors and provided legal assistance to those with grievances arising from military service). CODEHUPY's annual report continued the Council's past practice of highlighting abuses of police authority and mistreatment of military recruits and noted that an impartial and corruption-free judiciary was necessary to enforce human rights in the country.

In October 2001, Ombudsman Paez Monges began work as the country's human rights advocate. His office took charge of the prosecution of 330 lawsuits seeking compensation for human rights violations dating from the Stroessner dictatorship (see Section 1.c.). His term ended during the year, but he remained in office pending the choice of a new ombudsman.

The Director General of Human Rights, located in the Ministry of Justice and Labor, chaired the National Commission on Human Rights. The commission sponsored seminars to promote human rights awareness. The Director General's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the commission may forward information concerning human rights abuses to the Attorney General for action. It served as a clearinghouse for information on human rights and trained thousands of educators in human rights law.

In July, the Foreign Ministry released its first human rights report. The report claimed that civil and political rights have been consolidated in the country and called for concentrating efforts in the economic and social realm. The report noted the steep increase in poverty over the past decade and the heightened feelings of insecurity among the public in response to elevated crime rates. It also acknowledged rampant corruption in numerous public institutions, especially the courts, and noted that many citizens have grown frustrated with the democratic system.

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

The Constitution and other laws prohibit discrimination based on race, sex, disability, language, or social status; however, certain groups, such as indigenous people, faced significant discrimination in practice.

*Women.*—The most pervasive violations of women's rights involved sexual and domestic abuse, which were underreported. Spousal abuse was common. Although the Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then is punishable only by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. In recent years, there has been a trend toward the increased reporting of complaints, although statistics were unreliable.

According to women's rights activists, official complaints rarely were filed or were withdrawn soon after filing due to spousal reconciliation or family pressure. In addition, the courts allow for mediation of some family violence cases, although the law does not include this provision. There were no specialized police units to handle complaints involving rape. The Secretariat of Women's Affairs' Office of Care and Orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGOs. In practice these services were available only in Asuncion. The Secretariat also conducted training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operated a reception center where female victims of violence received legal, psychological, and educational assistance. No shelters for battered and abused women were available outside of Asuncion. Many imprisoned women reportedly were detained for assault, including murder, committed following domestic violence.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution by adults is not illegal, and exploitation of women, especially underage prostitutes, remained a serious problem.

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

The Labor Code prohibits sexual harassment; however, many women in the workplace faced sexual harassment. Claims of abuse are filed with the courts and the Ministry of Justice and Labor. Sex-related job discrimination continued to be widespread and widely tolerated. The Secretariat of Women's Affairs occasionally sponsored programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

During the year, the national military academy admitted female cadets for the first time.

Women had higher illiteracy rates than men. A 2001 census survey found that 15.4 percent of rural women were illiterate, compared with 10.7 percent of rural men. In addition, maternal mortality rates were high, and as many as 65 percent of such deaths were related to poor health care. Several groups worked to improve conditions for women, including Women for Democracy, which was active in civic and electoral education. Other groups included SUMANDO, an NGO that promoted educational reform and voter participation in elections, and SEFEM, which focused on women, public policy, and the participation of women in local development.

*Children.*—The Constitution protects certain children's rights and stipulates that parents and the State should care for, feed, educate, and support children. The population was very young, with an average age of 25.3 years; 38.6 percent of the population was under age 15. A survey conducted during the year reported that 42 percent of children age 14 or younger lived in poverty, and that 11 percent of children suffer from chronic malnutrition. Boys and girls legally are entitled to equal treatment in education and health care; however, females had less access to education, particularly in rural areas. The educational system did not provide adequately for the educational needs of the population. Families pay a fee to cover each school's administrative expenses and must purchase books, uniforms, and other supplies for their children's use. The 2001 census found that the national literacy rate was 91.6 percent.

Abuse and neglect of children was a problem. A local NGO attributed a rise in the number of complaints of mistreatment of children to the increased awareness of child abuse and neglect.

Sexual exploitation of children also was a problem. In its most recent survey, released in 2001, the NGO, AMAR, identified 619 child victims of sexual exploitation, the vast majority of whom lived in Asuncion and Ciudad del Este. Approximately 33 percent of the victims were under the age of 16.

The passage of the Child and Adolescent Law in 2001 created a Secretariat level office and required municipalities to create a new office to promote the rights of children and adolescents. The Child and Adolescent Secretariat was underfunded (it had no budget appropriation for the year) and has not been very effective. However, since 2001, the number of municipalities with Child and Adolescent offices increased from 60 to approximately 120.

There were unsubstantiated reports of trafficking in girls for the purpose of sexual exploitation (see Section 6.f.).

There continued to be reports of the conscription of underage youth (see Section 1.f.).

*Persons with Disabilities.*—The Constitution provides for equal opportunity for persons with disabilities and mandates that the State provide them with health care, education, recreation, and professional training. It further requires that the State formulate a policy for the treatment, rehabilitation, and integration into society of persons with disabilities. However, the Congress never enacted legislation to establish such programs or provided appropriate funding. Many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the persons with disabilities, and the vast majority of the country's buildings, both public and private, were inaccessible.

Conditions at the Neuropsychiatric Hospital in Asuncion were substandard, and some patients reportedly were kept unclothed in cells and were not treated for their mental illnesses. The physical facilities of the hospital lacked running water, electricity, or even roofs, and the hospital was severely understaffed. The patients were not fed adequately, in many cases receiving only bread or crackers and tea. Parasitic and skin infections were widespread and rarely treated. Children were housed with adults in the facility and were subject to sexual assaults from older patients. In a 3-week period in August and September, three patients, two of them minors, were found dead in their beds. In one case, the patient had been dead for several days before hospital staff became aware of the death. Another patient's family complained to the press that the hospital initially reported the patient had escaped, before acknowledging the patient's death several days later.

*Indigenous People.*—The Constitution provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population—80,000, according to 2001 census data—was unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination were common. Weak organization and lack of financial resources limited access by indigenous people to the political and economic system. The Constitution also protects the property interests of indigenous people, but these rights were not codified fully. The Constitution allows Public Ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land hindered the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there was insufficient police and judicial protection from persons encroaching on indigenous lands. Many indigenous people found it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population included lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention slowed progress in dealing with these problems.

In March, the IACHR presented to the Inter-American Court of Human Rights a complaint against the Government, involving a claim to ancestral lands by the Enxet Lengua Yakye Axa community.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference, and workers exercised this right in practice. The Constitution contains several provisions that protect fundamental worker rights, including an anti-discrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent of workers were organized in approximately 1,600 unions.

In general, unions were independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), was aligned closely with the ruling Colorado Party.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process was cumbersome and could take a year or more due to government bureaucracy, the Ministry of Justice and Labor issued provisional registrations within weeks of application. Employers who wish to oppose the formation of a union can delay union recognition by filing a writ opposing it. However, almost all unions that requested recognition eventually received it.

The International Labor Organization (ILO) Committee of Experts noted deficiencies in the application of certain conventions ratified by the Government. These included conventions dealing with minimum wage, abolition of forced labor, minimum age of employment, freedom of association, equal remuneration, and employment policy. The ILO specifically criticized the freedom of association regulations requiring a minimum of 300 workers to form a union; the imposition of excessive requirements to be able to hold office in the executive body of a trade union; and the submission of collective disputes to compulsory arbitration as inconsistent with international norms. In response to the ILO criticism, the Ministry of Justice and Labor did not enforce the 300-worker minimum, although the requirement remained in the Labor Code.

The Constitution prohibits anti-union discrimination; however, the harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes were jailed for their role in leading demonstrations. Fired union leaders may seek redress in the courts, but the labor tribunals were slow to respond to complaints and typically favored business in disputes. The courts were not required to order the reinstatement of workers fired for union activities. In some cases when judges ordered the reinstatement of discharged workers, employers continued to disregard the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes. Principal problems included backlogs in the judicial system and the inability or unwillingness of the Government to enforce labor laws. There were a number of cases involving trade union leaders fired as many as 8 years ago that remained pending in the courts. The ILO and the International Confederation of Free Trade Unions criticized the lack of measures to prevent anti-union discrimination and observed that legislation does not oblige labor courts to reinstate unfairly fired trade unionists.

There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. There were several cases of workers who allegedly chose not to protest due to fear of reprisal or anticipation of government inaction.

Unions were free to form and join federations or confederations, and they were affiliated with and participated in international labor bodies.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and this provision was generally respected in practice. According to the Ministry of Justice and Labor, there were approximately 30 collective bargaining agreements in place. However, they typically did little more than reaffirm minimum standards established by law. When wages were not set in free negotiations between unions and employers, they were made a condition of individual offers of employment.

The Constitution provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business; however, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism rarely was employed. Senior Labor Ministry officials were available to mediate disputes.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. Others were directed at broader economic issues. In June, public employees undertook a 48-hour strike to reinforce their demand for a 35 percent salary increase. Approximately 60 different unions were involved in organizing the strike, although the number of actual protesters was less than 1,000. Only a handful of government offices closed during the strike. The Government rejected the strikers' call for a salary increase, stating that it had no money for pay raises. In August, municipal workers in Asuncion went on a 3-day strike during the inauguration ceremonies of the new President to protest the city's layoff of 700 workers.

There are no export processing zones. Maquiladora factories, which assemble imported parts for re-export, have been established in the eastern part of the country. The Mercosur trade association accepted the country's maquiladora factories into its automotive regime. The country's labor laws apply to maquila operators.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced labor, including by children; however, cases of abuse of national service obligations (compulsory military service for all males, unless exempted as conscientious objectors) occurred (see Section 6.d.). There were reports of conscripts forced to work as construction workers for military officers in their privately owned businesses.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws; however, in general the Government did not enforce minimum working age regulations, and child labor was a problem. Minors between 15 and 18 years of age may work only with parental authorization and may not be employed in dangerous or unhealthy conditions. Children between 14 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. As of November, the Labor Code prohibits work by children under 14 years of age.

The 2001 census found that 5 percent of the workforce was under the age of 14. The Statistics Bureau reported that from August to December 2000, 55 percent of boys between the ages of 10 and 19 worked. According to the NGO Coeti, 265,000 children, or 13.6 percent of children between the ages of 5 and 17, worked outside their homes, many in unsafe conditions. There were reports that supermarkets employed boys as young as 7 to bag groceries and carry them to customers' cars. The boys did not receive wages and relied entirely upon tips for income. Thousands of children in urban areas, many of them younger than 12 years of age, were engaged in informal employment, such as selling newspapers and sundries and cleaning car windows. Many of the children who worked on the streets suffered from malnutrition and disease and lacked access to education. In April, a child selling candies in the street was struck by a bus and killed. Some employers of the estimated 11,500 young girls working as domestic servants or nannies denied them access to education and mistreated them. In rural areas, children as young as 10 years of age often worked beside their parents in the field; according to Coeti, 88 percent of rural children in the labor force worked at home or with family members. Local human rights groups did not regard families harvesting crops together as an abuse of child labor.

*e. Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There was no public sector minimum wage. In practice, most (but not all) government agencies adjusted the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and it was approximately \$158 (987,500 guaranias) per month at year's end, according to the Ministry. However, the Ministry was unable to enforce the minimum wage and estimated that 50 percent of workers earned less. The Labor Code requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The Labor Code allows for a standard legal workweek of 48 hours (42 hours for night work), with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violated these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely staged strikes to demand that their employers comply with the Labor Code's provisions on working hours, overtime, and minimum wage payments.

The Labor Code also stipulates conditions of safety, hygiene, and comfort. The Government did not devote sufficient resources to the Ministry of Justice and Labor and the Ministry of Health to enforce these provisions effectively.

Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, but they may not do so until the Ministries of Justice and Labor and Health recognized such conditions formally. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

*f. Trafficking in Persons.*—The Constitution proscribes and the Penal Code criminalizes trafficking in persons; however, there were sporadic reports of trafficking to and from the country for sexual purposes.

The Penal Code punishes trafficking in persons with up to 10 years in prison; the code also outlaws compelling anyone to travel outside the country or to enter the country for the purpose of prostitution or compelling a minor under 18 years of age to work as a prostitute. There were no documented prosecutions against traffickers. The Government's Secretariats of Women's Affairs, Children's Affairs, and Social Action maintained an interest in trafficking, and planned to undertake new initiatives in the area during 2004.

In April, there were press reports that Spanish police broke up a network that smuggled young women of various nationalities into Spain to work as prostitutes. Of the 71 women taken to Spain, 28 were from Paraguay.

In September, there were reports that a San Lorenzo prosecutor investigated the cases of young women allegedly trafficked to Argentina with false employment promises and forced to work as prostitutes. Because there were no government investigations of trafficking, there was no information regarding methods used or persons responsible.

The NGOs Luna Nueva and Global Infancia monitored trafficking situations that affected women and children and provided assistance to victims. Global Infancia organized a series of regional councils for the defense of the rights of children and adolescents, which freed eight girls from prostitution during the year.

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## PERU

Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In 2001, Alejandro Toledo, of the Peru Posible party won the presidency in elections that observers considered to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary widely was considered corrupt and was subject to outside pressure. The Toledo Government continued judicial reform efforts.

The Peruvian National Police (PNP) and the military shared responsibility for internal security; they were under effective civilian control. Members of the security forces committed some serious human rights abuses.

The population was approximately 27.1 million. During the 1990s, economic reforms and privatizations transformed the economy into a market-oriented one. Banking and retail services, agriculture, mining, manufacturing, and fishing were key economic sectors. The Government faced continuing strong social pressures to reduce a poverty rate of 54 percent; 24 percent of the population lived under conditions of extreme poverty. Unemployment and underemployment levels totaled 56 percent, growth was uneven, and the Government lacked revenues for social investment.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were allegations of unlawful or unwarranted killings by police, and four military recruits died under suspicious circumstances. Police on occasion tortured, beat, and otherwise abused detainees. Prison security forces abused inmates. Torture and abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. There continued to be reports of arbitrary arrest and detention. Pretrial detention continued to be prolonged, and trials were frequently subject to inordinate delays. Despite extensive changes to reduce executive influence over the judiciary, problems persisted, including the general inefficiency of the system. There were accusations of isolated attempts by the Government and other entities to influence the media by threats of legal or judicial action; however, press freedom improved, and greater public attention was focused on the need for a free press. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argued that labor laws restricted collective bargaining rights; however, a 2002 law addressed some of these problems. Child labor remained a serious problem in the informal sector. Trafficking in persons was a problem.

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other abuses.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings by government agents; however, there were allegations of unlawful or unwarranted killings by police. Several of these cases involved the excessive use of force against protesters. Four military recruits died under suspicious circumstances.

On February 22, police in Piura detained Edgar Lopez Sancarranco at the local bus station, where he had gotten into an altercation with a street vendor. Police

took the detained man to the local station, where he was beaten and left behind the facility. Lopez's family arrived approximately 1½ hours later, led by Lopez's brother, a police officer, and found Lopez dead. Four police officers were accused of torture. The case went to a judge and was in its instruction phase at year's end.

On May 28, police in Quillabamba detained Julio Alcazar Dolmos, who was brought to the police station, where he gave a deposition regarding family violence with his common law wife, Silvia Campana Becerra. When a police officer looked into the room where Dolmos had been placed, 2 hours later, he saw that Dolmos had fallen to the floor and was strangling, a string from his sweatshirt wrapped around his neck. The police officer attempted first aid. Dolmos was then transferred to a hospital where he died. The original autopsy indicated that he had committed suicide; however, the large number of bruises and wounds on his body indicated otherwise. At year's end, a judge had ordered the exhumation of Dolmos' body to determine more precisely how he died.

On May 29, soldiers in Puno fired on a group of university students that were protesting the state of emergency declared by President Toledo. One student, Edy Quilca Cruz, died, and 30 others were injured. The lawyer for the deceased argued that the case should be tried in a civilian court; however, the lawyers for the Army stated that it should go to a military tribunal since the soldiers had acted under an executive command to reestablish order. In August, the Prosecutor recommended that the case be tried in a civilian court, and in September, the Supreme Court agreed. Observers contended that this decision reinforced the principle that human rights cases involving the military should be tried in civilian courts and not in military tribunals.

On July 31, Lima police officers conducting a search at a shopping center in La Victoria District shot and killed Leonel Sanchez Rivero. Police, who said they were using warning shots to disperse a crowd that had formed, claimed Rivero had been shot accidentally. The Ombudsman's Office was evaluating the case at year's end.

On November 27, one man was killed during a protest in Junin over electricity privatization, which resulted in a clash with police. Three protesters and six police officers were injured.

Abuse of military recruits remained a problem. In February, the office of the Ombudsman issued a report that stated that 56 recruits had died and 118 had suffered "cruel and humiliating" mistreatment within the Armed Forces between 1998 and 2002. During the year, the press reported several incidents of abuse of military recruits.

On June 26, Corporal Magno Ariza Paitan, a 19-year-old Army recruit, was found hanged in his barracks with marks from blows upon his head. Paitan's mother claimed that her son had complained that various officers had threatened him.

On July 7, recruit Henry Dante Martinez Ayala was found dead from hanging after complaining that army officials beat him without reason. An investigation was underway at year's end.

On August 26, Jhon Lenon Olortegui Perea, a corporal in the Army, was found dead at his guard post in Callao. The Army stated that Leon's death was a suicide; however, his family members doubted this. At year's end, the case was being investigated by the prosecutor's office in Callao.

On September 15, Corporal Freddy Campos Avendano was found dead of a gunshot wound to the head in his barracks at his military base in Chorrillos. The military and police ruled Campos' death a suicide; however, family members alleged that Campos had intended to speak to his superiors about missing munitions at his base, and that there was evidence that he had been beaten before being shot. At year's end, the military was investigating the case, which was also being evaluated by the Ombudsman's Office.

During the year, the Public Ministry began investigating the case of Andy Williams Garces, who disappeared after allegedly being shot during a police surveillance operation in Piura. In early June, the investigation concluded, and a judge accepted the case. On July 24, the prosecutor filed charges against 11 policemen for the disappearance of Garces. A trial was underway at year's end.

There were no new developments in the 2002 case in which three members of a Lima municipal patrol unit and one PNP officer detained and killed Jose Reina Rincon, a bullfighter from Spain. The Human Rights Commission (COMISEDH) was aiding the victims' relatives at year's end.

In February 2002, in San Clemente, Ica, PNP officers fired tear gas canisters at protesters from a hovering police helicopter. One protester died after being hit on the head by a tear gas container. The case was undertaken by the local prosecutor and remained in the first phase of examination at year's end.

In September 2002, police officers from the Canta Comisaria in Lima detained Gerardo Adrianzen Otarola on suspicion of raping a minor. They next day Otarola

was found dead in his cell with foam around his mouth, causing suspicion that he had been poisoned or suffocated. At year's end, the case was in the court system, and an additional charge of torture had been brought against the four police officers involved in the case.

In June 2002, two students in Arequipa, Edgar Pinto Quintanilla and Fernando Talavera Soto, died police-fired gas bombs during protests against the privatization of local electric utilities. In July 2002, William Santos Tuesta was killed in a similar manner in Puerto Maldonado. At year's end, the police officers were on trial charged with manslaughter.

There was no progress in the investigation of the September 2002 killing of Cajamarca department mayoral candidate Joselito Fernandez Perez.

There were no developments in the cases of Juan Carlos Campos Valentin and Graciano Rufino Martinez, who escaped from Challapalca prison and were subsequently killed by prison officers in February 2001.

At year's end, the prosecutor had the case against four police officers and a military lieutenant who, in May 2001, allegedly detained, tortured, and beat Jenard Lee Rivera San Roque, who later died of his injuries.

According to COMISEDH, a prosecutor in Huarochiri was performing a preliminary investigation into the June 2001 case of Nazario Victor Valencia Porras, who died after police took him to the Matucana police station as a robbery suspect.

There were no new developments in the 2001 killings of Guillermo Navarro Rospigliosi by prison guards and Cesar Augusto Ayaucan Argedes by two police officers and a taxi driver.

In October 2001, police in Ica detained Victor Chamorro Cahua on accusations of rape. The following day, he was found dead in the police station in Pancona. The case was recently reported to COMISEDH and was being evaluated at year's end.

There were no developments in the case of Mario Clemente Guillen Mendez. In December 2000, a court in Chinchá acquitted five police officers accused of torturing Clemente Guillen to death. The victim's family filed an appeal, and the case went to the Supreme Court in January 2001.

Initial trial proceedings continued in the case of Juan Carlos Aliaga Mera, a former crewmember in former President Alberto Fujimori's presidential plane, who was found dead in the Callao Air Group 8 Complex, in 2000. His body had a bullet wound in the head and, according to the family, showed signs of brutal torture. There were no developments in the case at year's end.

In December, a court declared innocent the police officer accused of killing Nelson Diaz Marcos, who died after police in Tacna arrested him on charges of public intoxication in 2000. COMISEDH appealed the ruling.

A judge in the 2000 alleged murder case of Air Force recruit Jose Luis Poma Payano had not yet ruled at year's end.

The Government is seeking to extradite former President Fujimori from his parents' native Japan, where he fled in 2000, so that he can be tried in court on charges of murder, causing grave injuries, and responsibility for persons who disappeared in relation to the La Cantuta and Barrios Altos killings (see Section 1.b.).

The Government continued to arrest members of La Colina death squad. Since 2001, authorities had arrested 12 members of the group, including the recent detention of Roberto Pichilingue, who had provided logistical support for the group. On November 30, U.S. authorities arrested another member of the La Colina group, Wilmer Yarleque Ordinola, and he was awaiting extradition at year's end. All other former La Colina group members in custody were awaiting trial at year's end.

In an October 15 ruling, a military court dismissed charges of extrajudicial murder against all 120 military commandos who rescued 74 hostages held at the Japanese Ambassador's Residence by members of the Tupac Amaru Revolutionary Movement (MRTA) in April 1997. The court stated that the commandos had followed orders from constitutional authorities in carrying out a military operation against terrorists. In August 2002, the Supreme Court decided that the military court system should have jurisdiction in the case of the commandos. The Court also ruled that four others—former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio—were subject to civilian criminal court jurisdiction in this case. At year's end, Montesinos and Huaman were in custody, while the search for the other suspects continued.

In December 2002, the Inter-American Court of Human Rights ruled that the Government must investigate, try, and sanction those responsible for the 1986 massacre of inmates at El Fronton jail. During the year, the Public Ministry, the only government body with the authority to reopen this case, was investigating whether to bring charges. As part of this investigation, more than 100 human remains were



exhumed, and relatives of the dead inmates were given depositions. The matter remained under investigation at year's end.

In December 2002, the Truth and Reconciliation Commission (TRC) issued its first official report, which detailed a massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho, in May 1980. The report was referred to the Attorney General for further action. In April, a criminal judge in Cangallo opened a trial against two army officers and five police officers for this crime. The Ministry of Defense also opened a trial in military court against the same officers. The matter of jurisdiction remained unresolved at year's end.

The terrorist group Sendero Luminoso continued to commit acts of violence leading to the deaths of civilians as well as military and police officials. Sendero killed eight persons during the year: five members of the police, two ronderos (members of rural peasant self-defense forces), and a community leader in the Huallaga Valley.

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

Few members of the security forces were held accountable for their role in disappearances during the war against terrorism from 1980–2000, and impunity remained a problem.

In April, PNP Commander Juan Carlos Mejia Leon and PNP officers Antonio Lopez Trujillo, Atanulfo Zamora Garcia, and Victor Eduardo Marquino Alvarado were charged with the kidnapping of Ernesto Rafael Castillo Paez, a student who was detained by the PNP in October 1990 as a suspected terrorist and then disappeared. An investigation was pending at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice, security forces continued to torture and abuse persons. Abuse of individuals in police custody and inmates in prison by security forces continued to be a problem, as did torture and abuse of military recruits. Impunity was a problem, and the authorities that committed abuses seldom were held responsible.

Torture most often occurred immediately following arrest. Torture was common during police detention when families were prohibited from visiting suspects being held incommunicado and when attorneys had only limited access (see Section 1.d.). During the year, there were two cases of suspects dying following torture or beatings by security officials (see Section 1.a.).

In some cases, police and security forces threatened or harassed victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International (AI) and COMISEDH, several victims were too frightened to follow through with judicial proceedings against their abusers, who subsequently were released without being charged. COMISEDH reported 10 cases of aggravated torture by security forces, compared with 8 in 2002 and 36 in 2001.

On January 23, Lima police from the Apolo Police Station shot Carlos Danilo Echenique Quevedo in the abdomen as they were attempting to disperse a crowd. Police officers reportedly offered to settle with the victim out of court, paying him approximately \$300 (1,050 soles). The Ombudsman's Office was evaluating the case at year's end.

On February 1, prison guards at the Chimbote Prison in Ancash searched inmate Wilder Escobedo Contreras' cell for forbidden articles. Eight guards reportedly handcuffed him, and beat him severely, including stepping on his head. The prosecutor was conducting a preliminary investigation at year's end.

On April 16, Lima police detained John Paolo Alvino Ricalde on suspicion of robbery. Police stated that Alvino, an 18-year-old mentally disabled person, confessed to the crime, but COMISEDH alleged that Alvino had been beaten. The Ombudsman's Office was evaluating the case at year's end.

On May 12, prison guards at the Chimbote Prison in Ancash took inmate Richard Coronado Calderon from his cell, bashed his head to the ground, and kicked him in the ribs, allegedly for being too boisterous. The Prosecutor was conducting a preliminary investigation into the case at year's end.

On June 13, police officers from Piura detained six ronderos (community self-defense groups), who were allegedly accused of torture. Police reportedly transferred the ronderos to Chiclayo where they were subject to torture, including electrical shocks.

On September 24, in Challapalca Prison in Tacna, several guards allegedly took Miguel Angel Vela del Aguila, a prisoner serving a 20-year sentence for terrorism, from his cell and beat and tortured him for 2 days. He was held in the prison's hospital clinic for 8 days before being returned to his cell.

In January 2002, 20 police officers from the Cotabambas Police Station tortured 19-year-old Renzo Vega Hidalgo. Vega had resisted arrest, and police beat him with a stick; he lost an eye as a result. The prosecutor filed formal charges against the police officers based on serious injuries and abuse of authority. COMISEDH was following the case and asked that the accusation of torture be added. The case continued at year's end.

In August 2002, police officers in Callao arrested Omar de la Cruz for alleged involvement in a robbery. After giving his statement, several police allegedly tortured him using rubber batons. COMISEDH reported that the victim's family refused legal assistance due to fear of retaliation. During the year, the victim's family decided to drop the case.

In November 2002, police in Chaclacayo detained Jair Martin Rodriguez and his brother after a series of fights in and around their home. Six police officers allegedly beat Rodriguez when he resisted being put into a cell. Rodriguez required surgery to repair damage to a finger. The Prosecutor charged the police officers with torture, and the trial continued at year's end.

In March 2002, six prison guards at the Chimbote Prison in Ancash separated inmate Alfonso Valle Oquendo from other prisoners during a morning activity and beat him brutally. The prosecutor had not submitted a formal accusation of "abuse of authority" against the prison officials responsible. At year's end, the trial continued.

The Congressional Permanent Committee heard from a subcommittee that investigated the 2000 torture of journalist Fabian Salazar. The committee discovered that Salazar possessed incriminating materials that would have damaged then-President Fujimori's chances at reelection. Fujimori ordered the retrieval of the materials. Salazar was then tortured. The committee recommended that Fujimori be charged in this case.

NGOs and the Human Rights Ombudsman continued to receive complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem. There were four reported incidents in which military recruits died under suspicious circumstances (see Section 1.a.).

In January 2002, in Andahuaylas, a superior officer allegedly beat Freddy Cardenas Maucaylle in punishment for poor performance during a firing range exercise. The Ombudsman's Office was evaluating the case at year's end.

In July 2002, three superior officers allegedly drugged and sexually assaulted soldier Rolando Quispe Berrocal in an Ayacucho barracks. The three soldiers were charged with torture, and the trial went to criminal court. The officers responsible for the military headquarters also were accused of obstruction of justice. The Prosecutor's Office requested an extension to carry out further investigation at year's end.

In October 2002, in Piura, a superior officer allegedly kicked and beat soldier Noe Moises Canales Salazar unconscious after finding him sleeping during guard duty. Canales was released from military service, and the case was still pending in the Superior Court at year's end.

The authorities concluded an investigation in the 2001 case of Frank Alfredo Romero Arrieta, a military recruit who was beaten by officers and left with serious spinal cord damage that impeded his ability to walk; five officers were charged with torture. The case was pending at the Prosecutor's Office at year's end.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons committing offenses such as robbery, burglary, rape, and child molestation.

Conditions were poor to extremely harsh in all prison facilities. The National Prison Institute controlled most of the facilities. The National Police ran the largest prisons, such as Lurigancho and Miguel Castro Castro. Conditions were especially harsh in maximum-security facilities located at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Prison guards and fellow inmates routinely victimized prisoners.

There were no reports of security forces killing inmates during the year; however, human rights observers who monitored prison activity reported that torture and ill treatment of prisoners by security forces occurred. Corruption was a serious problem among poorly paid prison guards, many of whom engaged in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities did not supply adequate bedding and budgeted only approximately \$0.70 (2.70 soles) per prisoner per day for food, the families of prisoners typically had to provide for these basic needs.

Overcrowding and inadequate infrastructure hampered efforts to improve prison living conditions. The 81 prisons and detention facilities held approximately 29,000 prisoners at year's end. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7,000 prisoners lived in a facility built to accommodate 1,500. Inmates in all prisons had only intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels.

At year's end, 65 percent of all prisoners had not been sentenced (see Section 1.d.). Pretrial detainees were held together with convicted prisoners in most cases. Detainees held temporarily while awaiting arraignment in Lima were not provided with food. This temporary detention period lasted from a few hours up to 3 days. The detainees were not allowed outside for fresh air and had restricted access to bathrooms.

In the Women's Prison in Lima, approximately 80 percent of the prisoners were detainees who had not been sentenced. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violated international norms and standards, particularly as a result of its isolation and high altitude. Located at 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air had unavoidably detrimental effects on prisoner health. The prison could be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. Despite continued pressure from national and international human rights groups, Challapalca remained in operation.

Male and female prisoners were housed separately. In high-security prisons, female inmates were allowed to see their children once a week. In women's prisons, children 3 years of age and younger lived with their jailed mothers. There were also separate juvenile facilities, in which conditions were not as harsh as those in adult prisons.

The Government permitted prison visits by independent human rights observers, including the ICRC. Members of the Ombudsman's office visited the naval facility in Callao for the first time in 2000 and have continued since then. At year's end, the ICRC had made 84 unannounced visits to inmates in 37 different prisons, detention centers, and juvenile detention facilities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Judges must control the actions or detentions carried out by authorities, and only judges can authorize detentions, including in corruption cases. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Authorities are supposed to arraign arrested persons within 24 hours. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable. In the past, these statutes have been abused.

The PNP are responsible for all areas of law enforcement in the country. They function under the authority of the Minister of the Interior, a presidentially appointed cabinet-level position. The personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a hybrid of directorates that specialize in specific areas (kidnapping, counter-narcotics, terrorism, etc.) and local police units. While each department, province, city, and town has a PNP presence, size varied with the population of the given area and its level of criminal activity.

The PNP's effectiveness against common criminal activity was considered low. With the exception of some special units, the PNP had deficits in professionalism. Corruption, impunity, and abuse of detainees were problems (see Sections 1.a. and 1.c.).

Over the last year, the Interior Ministry and the PNP undertook reform efforts. In August, the PNP formed the Green Squad, a special unit to fight street crime. This unit carried out several high-profile, successful raids against clandestine brothels in the fall. Since 2002, the Ministry attempted to dismiss 189 police officers for bad performance, including, in some cases, alleged criminal activity. In October, the courts compelled the Ministry to reinstate the 189 officers, stating that dismissal

following previous administrative punishment constituted a form of double jeopardy. At year's end, the Ministry was considering modifications to rules that govern police discipline that would both ensure the constitutional rights of officers and also give the Ministry the flexibility to separate corrupt or even criminal police officials from the force.

In February, Congress passed a series of laws to address the problem of arbitrary detention and to enhance citizen security. One law regulates police powers during criminal investigations and states that police must report to the Public Ministry within 24 hours whenever a suspect is arrested when caught in a criminal act. The Public Ministry, in turn, must issue a report assessing the legality of the police actions. The police appeared to be reporting promptly to the Public Ministry; however, problems occurred because of delayed responses from the Ministry.

Police abuse of detainees was a problem; however, reports of such abuse declined during the year. Abuse usually took place at the police station just after the arrest, while the detainee was held incommunicado (see Section 1.c.). A 2000 law allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment. The law also permits authorities to prohibit suspects under investigation for corruption from traveling abroad. Police may detain terrorist suspects for a maximum of 15 days and hold them incommunicado for the first 10 days.

During the year, the specialized terrorism chamber of the Superior Court nullified all cases dealing with terrorism and treason, including military tribunal cases. New case proceedings were initiated by this chamber in accordance with decisions of the Inter-American Court of Human Rights and of the Constitutional Tribunal. The crime of treason no longer exists. Among the prisoners affected by this ruling was Sendero Luminoso leader Abimael Guzman. Guzman's conviction to a life sentence by a military tribunal in 1992 was overturned in March. That same month, Pablo Talavera, president of the Anti-Terrorist Superior Court, announced that Guzman would receive a new trial in a civilian court scheduled for 2004.

Many detention orders remained pending against approximately 4,000 persons allegedly forced to join terrorist groups; however, in May 2001, Congress passed a law that allowed the detention orders to be changed to summonses to appear in court if requested by the person named in the order. Legal experts and NGOs reported that the law was not effective, and fewer than 50 individuals had appeared before the court to make the request, reportedly because they were distrustful of the judicial process and feared arrest. The TRC recommended providing legal assistance to those people against whom erroneous detention orders are pending. The judiciary acknowledged this situation, but lacked resources to launch a program. The Institute of Legal Defense initiated a study of these cases. It reviewed almost 4,411 cases in coordination with the ICRC and the specialized terrorism chamber of the Superior Court of Lima. It recommended the removal of these persons from the list because they were already detained, had multiple orders of arrest issued against them, or had already been pardoned.

The prison system continued to be plagued by sentencing delays, which the Government sought to address. At year's end, according to National Penitentiary Institute (INPE) statistics, approximately 35 percent of a total prison population of approximately 29,000 was sentenced. During the year, the Ministry of Justice appointed more public defenders to provide legal counsel to inmates in six penitentiary centers located in Lima, Trujillo, Huanuco, Ayacucho, and Ucayali. The number of lawyers available to 7,000 inmates at Lurigancho prison, for example, was increased from 3 to 22. In September, the Executive Council of the Judiciary issued a resolution that provides for 14 administrative measures to be adopted by judges nationwide in handling penal cases. These measures, which provide for the use of oral proceedings, were aimed at improving the efficiency of case handling and streamlining procedures. Finally, a program to assist the judiciary in reducing the case backlog and developing an inventory of the pending cases was expected to focus on those courts that handle cases involving inmates without sentences.

According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averaged between 26 and 36 months, during which time suspects remained in detention. Once trials concluded, prisoners often had to wait long periods before being sentenced.

Many individuals associated with the Fujimori administration were the targets of criminal investigations. Anticorruption legislation enacted in 2000 gave judicial authorities expanded powers. Many of those detained under these laws complained that the cases against them were politically motivated. Government sources replied that, given the scale of the scandals of the Fujimori era, the Government had no choice but to create new prosecutor and judge positions dedicated to those cases. At the same time, the investigations carried out followed the same rules as any other.

Defendants had full access to attorneys, and the investigations against them followed all the norms of due process.

The Constitution does not permit forced exile, and the Government did not use it in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, as an institution, the judiciary was still recovering from the effects of 8 years (1992–2000) of intensive manipulation by the executive branch under the Fujimori administration. The judiciary operated independently of the executive, although President Toledo expressed strong concern about judicial decisions dismissing charges of human rights violations and corruption against members of the former Fujimori government. Congress, the media, and the public criticized judges for controversial decisions, including those favoring members of the previous government. Polls consistently showed that the judiciary enjoyed the least public confidence of any governmental institutions; corruption and inefficiency were major public concerns.

The 4-tier court structure consists of lower and superior courts, a Supreme Court of 30 judges, and a Constitutional Tribunal of 7 members. In 2000, Congress restored the powers of the independent National Magistrates Council (CNM) to appoint, discipline, and evaluate all judges and prosecutors who have served in their position for 7 years or more. Failure to be certified disqualified a judge or prosecutor from ever working in that capacity again. Several of the more than 100 judicial officials failing to gain certification filed complaints with the IACHR that this certification process was unfair. In October, the IACHR held a hearing during which the Government argued that the certification process was fair, while the National Human Rights Coordinating Group, an umbrella group of human rights organizations, took the opposite view. Subsequently, the Constitutional Court found against the litigants, stating that the process had been fair.

Judicial reform continued to be a priority of the Government. President Toledo expressed strong concerns about the pace and results of the modernization process initiated by the judiciary; no tangible results were felt by the public.

In October 2002, Congress created a Special Commission for the Integral Reform of the Administration of Justice. Its members include the Attorney General, the president of the National Council of the Judiciary, a representative of the Constitutional Tribunal, the president of the Judicial Academy, the Minister of Justice, the Ombudsman, two representatives of the Justice and Human Rights Commission of Congress, and five representatives of those civil institutions that are participating in the National Accord. The Commission was supposed to submit a national plan for the integral reform of the judiciary within 180 days of its installation.

Under former President Fujimori, the executive branch pressured provisional judges and prosecutors, as their employment contracts could be canceled without cause. Subsequent investigations showed that former intelligence advisor Montesinos improperly influenced numerous judges. The majority of officials so implicated either resigned or were suspended. During the year, the CNM worked to address this problem and it carried out over five reviews of judges and prosecutors. As a consequence, the number of provisional judges and prosecutors was reduced to 45 percent, and the percentage of provisional prosecutors fell to 53.2 percent.

The justice system is based on the Napoleonic Code. In civilian courts, criminal cases moved through three distinct phases. First, a prosecutor investigated cases and submitted an opinion to a first instance judge, who determined whether there was sufficient evidence to open legal proceedings. If there was, the judge conducted an investigation and, in over 90 percent of cases, determined facts, guilt or innocence, and issued a sentence. In some cases, particularly those involving violence or public officials, the law requires that the first instance judge pass the results of the investigation to the superior court for an oral trial before a three-judge panel. Anyone convicted and sentenced by a first instance judge may appeal to the Superior Court up to the Supreme Court. All defendants had the right to be present at their trial. Defendants also had the right to counsel, although the public defender system often failed to provide indigent defendants with qualified attorneys.

There was a presumption of innocence, defendants could call witnesses, and there was a system of bail. Attorneys had unimpeded access to their clients.

Under the military justice system, judges in the lower courts had the power to sentence and were required to pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training. Although mili-

tary judges no longer try civilians, Human Rights NGOs, the Ombudsman, and the TRC all called for military justice reform.

When it resumed its mandate in 2000, one of the first acts of the Constitutional Tribunal was to remove jurisdiction over civilians accused of terrorism by military courts. By 2001, civilian courts were processing the cases of 152 of the approximately 600 civilians tried in military courts under the aggravated terrorism law, which equates terrorism with treason. On January 3, the Constitutional Tribunal ruled that many of the provisions of the anti-terrorism decree laws promulgated by former President Fujimori and used as the legal basis for convicting and sentencing to lengthy prison terms Sendero Luminoso and MRTA terrorists were unconstitutional. While convicted terrorists were not to be released as a result of this decision, approximately 900 became eligible for new trials in civilian criminal courts. The Constitutional Tribunal's ruling gave the Government "a reasonable period of time" to elaborate mechanisms for these new trials. In February, President Toledo decreed a new law that elaborated procedures to be followed in the new trials. One main provision was that evidence legally gathered in the old trial proceedings could be used in the new trials. On March 7, President Pablo Talavera of the special terrorism chamber of the Superior Court announced that there were 2,500 terrorism cases that would have to be reviewed because those convicted had been sentenced by "faceless judges." At year's end, 1,139 such cases remained to be examined.

In late 2000, the Government established a new Pardons Commission, which released 32 persons from prison during the year. NGOs advocated that the new Commission expand its review to include all convictions and sentences rendered by military courts. During the year, the Commission studied approximately 150 cases. At year's end, the Commission had reviewed 60 cases, another 60 were sent back to the judiciary for a new trial, and 30 were pending review.

In June 2001, a civilian court found U.S. citizen Lori Berenson guilty of collaboration with the MRTA terrorist group and sentenced her to 20 years in prison. Berenson's appeal to the Supreme Court was unsuccessful, but the IACHR determined that Berenson had not been given a fair trial. In July 2002, the Government took the matter to the Inter-American Court. There was no indication when the Court might rule on the appeal.

In 2001, the Inter-American Court provided the Ministry of Justice a clarification of its 1999 ruling that two 1995 amnesty laws were incompatible with the American Convention on Human Rights. These exempted military officials from prosecution and were used to protect officers accused of the 1991 Barrios Altos massacre. Former intelligence adviser Montesinos faced more than 60 trials. In March, Montesinos was found guilty of influence peddling and sentenced to 5 years in prison. Montesinos still faced other more serious charges, including money laundering, corruption, human rights abuses, and murder. In addition to Montesinos, the Government planned to bring other members of the security forces to justice in other human rights abuse cases (see Section 1.a.).

In June 1999, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants due process rights and ruled that a civilian court should have had jurisdiction. In May 2001, the Supreme Council of the Military Court invalidated an earlier military court decision against providing new trials and ordered new, civilian trials for the four Chileans. On September 2, the specialized terrorism chamber of the Superior Court sentenced all four to prison terms of between 15 and 23 years.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with or serving sentences for terrorism were not considered to be political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution requires security forces to have a written judicial warrant to enter a private dwelling; however, there were reports that the authorities did not always observe this requirement in practice.

The Constitution provides for privacy of communication. There were few complaints that the Government violated this right.

There was no progress in the case of former army intelligence (SIE) agent Luisa Margarita Zanatta Muedas, who fled the country in 1998 after allegedly providing information regarding SIE wiretapping operations. She was charged with disobedience and being absent without permission. In 1999, the Human Rights Ombudsman recommended that the Government pardon Zanatta, that the Public Ministry investigate the wiretapping, and that Congress broaden the investigation conducted by its committee on defense. Zanatta's case was still under investigation and scheduled to be tried in a military court at year's end.

In April 2002, Congress passed a new wiretapping law that expanded the scope of officials who are authorized to request wiretapping permits to the attorney general, district attorneys, and case prosecutors. A judge must approve each request. The Government contended that the new law should aid in fighting organized crime, but opponents protested that it lends itself to civil rights violations (see Section 2.a.).

A 2000 law makes military service voluntary and prohibits forced conscription. Registration for military service remains obligatory for men aged 18 and older. The President retains the authority to decree the reestablishment of mandatory service. Since past efforts to prohibit forced conscription failed, the Human Rights Ombudsman monitored the law's implementation. As of October 2002, the Ombudsman's office had received eight complaints of forced conscription.

There were also reports that some young men from poor, rural areas were taken into military service when they went to register; they were unaware that military service was no longer mandatory. Also, in some rural areas, families reported to human rights NGOs that their sons were taken into the military before they turned 18. According to NGOs, the military explained this by saying that young men who were eager to join their ranks sometimes lied about their age.

There were no reports of forced conscription by the MRTA (most of whose surviving members were jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (see Section 5).

Acting on allegations that more than 300,000 women were forcibly sterilized between 1995 and 2000 under the Fujimori administration, in October 2001, Congress directed the Commission on Health to investigate the voluntary surgical sterilization program. Earlier investigations of the allegations found that primarily during 1996–97, health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or other goods or services, or by not providing them with complete information about available alternatives. The IACHR took up the cases of 200 women sterilized under the Fujimori-era program and recommended that they receive compensation. On August 26, the Government made the first such payment to the family of a woman, Maria Mamerita Mestanza Chavez, who died in 1998 during a sterilization procedure. Mestanza's husband and seven children received \$10,000 (35,000 soles) each and a promise that those who had induced her to undergo her fatal sterilization would be investigated and, if appropriate, prosecuted. Other such cases were being considered at year's end.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, some problems remained. During the year, the Government generally tolerated criticism and did not seek to restrict press freedoms. There were, however, accusations of harassment, attacks on journalists, and threats of judicial sanctions. Alleged harassment came from a variety of sources, including the Government, political activists, and cocalero groups.

The press represented a wide spectrum of opinions, including those in favor of and in opposition to the Government. In the greater Lima area, there were 25 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There were numerous small provincial newspapers, television and radio stations. All were privately owned except for one government-owned daily newspaper, one government-owned television network, and two government-owned radio stations, none of which enjoyed a particularly large audience, although the television network covered the nation.

Several media executives remained jailed pending sentencing for corruption charges stemming from media manipulation during the Fujimori regime.

On December 12, Chief Prosecutor Pablo Sanchez requested that Samuel and Mendel Winter (two minority shareholders of TV Channel 2) receive 6 years in prison and that Francisco and Jose Crousillat (Channel 4) receive 8 years. At the end of the year, the anti-corruption judges were considering whether or not to apply these punishments.

Although citizenship was restored to Channel 2 majority shareholder Baruch Ivcher, and a Government-named arbitration tribunal had been created to offer him compensation for the violation of his rights to nationality, ownership, due process, and freedom of expression, at year's end, no compensation had been paid.

On December 11, a court in Lima opened a new case against Ivcher. He was accused of having altered the financial records for Channel 2 to benefit one of his daughters. At year's end, Ivcher's lawyer was protesting the action to the Inter-

American Court. The court in Lima argued that while other accusations against Ivcher had been dropped, the financial case against him remained.

In February, a judge in San Francisco, Ayacucho, ordered the arrest of Nelson Palomino for "defense of terrorism," abduction, disturbing the peace, damaging public property, and organizing a group for the purpose of disturbing public order. Palomino, a coca grower leader and the owner of Kimbiri's "Double A" radio station in Cusco, advocated violent resistance to the eradication of illegal coca.

On January 28, the Superior Court of Callao freed Eduardo Calmell, the former director of *Expreso*. Callao subsequently fled the country. The corruption case against him continued in his absence.

On February 25, a Lima justice of peace granted Genaro Delgado the administration of TV Channel 5, suspending the share rights of Ernesto Schutz Sr. Schutz was a fugitive in Argentina pending extradition to Peru on corruption charges relating to manipulation of the media during the Fujimori Government. Throughout the year, Delgado sought to regain control of Channel 5 through the courts, arguing that he was the majority stockholder and the judicial administrator. After contradictory judicial resolutions, Delgado regained control of Channel 5 in August, although Schutz controlled some of the station's facilities. The followers of both sides clashed occasionally, as one side tried to dislodge the other, causing the police to deploy. Schutz's case remained pending in court at year's end.

On May 8, the Criminal Section of the Supreme Court issued two resolutions in response to complaints from Alex and Moises Wolfenson, the publishers of pro-Fujimori tabloid *El Chino* and of opposition daily *La Razon*, who had been under house arrest on corruption charges since May 2002. These resolutions allowed the detainees to work from their homes, though they remained under house arrest.

On May 27, the Anti-Corruption Superior Court fined *Gente* magazine publisher Enrique Escardo \$4,000 (14,000 soles) for his links with Fujimori's corruption network. In September, the court admitted a district attorney's request to try the *Gente* publisher for taking bribes from Montesinos and, in return, offering public support for the Fujimori government's 1996 decision to withdraw Baruch Ivcher's citizenship.

On June 25, the daughter of Nestor Puicon, the director of news program "Radio News" at Huancayo's Señorial radio station, was kidnapped. During the negotiations for her release, Puicon was told to stop criticizing the local government administration.

On July 23, Eduardo Bruce, head of the Peruvian Radio and Television Institute, the entity that administers the state media, suspended reporter David Barturen from reporting from Congress for using inappropriate language. Barturen was a reporter with government-owned TV Channel 7. He had recently published an interview in which a pro-government Congressman publicly contradicted another Congressman.

On August 18, Cesar Hildebrandt, the director of TV Channel 2's program "In the Wolf's Mouth," disseminated a clandestine, recorded audio of a private telephone conversation of President Toledo with one of his advisors. On August 19, Toledo threatened judicial procedures against those who had disseminated the tape. No subsequent action had been taken against any member of the press over this case at year's end.

On September 6, Marco Antonio Vasquez and Diego Fernandez-Stoll, reporters with Channel 2's Sunday political program "The Indiscreet Window," were detained for 3 hours for filming the Attorney General's birthday party in a public restaurant, where the reporters entered with an invitation. Their film was seized.

On September 14, journalist Cecilia Valenzuela reported that the Chief of the National Intelligence Council (CNI), Admiral Alfonso Panizo, had put into effect a plan to surveil journalists working on television program "The Indiscreet Window." On September 16, Panizo admitted that the journalists had been monitored and met with the Peruvian National Press Council to discuss the problem. The council rejected Panizo's explanations, saying that his actions had set a potentially harmful precedent. Panizo was forced to resign his post on September 17, and President Toledo announced that the CNI would be reorganized in the wake of the scandal.

On October 24, the Ministry of Transportation and Communications suspended the concession of Antarctica Investments, the company that managed Mundovision (cable channel 75), which broadcast a program by television journalist Nicolas Lucar. Mundovision representatives claimed that the Government was punishing Lucar and Mundovision for Lucar's role in reporting the story of President Toledo's illegitimate daughter. The Ministry replied that the decision was a technical one, that Antarctica had not filed the proper documents for its concession, but that it could reapply.



On December 12, journalist Rosa Maria Palacios announced that a security firm she hired had found a listening device attached to the telephone line in front of her house. At year's end, the source of the device still had not been determined. On December 18, the prosecutor in Lima opened a preliminary investigation against those who planted the listening equipment outside Palacios' residence.

On December 14, in Chimbote in Ancash, three militants from the American Popular Revolutionary Alliance (APRA) party abused reporter Edwin Azana Alejos from Channel 31. At the time, Alejos was covering internal APRA elections in Ancash.

In October, Vicente Silva, the chairman of TV Channel 10, was released, having been accused of acting as the intermediary for Vladimiro Montesinos in the latter's attempt to purchase Channel 10 for the Ministry of Defense. At year's end, several television executives were fugitives from justice, including the former major shareholder and the chairman of TV Channel 4, Jose Enrique and Jose Francisco Crousillat, the major shareholder of TV Channel 5, Ernesto Schutz, and the chairman of the board of Channel 9, Julio Vera.

One reporter, Juan de la Matta, accused of terrorism by the Fujimori government, was still in prison at year's end. Another reporter jailed on similar charges, Javier Tuamana, had his sentence commuted by a judge and was released in December 2002.

Some journalists and media outlets were reportedly intimidated during the year. According to the National Journalists Association, there were 42 cases of harassment of journalists during the year, compared with 78 in 2002. The majority of these incidents took the form of threats of violence; threats of judicial proceedings; and charges of slander from local politicians, police, military officials, or businessmen. A variety of sources, including local officials, coca producers (cocaleros), and unknown parties, were responsible for the incidents.

The Government did not formally censor the media, books, publications, films, or plays.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the authorities generally respected this right in practice. The police used tear gas and occasionally force to disperse protesters in various demonstrations during the year. The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (Prefect) about the kind of demonstration and its location. Demonstrations could be prohibited for reasons of public safety or health. Municipal authorities routinely granted permission for demonstrations.

Although most demonstrations were peaceful during the year, protests in Ayacucho, Aguatia, and other areas turned violent.

On February 24, in Aguatia, police used tear gas to control a violent protest by cocaleros; 40 protesters were injured during the clash with police, and 15 were arrested. There were similar protests in other coca growing areas to pressure the Government to end coca eradication programs. On April 8, 20 farmers and 4 police officers were injured in Ayacucho during a confrontation between the 2 groups. Police used tear gas to disperse the crowd of approximately 300 cocaleros, who blocked roads and threw stones at buses, injuring passengers.

On November 20, police used force and tear gas to break up a demonstration in front of the Palace of Government by approximately 150 adolescents and children, who worked as bootblacks and sold items on the street. Four organizations representing the youth workers called for the protest to mark the anniversary of the U.N. Declaration of the Rights of the Child. Police sources said that the protest took place in a restricted area in the historical center of Lima and that the protestors became violent. NGO representatives and press accounts said police attacked the crowd and used excessive force in breaking up the demonstration, causing injuries to a number of participants.

During the year, there were frequent protests by workers asking for higher wages and by disgruntled citizens pressing for various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, and the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters. Police arrested some protesters during the year for violent or destructive offenses.

The Constitution provides for freedom of association, and the authorities generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church received preferential treatment from the State. The Constitution establishes the

separation of church and state, but also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The Catholic Church and Catholic clergy received extra benefits from the State in education, taxation of personal income, remuneration, and taxation of institutional property. Teaching about Roman Catholicism in primary and secondary schools was mandatory. By law, the military could hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths were free to establish places of worship, train clergy, and proselytize. Religious denominations or churches were not required to register with the Government or apply for a license. Conversion from one religion to another was allowed, and missionaries could enter the country and proselytize.

The Freedom of Conscience Institute (PROLIBCO), an NGO that favored strict separation between church and state and opposed the preferential treatment accorded to the Catholic Church, claimed that the Government discriminated against non-Catholic groups by requiring payment of import duties and a sales tax on Bibles brought into the country. In 2001, members of the Jehovah's Witnesses complained that the Government denied them tax exemption for imported Bibles and other religious educational material. In August 2002, a superior court upheld a May 2002 temporary suspension of the surety fees, and the Jehovah's Witnesses did not report any further problems.

During the year, the Ministry of Justice established an Office of Ecclesiastical Affairs designed to be a link between the Ministry and the religious hierarchies of all faiths. Churches were asked to register voluntarily with the Ministry so they could receive tax benefits and exemption from import duties on religious materials. Representatives of PROLIBCO complained, however, that the criteria used for official recognition effectively discriminated against smaller or more recently developing denominations, as well as against indigenous religious beliefs.

The Ministry of Education required Catholic religion courses in all primary schools, public and private. Parents who did not wish their children to participate in the mandatory religion classes had to request an exemption in writing to the school principal. PROLIBCO objected to the requirement to teach the Catholic religion in the public school curriculum, maintaining that this de facto separation of non-Catholic children from their peers was discriminatory against children who could not participate in the full range of school activities. It claimed that the alternatives available to non-Catholic parents violated the constitutional protection of privacy and confidentiality of one's convictions and beliefs. Non-Catholics who wished their children to receive a religious education in their own faith were free to organize such classes at their own expense, during the weekly hour allotted by the school for religious education, but had to supply their own teacher.

PROLIBCO also objected to the favored place that the Catholic Church enjoys in both the Police and the Armed Forces. PROLIBCO supports constitutional change that would eliminate references to the Catholic Church.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police could check travelers at control points throughout the country. There were no other political or legal constraints on foreign travel or emigration. Repatriates, both voluntary and involuntary, were not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

Sendero Luminoso occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley and the Apurimac and Ene River Valleys.

The law, which was updated in December 2002, provides for the granting of status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution at home and sought asylum abroad.

As of September 30, the Catholic Migration Commission reported that 106 individuals had requested asylum or refugee status. There were another 78 persons who

arrived in the country after 2000 who were still waiting to have their refugee cases decided at year's end.

The Government did not grant asylum status to new arrivals because the Special Commission for Refugees in the Foreign Ministry had not examined cases because it was awaiting the writing of regulations for the new Refugee Law. At year's end, there were 814 refugees in the country.

Refugees can live, work, study, and exercise all fundamental rights limited only by the restrictions levied on all foreigners. Within the country, they are legally protected from reprisals. There were no acts of discrimination recorded against them. If they commit a crime, refugees receive due process. Refugees can apply to change their immigrant status, should they so desire.

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

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right through free and fair elections.

In 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office.

In July 2001, President Alejandro Toledo assumed the presidency following a peaceful transfer of power through generally free and fair national elections held in April and June 2001. Voting was by secret ballot and mandatory for citizens between the ages of 18 and 70; however, members of the armed forces and the police, as well as felons, were ineligible to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

In 2000, the 120-member Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide better geographic representation. At year's end, the party breakdown in Congress was Peru Posible, 41 seats; APRA, 28 seats; Independent Moralizing Front (FIM), 10 seats; We are Peru/Popular Action/Union for Peru, 10 seats; Democratic Independent Group, 7 seats; Peru Now, 6 seats; unaffiliated, 4 seats; in addition, two members had been suspended. The length of a term in Congress is 5 years. The legislature functioned independently from the executive.

The Constitution establishes three bodies to administer elections: The National Board of Elections (JNE); the National Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers elections and the RENIEC issues election identity documents.

In 2001, the Judicial Branch reopened the investigation into the falsification of over 1 million voter signatures that occurred during the 2000 elections. The authorities brought charges against Jose Portillo, former chief of ONPE, for election fraud in relation to the falsified signatures. Portillo remained under house arrest, and an investigation was underway at year's end.

The 2001 modified election law established that the percentage of signatures required for the registration of a new political party was 1 percent of the voters who participated in the past election. The law prohibits reelection of a president.

In 2002, Congress voted to suspend Congresswoman Martha Chavez following allegations of corruption. She was a member of Fujimori's Cambio 90 party. Although not removed from Congress, Chavez was barred from participation in congressional activities. Her immunity from judicial proceedings was lifted as a result of the vote, and a trial was pending at year's end.

Women and some minorities participated actively in government and politics. A 2000 law states that at least 30 percent of each party's ballot for congressional elections, and at least 25 percent of candidates for municipal elections, must be from each sex. There were 21 women in the 120-member Congress. At year's end, there was one woman serving in the Cabinet, the Attorney General was a woman, and there was one woman on the Supreme Court.

Traditionally, an elite minority of European descent held most leadership positions in government. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. It was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. Congress had one self-declared indigenous member: Paulina Arpasi of the Peru Posible party.

The Afro-Peruvian minority, unofficially estimated to be 3 to 5 percent of the total population, was not represented in the leadership of the executive branch of government.

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

The Government permitted numerous NGOs dedicated to monitoring and advancing human rights to operate freely; unlike in previous years, these groups reported no harassment or other attempts by the authorities to hinder their operations.

Most human rights NGOs were independent and generally objective. The National Coordinator for Human Rights (Coordinadora) was an umbrella organization for more than 60 human rights NGOs. The Coordinadora sought to avoid politicizing its positions on human rights issues, although its constituent members could do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operated independently or on the margins of the Coordinadora.

The human rights community reported that the Toledo administration continued to work toward strengthening government-civil society relations. Toledo named former human rights advocate Gino Costa as Minister of Interior in July 2002. Several other high level officials at the Ministry of Interior had strong human rights backgrounds. Unlike in previous years, government officials did not accuse NGOs of being overprotective of criminals and terrorists to the detriment of victims. There were some government complaints that the IACHR was overprotective of terrorists.

According to COMISEDH, military commanders did not grant access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the Ombudsman's office.

The Office of the Human Rights Ombudsman received funds from the Government and foreign governments and was considered an independent and effective institution. Congress votes to select the Ombudsman, who must receive at least a two-thirds majority of votes and serves a 5-year term. The Ombudsman's office had investigative independence and the ability to inform the public of its conclusions and recommendations. However, the office had no enforcement mechanism other than moral suasion. The Ombudsman's office issued reports throughout the year on a variety of issues and an annual report on the overall human rights situation.

During the year, the periodic special reports covered the following themes: human rights abuses during the state of emergency, the need to provide "morning after" pills in state health clinics to assure poor women access to family planning, the interest payments that citizens had to pay along with late electric bills, the difficult conditions in Challapalca prison, and the right of children conceived outside marriage to use their presumed father's last name when registering for school.

At year's end, there was an interim Ombudsman. While Congress remained unable to select a new permanent Ombudsman, the interim Ombudsman performed well, according to members of the human rights community. The Ombudsman's office actively investigated cases of alleged government abuse.

On August 28, the TRC made its final report to the Government. The report stated that approximately 69,000 persons—the majority of them ethnically Indian inhabitants of rural areas—had died during the political violence that shook the country from 1980 to 2000. The TRC said that social divisions and a history of exclusion had rendered the society vulnerable to a terrorist group like Sendero Luminoso, which it said bore overwhelming responsibility for the armed conflict of 1980–2000. The TRC found that Sendero had carried out the majority of political killings that took place during this period.

At the same time, the TRC criticized the administrations of Fernando Belaunde and Alan Garcia for their failure to exercise political control over the military. Further, it said that the military initially adopted a costly and ineffective "scorched earth" counterinsurgency campaign against Sendero that produced significant human rights abuses. The TRC distinguished, however, between the systematic abuses of human rights carried out by Sendero—abuses that were part and parcel with the group's extremist ideology—and the violations of military norms practiced by some individual military commanders. The TRC also criticized the Fujimori government for organizing military death squads (such as the Colina group) and directing them to kill both MRTA and Sendero Luminoso terrorists.

The TRC pushed the Government to reopen investigations into key legal cases, most notably the operations to free hostages at the Japanese Ambassador's residence and the case of the massacre at El Fronton prison in 1986. The TRC turned over to the Public Ministry the names of those it believed committed prosecutable human rights violations. At year's end, the Public Ministry was investigating these cases for possible prosecution. Finally, the TRC urged the Government to adopt policies of "reconciliation" that would help heal the social and cultural divides—between rich and poor, between more ethnically European and more ethnically indigenous citizens—that had rendered the country vulnerable to a group like Sendero Luminoso.

On November 21, President Toledo outlined a series of government programs to aid regions most affected by the 1980–2000 violence and to help victims, as part of a “Peace and Development Plan.” The President also offered a series of benefits to victims of the violence, including indigenous persons, military and police, and their families in the form of educational support, psychological counseling, and free housing. Victims would register to receive this support. Toledo did not, however, offer individual financial reparations, as the TRC had advocated.

*Section 5. Discrimination Based On Race, Sex, Disability, Language, Or Social Status*

The Constitution provides for equal rights for all citizens and specifically prohibits discrimination based on ethnic origin, race, sex, language, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted, although progress was made in a number of areas.

On April 22, the Front for the Right to be Different, a gay rights group, began a campaign to amend the Constitution so that it would forbid discrimination against people for their sexual orientation. Homosexuals faced strong discrimination, and most preferred to remain anonymous for fear of social sanctions from their families and by society in general.

*Women.*—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls was a chronic problem. Such abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims. A National Institute of Statistics and Information (INEI) survey reported that during 2000, 34 percent of women were battered by their partner, and that 19 percent of those women were battered frequently. The survey reported that close to 43 percent of poor women were battered.

The Ministry of Women and Social Development (MIMDES) and NGOs stated that many domestic abuse cases were never reported. Although official figures for the number of arrests and convictions in abuse cases were unavailable, NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint. In addition, legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family’s home; authorizes the victim’s relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. In 2000, Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory reconciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victims’ needs. In 2001, Congress approved a law that states that reconciliation sessions between the abuser and victim are not required in cases of domestic violence. A 2000 law expanded the definition of domestic violence to include sexual violence, and to include all intimate partners whether or not the victim and perpetrator had ever lived together.

MIMDES ran the Women’s Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. Aid is provided free of charge. At year’s end, MIMDES operated 38 centers staffed by both women and men, bringing together representatives of various government institutions—police, prosecutors, counselors, and public welfare agents—charged with helping victims of domestic violence. These centers had assisted 28,048 victims (including men as well as women) by year’s end. The monthly average of reported abuse cases was approximately 2,500. MIMDES continued its public education campaign to sensitize government employees and the public to domestic violence. With NGO assistance, MIMDES educated police about domestic violence and trained officers in all police stations as to how to process domestic violence cases. The Ombudsman’s office continued to complain that officers reacted indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints.

According to the Ombudsman, many rape victims complained that court-appointed medical examiners inappropriately delved into their sexual histories. The victims accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. Many victims were afraid to personally file a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal for women over 18 years of age, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimps.

Sexual harassment was a problem, according to the Ombudsman's office. The law against sexual harassment does not provide for sanctions or sentencing but does give victims of sexual abuse the right to abandon their job and subsequently sue their abuser. Women's rights advocates contended that the law was completely ineffective, noting that it had never been applied in court. In October 2002, the Congressional Commission for Women and Social Development approved a bill that would prohibit sexual harassment in the public sector (military, police, etc.) and punish the offense. On February 27, Congress passed the Law for the Prevention and Punishment of Sexual Harassment, and on November 26, its regulations were published in official daily *El Peruano*.

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited; however, they continued to occur in practice. The law prohibits the arbitrary firing of pregnant women. In December, the Congressional Commission on Justice and Human Rights began work on a Law of Equal Opportunity that would provide further protections for the rights of women.

Traditional assumptions and misconceptions often impeded access by women to leadership roles in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

*Children.*—The Government provides free, compulsory education through secondary school. Education was generally available throughout the country, but there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books posed problems for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attend school. Approximately 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never attended school or abandoned their education. School non-attendance was highest in rural and jungle areas and affected girls more than boys. Pregnant school-age girls had the right to begin or continue attending school.

According to government figures, more than 90 percent of children were enrolled in primary school in Lima and more than 80 percent in secondary school. Approximately half of the students who went to primary school continued on to complete high school. In some remote areas of the country, fewer than 60 percent of children attend school.

An INEI survey conducted during the year estimated that nearly 60 percent of the country's 10 million children under 18 years of age lived in poverty; of them, approximately 20 percent lived in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 33 per 1,000 in the year 2000 and 34.1 for 2002. According to INEI, approximately 76 percent of children not living in poverty attended school through the high-school level, whereas only 51 percent of children living in poverty reached high school. Children living in poverty averaged only 7.8 years of education compared to 9.4 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attained university-level education, compared with 15.4 percent of children who lived above the poverty line.

MIMDES's Children's Bureau coordinated child and adolescent related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices were binding legally and had the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children were serious problems. In 2000, the Municipal Ombudsman's Office for Children and Adolescents for Lima and Callao documented 586 sexual assaults against children 5 years of age and

under; 2,937 against children aged 6 to 12; and 5,935 against children aged 13 to 17.

The report confirmed that 70 percent of the assaults occurred in the home by a relative or someone known to the victim and the victim's family. According to NGOs, many abuse cases were never reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. In December, the Minister of Education announced that he was separating 180 teachers from their jobs for sexual harassment of students over the last 3 years. This arose largely as the result of the demands of parents who had protested outside certain schools. The Women's Emergency Program also worked to address the problems facing children who were victims of violence.

The law prohibits sexual abuse of minors, and police enforced such laws; however, there continued to be reports of child prostitution. In May, in Trujillo, a couple was arrested for filming children for the purposes of exporting sex videos to Europe. In October, a young woman was rescued from a clandestine brothel in Trujillo, a highly publicized case that focused public attention on underage prostitution and trafficking in persons (Section 6.f.).

Child labor was a serious problem (see Section 6.d.).

The National Initiative on the Rights of the Child was the largest NGO of its kind and coordinated the work of 27 groups concerned with the problems of children throughout the country.

*Persons with Disabilities.*—The Constitution provides that persons with disabilities have “the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security.” Legislation that established the National Council for the Integration of People with Disabilities (CONADIS) specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office.

In March, the Government initiated a campaign whereby the disabled could register themselves and receive benefits, including merit points for obtaining government contracts, price breaks for cultural activities, and exonerations from certain taxes. The Government also announced the formation of the Biomechanical Aid Bank, a mechanism for helping the disabled who were poor to afford wheelchairs and other compensatory devices to improve their mobility. While the campaign was well intentioned and did focus more attention on the disabled, in overall practice, the Government devoted little attention and resources to persons with disabilities. Many such individuals remained economically and socially marginalized. Many poor persons with disabilities in Lima lived by begging in the streets.

The 1993 census counted 288,526 persons with disabilities, or 1.3 percent of the population; however, in 2001, the Ministry of Health and the Pan American Health Organization estimated that the actual number of persons with disabilities could be as high as 3 million, or 13.8 percent of the population. CONADIS estimated that between 10 and 13 percent of the population was disabled.

Although the law prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recorded versions of the Constitution, which would facilitate the participation of persons with disabilities in the basic processes of democracy and citizenship.

During the year, the MIMDES completed a study of access issues for persons with disabilities in 235 public buildings in Lima and Callao. The MIMDES study found that, while some buildings had ramps, bathrooms and other features were “a torture” for those with disabilities. On October 23, MIMDES, in conjunction with Federico Villareal University and the Ministry of Housing, opened a campaign called “Friendly Structures” that was dedicated to finding resources to improve this situation.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Among those who did, many were channeled into occupations traditionally assumed to be “suitable” for persons with disabilities, such as telephone switchboard operation and massage, in the case of the blind. Some private companies initiated programs to hire and train persons with

disabilities, and a private foundation provided small loans to persons with disabilities to start up businesses. Nevertheless, such persons faced discrimination by potential employers.

*Indigenous People.*—The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous persons faced pervasive societal discrimination and social prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the 1993 Constitution and subsequent implementing legislation are less explicit about the inalienability and non-marketability of native lands than earlier legislation. Pervasive discrimination and social prejudice intensified feelings of inferiority and second-class citizenship. Many indigenous persons lacked basic documents such as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Other factors also contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and participation of indigenous people in society. Indigenous rights groups also complained that indigenous persons in rural areas did not have adequate access to public services, particularly health and education.

The native population of the Amazon region, estimated at between 200,000 and 300,000 persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands are no longer prohibited.

Indigenous groups continued to resist encroachment on their native lands by oil exploration and drilling interests. Many indigenous persons did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the State; this problem led to conflicts between mining interests and indigenous communities. Indigenous groups asserted that such encroachment often can damage the environment and negatively affect the health of the native people.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, recognized as official languages. They are ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin.

The Government established a National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs in October 2001. It is assigned to the office of the president of the Council of Ministers. The Commission had among its members officials from a variety of relevant ministries as well as representatives of the indigenous peasant population in the highland and coastal areas, the native population of the Amazon jungle, and the Afro-Peruvian community. Congress also had its own Committee on the Amazon Region and Indigenous and Afro-Peruvian Affairs that was designed to address the needs of the indigenous communities.

The two principal NGOs that represented the interests of the native population of the Amazon region were the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSESEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body that coordinated the activities of the country's indigenous population. CONAP believed that mining and other development operations were inevitable and, therefore, wanted native communities to share the benefits. AIDSESEP opposed territorial encroachments. Both AIDSESEP and CONAP were critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or otherwise making use of it.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. In December 2002, the Government announced that the police would attempt to rescue the members of at least 200 families, primarily from the Ashaninka indigenous group, who were believed to be held captive by Sendero Luminoso forces in the central jungle areas of Junin and Ayacucho. During the year,



police rescued approximately 40 of these families—over 70 persons—from enslavement by Sendero. On September 10, the police freed 24 Ashaninka Indians near Satipo, in Junin Department.

*National/Racial/Ethnic Minorities.*—The law criminalizes racial discrimination, with penalties varying from 30 to 60 days of community service. For public officials, the sentence is between 60 and 120 days of community service; violators also were disqualified from holding public office for 3 years. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Afro-Peruvians, who tended to be concentrated along the coast, often faced discrimination and social prejudice, and they were among the poorest groups in the country.

Afro-Peruvians generally did not hold leadership positions in government, business, or the military; however, there were three Afro-Peruvian members of Congress. Both the navy and the air force were believed widely to follow unstated policies that exclude blacks from the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often found discreet ways to relegate blacks to low-paying service jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law has not deterred discriminatory practices. Afro-Peruvians were often portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although citizens of Asian descent historically suffered discrimination, their social standing improved in recent years. Many persons of Asian descent held leadership positions in business and government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Right of Association.—The Constitution and the law provide for the right of association; however, worker rights advocates claimed that the laws were overly restrictive. Approximately 5 percent of the formal sector workforce of 8.49 million belonged to organized labor unions. There were approximately 13 million economically active persons in the country, but only about half of those had permanent, full-time employment.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership. In the past, labor advocates asserted that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, failed to protect the rights of workers to form unions. Labor advocates claimed that many workers were reluctant to organize due to fear of dismissal. In December 2002, Congress passed a law that addressed some of the International Labor Organization's (ILO) primary objections to the 1992 labor law. The reformed labor law allows apprentices to join unions, reduces the number of individuals required to form a union, recognizes the right to strike, and allows for collective bargaining by sector.

Unions represented a cross section of political opinion. Although some unions traditionally were associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. Union leaders who ran for Congress in the 2001 elections did so without official union sponsorship. Nevertheless, some union activists who ran for public office received unofficial backing from their unions.

The labor law passed in December 2002 addressed some of the ILO's objections to former legislation on collective bargaining. Unions complained that the Employment Promotion Act had eliminated the right of dismissed workers to compulsory reinstatement if they proved that employers had dismissed them unjustly. In practice, companies sometimes offered financial compensation instead of reinstatement as the legislation allows. Although the Employment Promotion Act had prohibited companies from firing workers solely for involvement in union activities, this provision had not been enforced rigidly.

On November 3, the Government announced regulations for the Law for Domestic Workers, passed 5 months previously. This law applies to a large, overwhelmingly female population (estimates of the number of domestics ranged as high as 2 million) that worked in childcare and housekeeping. In the vast majority of cases, domestics lived with the families for whom they worked. The new law regulates the hours of domestic workers (48 hours per week for adults, 36 hours per week for workers age 15–17 and 24 hours per week for minors age 12–14), provides them the right to a contract (which can be either written or verbal), assures them participation in the national health plan, and provides minors working as domestics the right to attend school, among other benefits. However, the Ministry of Labor's limited

ability to inspect the conditions of domestic workers on this large, informal sector is likely to reduce the law's effect.

On December 23, President Toledo issued an executive decree that provided restitution or compensation to 10,251 state workers dismissed as the result of various privatizations of state enterprises during the Fujimori years. This was the third and final in a series of three such announcements. The awards were expected to benefit a total of 28,000 former government employees. Benefits vary from case to case. Some workers will get their old jobs back, some will receive retirement, and others will be moved to new jobs or be entitled to retraining. The estimated cost of the proposal was \$60 million (210 million soles). Funds for the project still need to be appropriated, although it was thought that some funding may come from moneys recuperated in anti-corruption cases.

There were no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belonged to international labor organizations, the international trade secretariats, and regional bodies.

*b. The Right to Organize and Bargain Collectively.*—The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

Union officials must be active members of their union, but the number of individuals each union may designate as “official” is limited, as is the amount of company time they may devote to union business. There were no legal restrictions that prevented unions from negotiating for higher levels of worker protection than the baseline standards provided for by law. There was no legal protection against employer interference in trade unions.

A union had to represent at least 20 workers to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams could not exceed the size of union teams, and both sides were permitted to have attorneys and technical experts present as advisers.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided that they give their employees at least 15 days' notice of such changes. However, worker rights advocates alleged that, in practice, few employers respected this provision. If workers rejected an employer's proposed changes, the Ministry of Labor was required to resolve the dispute based on criteria of “reasonableness” and “economic necessity.” Whether the changes proposed by employers in such instances were upheld in full or in part, employers were required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition, union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers “temporarily” to prevent increases in the number of union members. To address this concern, Congress passed a law in 2001 that restricts the number of temporary workers hired to 20 percent of a company's work force. Some labor advocates continued to claim that some companies did not comply with the law. Employers denied that they were biased against unions, and argued that the labor stability provisions of the legislation made long-term commitments to workers too expensive.

The labor law passed in December 2002 addressed some of the ILO's objections to the 1992 labor law concerning the right to strike, including a requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike.

There were numerous labor strikes, demonstrations, and work stoppages during the year. During May and June, a strike by the Teacher's Union (SUTEP) and agricultural workers paralyzed activity in several districts of the country and caused President Toledo to declare a state of emergency. After 7 weeks and some clashes between protesters and police, both groups returned to work. The teachers received the promise of a pay increase that raised the average teacher's salary from \$200 to \$214 (700 to 750 soles) per month. Both groups attempted to strike again in September, when the Government was slow to deliver on its promises to the teachers.

The teachers got their wage increase, although the Minister of Agriculture rejected the demands of the agricultural workers.

In September, civil construction unions also went on strike, demanding the right to bargain with the Chamber of Construction Companies collectively, a principle recognized by both the Ministry of Labor and the Supreme Court. During the Fujimori era, construction companies had bargained with union leaders by project and not by activity. The construction unions won a modest increase in salary and, more importantly, the right to industry-wide collective bargaining.

The law restricts unions that represent workers in public services deemed essential by the Government from striking.

There are four export processing zones (EPZs). Special regulations aimed at giving employers in EPZs and duty free zones a freer hand in the application of the law provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones had difficulty unionizing. Worker rights advocates acknowledged that these few zones did not contribute substantively to labor's unionizing difficulties.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports of forced labor during the year. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it have helped to address the problem. NGO sources and the ILO reported in 1999 that mechanization largely had replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry.

Sendero Luminoso held indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child and Adolescent Code of 1992 governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor was a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs if they obtain special permission from the Ministry of Labor and certify that they also are attending school. In certain sectors of the economy, higher minimums are in force: age 14 in agricultural work; age 15 in industrial, commercial, or mining work; and age 16 in the fishing industry. At year's end, the Ministry had granted 1,020 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The Ministry granted 1,142 such permits in 2002 and 1,175 in 2001. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. As many as 1.9 million children worked primarily in the informal sector to help support their families. Of this total, NGOs estimated that approximately 600,000 children were under the age of 12.

Human rights and labor rights groups criticized the modification of the Child and Adolescent Code, passed in August 2000, that maintained the minimum age for work at 12 years old (with government permission), and argued that it contradicts international guidelines on the minimum age of child workers.

Many children were pressed to help support their families from a very early age by working in the informal economy, where the Government did not supervise wages or working conditions. Other children and adolescents worked either in formally established enterprises or as unpaid workers at home.

The search for work frequently put children on the move. Significant numbers of children from rural areas, most of them female, often were moved to cities where they lived and worked in families as domestics. Although their hours were supposed to be limited (children age 12–14 work 4 hours a day, 24 hours a week, and adolescents age 15–17 work 6 hours a day, 36 hours a week) and their right to attend school ensured, in practice there was no method for assuring that such regulations are followed. Employers frequently extracted far longer hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20–30 (70–105 soles) per month.

NGOs and other observers also maintained that the country suffered a growing problem with adolescent prostitution (see Section 5). There was not a reliable statistical base to determine the extent of adolescent prostitution, but some informed observers believed the problem was growing worse, and recent police raids on clandestine brothels demonstrated the presence of adolescent sex workers.

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions were violated routinely in the informal sector. Child and adolescent laborers worked long hours in the agricultural sector. Other children reportedly were employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, loading and unloading produce in markets, brick making, coca cultivation, or work in stone quarries and fireworks factories, among others. Some child and adolescent labor tended to be seasonal.

Firms found guilty of violating child labor laws can be fined and have their operations suspended. The Ministry of Labor's inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry reported that there were a total of 170 labor inspectors, of which 120 worked in Lima. These inspectors conducted all labor inspections, both for adults and children. Labor inspections were primarily conducted in the formal sector. The National Police and local prosecutors exercised law enforcement authority.

*e. Acceptable Conditions of Work.*—The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a “just and sufficient” wage to be determined by the Government in consultation with labor and business representatives, as well as “adequate protection against arbitrary dismissal.” In September, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$132 (460 soles), which was not considered sufficient to provide a decent standard of living for a worker and family. The Government estimated the poverty line to be approximately \$45 (157 soles) a month per person. However, this figure varied from region to region. Actual figures from INEI's 2001 survey showed the poverty line for Lima at \$75 (260 soles) a month per person, compared to \$43 (147 soles) for the rural jungle. According to some estimates, as much as half the work force earned the minimum wage or below, because such a great proportion worked in the informal sector, which was largely unregulated. The Ministry of Labor was responsible for enforcing the minimum wage.

A 2001 law increased the Labor Ministry's ability to enforce compliance with laws requiring businesses to pay social security and other benefits.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace, although discrimination continued to be a problem in practice. A Supreme Decree states that all workers should work no more than 8 hours per day; however, labor advocates complained in recent years that workers were pressured to work longer hours to avoid dismissal. A February 2002 law requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. Labor, business, and the Government reported that the majority of companies in the formal sector were complying with the new law.

While occupational health and safety standards exist, the Government lacked the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. In 2001, the Minister of Labor announced that 80 percent of the companies inspected were found to be in compliance with labor laws. The compliance estimate remained consistent throughout the year. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the Government sanctioned them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

*f. Trafficking in Persons.*—Various laws prohibit trafficking in persons; however, trafficking in persons was a problem.

The law prohibits trafficking in persons and alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and could also be used to sanction traffickers in persons. There

were no government programs to educate vulnerable groups about the dangers of trafficking or to assist victims. The International Organization for Migration worked with Movimiento El Pozo, an NGO dedicated to helping prostitutes, to use a \$115,000 grant to produce a rigorous, scientific study of trafficking in the country.

According to immigration authorities, there were no cases of international trafficking of persons during the year. The Missing Persons Division of the PNP reported that it had one case of sex trafficking of adolescent girls during the year. Authorities asserted that organized trafficking did not, to their knowledge, occur.

In contrast, NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring young women from the Amazon district or the Sierras into the cities or into mining areas to work as prostitutes. This trafficking did not operate through formal criminal networks, but instead took place through informal networks that could involve boyfriends and even the families of the young women who were its victims.

NGOs and various elements of the Government undertook efforts to address this problem during the year. The Ministry of the Interior signed an agreement with the Foundation for Missing Peruvians, making that organization the official registry for missing persons in the country. In August, police formed a special unit called "The Green Squad" to respond to citizen complaints. Working together, police and the Foundation for Missing Peruvians carried out a series of raids against clandestine brothels in the fall, including, in October, the rescue of an underage young woman from an illegal brothel in Trujillo.

## SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy, a federation, and a member of the Commonwealth of Nations. The Constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right to secede from the Federation in accordance with certain enumerated procedures. The Government consists of a prime minister, a cabinet, and a unicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In elections in March 2000, Prime Minister Denzil Douglas' St. Kitts and Nevis Labour Party won all 8 St. Kitts seats of the 11 seats in the legislature, and he remained Prime Minister. In elections in Nevis on September 7, 2001, Premier Vance Amory's Concerned Citizens Movement (CCM) won four of the five seats in the Nevis Assembly. The judiciary is independent.

The security forces consist of a small police force, which include a 30-person Special Services Unit that received some light infantry training, a coast guard, and a small defense force. Military forces patrol jointly with the police. The forces were controlled by and responsive to the Government. Some members of the security forces committed human rights abuses.

The mixed economy was based on sugar cane, tourism, and light industry. The country's population was approximately 47,000. Most commercial enterprises were privately owned, but a state corporation owned the sugar industry and 85 percent of arable land. The economy had a mixed performance during 2002, as some sectors enjoyed positive growth while others experienced varying levels of decline. The construction sector recorded a 4.5 percent decline, manufacturing and hotels and restaurants also recorded significant declines of 4 and 10 percent respectively, and sugar production fell by 5.1 percent. The unemployment rate was estimated at 5 percent. Real economic growth was 0.75 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Poor prison conditions, opposition complaints about access to government-controlled media, and violence against women were the principal problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of 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 the use of torture or other forms of inhuman or degrading treatment or punishment, and the authorities generally observed this prohibition in practice.

The police force continued to conduct its own internal investigation when complaints were made against its members. There were 5 complaints filed through August, most involving indecent language.

Prison conditions were overcrowded, and resources remained limited. The prison on Saint Kitts, built in 1840, was designed to accommodate 60 inmates but was renovated to increase capacity to 155. In September, it held 166 prisoners; some prisoners slept on mats on the floor. A low security prison on Nevis held 29 inmates. In both prisons, pretrial detainees were segregated from convicted prisoners. Female inmates were segregated from male prisoners, and juveniles were segregated from adult prisoners. Corporal punishment is legal; a court can order that an accused person receive lashes if found guilty. The prison provided voluntary work and education programs.

In October, prisoner Olieto Bartlette died from injuries sustained from an alleged beating while incarcerated. A police investigation found that Bartlette was bludgeoned by his cellmate, a violent criminal imprisoned for life, after an altercation.

The Government permitted prison visits by independent human rights observers. In addition, the Ministry of National Security appointed "visiting justices," who were volunteers that oversaw the treatment of prisoners. The prison staff periodically received training in human rights.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. The law requires that persons detained be charged within 48 hours or be released. If charged, the police must bring a detainee before a court within 72 hours. Family members, attorneys, and clergy were permitted to visit detainees regularly.

The police force consists of 370 officers (72 officers in Nevis), with 27 auxiliary members. Senior officers investigate complaints made against members of the police force, and criminal offences are referred to the Director of Public Prosecutions. Before prospective officers are hired, the force conducts a background investigation in the candidate's home district, often interviewing the local parish priest and school principal. If the background check is satisfactory, the candidate must then pass an entrance exam and medical exam. Once hired, officers undertake 6 months of instruction at the local police training school. Starting in 2004, officers will receive human rights training based on resources provided by the International Red Cross.

The Constitution does not address forced exile, but the Government did not use it in practice.

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

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom. Free legal assistance was available for indigent defendants in capital cases only.

The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements generally were observed. In September, there were 52 persons in "remand" (detention pending trial or further court action). The length of remand varied according to offense and charges; persons may be held for days, weeks, or months. There was no system of parole, due to resource constraints. Prisoners typically received reduced sentences of up to one-third for good behavior.

In October, the legislature began debate on draft legislation that would empower the courts to pass noncustodial sentencing such as discharges, suspended sentences, probation orders, and community service orders.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. The law requires judicially issued warrants to search private homes.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice. The opposition People's Action Movement (PAM) party alleged that the ruling Labour Party blocked PAM's access to the Government controlled media. The PAM acknowledged, however, that it had access to independent media outlets.

One daily independent newspaper published Monday through Friday. There were four independent weekly newspapers; in addition, each of the major political parties published a weekly or biweekly newspaper. The publications were free to criticize

the Government and did so regularly and vigorously. International news publications were readily available.

The Government privatized the government-owned radio station, although the Government continued to appoint three of its five board members. Several privately owned radio stations also operated.

In December, the Government abruptly withdrew permission to sponsor and broadcast local Carnival events from an independent radio station after reporters from the station investigated politically sensitive incidents related to Carnival management. A government-affiliated broadcaster was given exclusive rights.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

In September, PAM leaders received a court summons for having a public gathering without a permit. PAM officials alleged they had requested a permit and the Government knew about the gathering, but deliberately refused to issue a permit.

*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 2003 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.

No formal government policy toward refugee or asylum requests exists. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government by peaceful means, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. A multiparty political system existed, in which political parties were free to conduct their activities; however, an opposition party alleged that the ruling party restricted access to the media (see Section 2.a.). All citizens 18 years of age and older may register and vote by secret ballot. Despite some irregularities, orderly general elections were held in 2000, and Nevis elections were conducted peacefully in September 2001.

The Legislative Assembly has 11 elected seats: 8 for St. Kitts and 3 for Nevis. The Labour Party held all eight St. Kitts seats in the legislature; opposition parties held the other three seats. The PAM lost its one seat in the 2000 election. In addition to the 11 elected Members of Parliament, there were 3 appointed Senators. The Governor General appoints the three Senators, two on recommendation of the Prime Minister and one on the recommendation of the Leader of the Opposition. The island of Nevis has considerable self-government, with its own premier and legislature. In the 2001 Nevis elections, Premier Amory's CCM won four of the five seats in the Nevis Island Assembly.

In accordance with its rights under the Constitution, in 1996 the Nevis Assembly initiated steps towards secession from the Federation, the most recent being a referendum in 1998 that failed to secure the required two-thirds majority for secession. During the year, the Nevis Assembly again proposed secession and initiated formal constitutional procedures to hold a referendum on the issue. While opposing secession, the Government acknowledged the constitutional rights of Nevisians to determine their future independence.

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the former opposition party PAM alleged widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be PAM supporters. In the case of one person whom the PAM leadership claimed had not been paid, the Government asserted that this individual, while a minister in the Government, received fees for legal services from two government institutions and that, therefore, it was entitled to offset her pension by the amount of fees received. The matter was before the courts at year's end.

The PAM claimed that electoral reform is needed to correct inequities and to prevent irregularities in voting, asserting that in the last election, the Government unduly influenced voters by providing airfare and hotel accommodations to overseas citizens willing to return to vote. The PAM also claimed that 17-year-olds voted, even though the law requires a minimum age of 18, and that some people voted

more than once by voting in different jurisdictions. Citing these irregularities, the PAM proposed that photographic voter identification cards be issued, and the existing register of voters be nullified. The PAM also recommended changes to the electoral commission to correct what it perceived as a bias toward the party in power. The PAM criticized the Government's failure to appoint any PAM representatives to the Select Committee of the National Assembly on Constitutional Reform, which will take up matters of electoral reform.

There were no impediments in law or in practice to the participation of women in leadership roles in government and politics. There were 2 women in the 11-seat National Assembly, 1 woman in the Cabinet, 3 of 4 magistrates were female, the court registrar was female, and 6 of 11 permanent secretaries were female. In addition, in Nevis, one cabinet member and the president of the House of Assembly were female. The Government participated in an Organization of American States program to encourage the participation of women in leadership roles, with a focus on politics. The program aims to have one-third of high government positions filled by women.

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

While there are no governmental restrictions, no local human rights groups formed during the year. There were no requests for investigations or visits by international human rights groups during the year.

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

The Constitution prohibits discrimination on grounds of race, place of origin, birth out of wedlock, political opinion or affiliation, color, sex, or creed, and the Government generally respected these provisions in practice.

*Women.*—According to a government official, violence against women was a problem. The Domestic Violence Act criminalizes domestic violence, including emotional abuse, and provides penalties for abusers. Although many women were reluctant to file complaints or pursue them in the courts, there were publicly reported cases of both domestic violence and rape, and a few convictions. The Department of Gender Affairs, under the Ministry of Social Development, Community, and Gender Affairs, was active in the areas of domestic violence, spousal abuse, and abandonment. It offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials of the police and fire departments, nurses, school guidance counselors, and other government employees. In addition, the Permanent Secretary of the Department of Gender Affairs participated in a weekly radio program to discuss gender issues, including domestic violence. The Department reported 12 cases of domestic violence through September. There was no separate domestic violence unit in the police force.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many senior positions as men did. The Department of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them market skills and training as entrepreneurs. The Department provided clients assistance with problems such as lack of housing, unemployment, child care, technical training, and personal development. It also ran the Viola Project, a program to encourage young mothers to complete their education, which had 15 participants. The Department produced three handbooks on sexual harassment, equal opportunity and employment, and equal pay for work of equal value. The Department continued its programs focusing on men as perpetrators of crimes of violence against women.

Prostitution is illegal and was not considered to be a problem.

Sexual harassment was a problem. A law covering sexual harassment was proposed in the legislature, and it was awaiting its second reading at year's end, while government, private sector, and labor advocates discussed its provisions and possible impact.

*Children.*—The Government is committed to children's rights and welfare and has incorporated most of the provisions of the U.N. Convention on the Rights of the Child into domestic legislation. The law mandates compulsory education up to the age of 16; it was free and universal. Over 98 percent of children completed school. Under the law, the age of consent is 16. As of September, the authorities had brought charges in 10 cases involving alleged sexual activity with minors and 2 cases of incest.



*Persons with Disabilities.*—Although there is no legislation to protect persons with disabilities or to mandate accessibility for them, the Constitution and the Government prohibit discrimination in employment, education, and other state services. During the year, the Government committed to include blind and visually impaired persons in the National Development Plan, which emphasized opportunities in education and employment.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all workers to form and belong to trade unions. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union (SKTLU), was associated closely with the St. Kitts and Nevis Labour Party and was active in all sectors of the economy. The opposition PAM party alleged that the ruling party used its influence to try to stifle other unions that would threaten the SKTLU in the workplace.

The law prohibits anti-union discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. The employer, however, must pay lost wages and severance pay to employees who had worked at least 1 year, based upon length of their service. There was no legislation governing the organization and representation of workers, and employers were not bound legally to recognize a union, but in practice employers did so if a majority of workers polled wished to organize.

Unions were free to form federations or confederations and to affiliate with international organizations. The islands' unions maintained a variety of international ties.

*b. The Right to Organize and Bargain Collectively.*—Labor unions are free to organize and to negotiate for better wages and benefits for union members. If a union obtains membership of over 50 percent of employees at a company, the union can apply to be recognized by the employer for collective bargaining. The employer may request a poll from the Ministry of Labor but must accept the final results. Collective bargaining takes place on a workplace-by-workplace basis, not industry-wide. The Labor Commissioner and Labor Officers mediate disputes between labor and management on an ad hoc basis. However, in practice few disputes actually went to the Commissioner for resolution. If neither the Commissioner nor the Ministry of Labor is able to resolve the dispute, the law allows for a case to be brought before a civil court.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on striking by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law. There were no major strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits slavery and forced labor, and they did not occur in practice. While neither the Constitution nor the law specifically address bonded labor, it was not a problem in practice.

Prisoners were required to work if their sentence was more than 30 days and stipulated "hard labor." They received a small stipend for this work paid upon discharge.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is addressed in the Employment of Women, Young Persons, and Children Act, as well as in the 1966 Employment of Children Ordinance. The ordinance outlaws slavery, servitude, and forced labor. The minimum legal working age is 16 years. The Labor Ministry relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they generally did effectively.

Agriculture, domestic service, and illicit activities were areas in which juveniles found work. In rural families engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. There were no reported cases of child labor during the year, and no cases of child labor have ever been brought to the attention of the Department of Labor, which is empowered to investigate and address complaints of child labor. Kittitian society does not consider domestic work as exploitative child labor.

At year's end, child labor laws were being reviewed under a program of labor legislation review and update that began in 1999 under the 1986 Protection of Employment Act. Child labor laws were to be incorporated into a nationwide Labor Code.

*e. Acceptable Conditions of Work.*—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The average wage varied from \$67 (EC\$180) per week for full-time domestic workers to \$166 (EC\$443.50) per week for skilled workers. These provided a barely adequate living for a wage earner and family; many workers supplemented wages by keeping small animals such as goats and chickens, or other activities. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Workers who were laid off for more than 12 weeks received a lump sum payment from the Government based on previous earnings and length of service.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides that workers receive a minimum annual vacation of 14 working days. While there were no specific health and safety regulations, the Factories Law provides general health and safety guidance to Labor Ministry inspectors. The Labor Commission settles disputes over safety conditions. Workers had the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

*f. Trafficking in Persons.*—There were no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country.

An “economic citizenship” program allowed foreign investors to purchase passports through loosely monitored procedures involving an investment of at least \$250,000 (EC\$675,000) in real estate, plus a registration fee of \$35,000 (EC\$94,500) for the head of household (amounts varied for other family members). This program reportedly facilitated the illegal immigration of persons from China and other countries to North America where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until their debt was repaid. The Government denied any knowledge of illegal immigration facilitated through this program and asserted that applicants were adequately screened.

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## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The head of state is Queen Elizabeth II, represented by a Governor General, who has some residual powers under the Constitution that can be used at the Governor’s General’s discretion. The Prime Minister and the Cabinet, which represent the majority party in the bicameral Parliament, exercised most of the power. In generally free and fair elections in 2001, Prime Minister Dr. Kenny Anthony’s Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the 17-member House of Assembly. The judiciary is independent.

The Royal Saint Lucia Police is the only security force and includes a small unit called the Special Services Unit (which had some paramilitary training) and a coast guard unit. The civilian authorities maintained effective control of the security forces. There were occasional allegations that members of the security forces committed human rights abuses.

The country’s market-based economy depended upon tourism and banana exports as the principal sources of foreign exchange. The population was approximately 160,000. Although economic growth declined in 2001 and 2002, it improved during the year. Revenue from tourism (the sector that held the most potential for economic growth) increased by 4.7 percent in the first half of the year, compared with the same period in 2002. In 2002, the real economic growth rate was 0.1 percent and the rate of inflation was negative 0.2 percent; unemployment in 2001 was 18.9 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some allegations of physical abuse of suspects and prisoners by the police; long delays in trials and sentencing, domestic violence against women, and child abuse also were problems.

## RESPECT FOR HUMAN RIGHTS

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

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

The Government concluded its investigation into the 2000 killing by police of escaped prisoner Alfred Harding. A court acquitted the police officer due to lack of evidence.

*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. Although no official complaints were filed, prisoners and suspects complained of physical abuse by police and prison officers.

Prison conditions generally met international standards at the new Bordelais prison, which has a capacity for 500 prisoners. In August, it housed 460 prisoners, and the Government had filled 125 of a total of about 150 staff positions. It has separate facilities for females, young offenders, and those awaiting trial. It also has space set aside for rehabilitation programs and a magistrate's courtroom, although training and rehabilitation programs have not yet started due to the staffing shortage.

In August, eight female prisoners were housed at Bordelais. A boys' training school housed juveniles between 12 and 18 years of age; it operated separately from the prison.

The Government permitted prison visits by human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or imprisonment and requires a court hearing 72 hours after detention, and the Government generally adhered to these provisions in practice.

In 2002, the police force, with assistance from a team of British experts, prepared a 5-year plan, which included community-based policing, crime prevention, increased professionalization, and attention to complaint investigation and internal review. During the year, the Police Commissioner launched the community policing initiative and increased the level of professional and customer service training. Police mobility was enhanced when the South Korean Government donated 15 new vehicles. As of August, the police force had 800 officers, with 50 more in training.

There was no constitutional requirement for a speedy trial, but every Wednesday the Government used the magistrate's court located in the new prison to reduce processing time for court hearings after detention. Those charged with serious crimes spent an estimated 6 months to 1 year on remand; however, those charged with petty offenses often received speedy trials, particularly if victims or witnesses were likely to leave the island.

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 are two levels of courts, which are the Courts of Summary Jurisdiction (Magistrate's Courts) and the High Court. Both levels have civil and criminal authority. The lower courts accept civil claims up to about \$1,850 (EC\$5,000) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases may be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal.

The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own legal counsel, are presumed innocent until proven guilty in court, and have the right of appeal. The authorities observed both constitutional and statutory requirements for fair public trials.

The court system continued to face a serious backlog of cases. The Government has hired five new magistrates since 2001 for a total of nine. The average time for a trial was 3 to 6 months in the magistrate's courts and 6 to 12 months for criminal cases.

Unlike previous years, there were no reports of incidents of vigilante justice.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions, and government authorities 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.

There were five major privately owned newspapers, two privately owned radio stations, one partially government-funded radio station, one government-operated television station that began operating in October, and two private television stations. These media carried a spectrum of political opinion and often were critical of the Government. The radio stations' discussion and call-in programs allowed persons to express their views. The two private television stations also covered a wide range of views. In addition, there was subscription cable television service, which provided programming from a variety of sources, such as CNN and the BBC.

In November, the Parliament passed a controversial Criminal Code that included a section on "spreading false news." It states that any person who publishes a statement that he or she knows is false or that causes or is likely to cause injury to a public interest could be imprisoned for up to 2 years. At year's end, no journalists had been convicted under this law, but local media outlets and the opposition party voiced their disagreement with the clause. The Association of Caribbean Media Workers also criticized the law.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

The law requires permits for public meetings and demonstrations if they are to be held in public places, such as on streets or sidewalks or in parks. The police routinely granted such permits; the rare refusal generally stemmed from the failure of organizers to request the permit in a timely manner, normally 72 hours before the event.

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

On May 2, a court found the two Rastafarians who attacked parishioners at a Catholic Mass in December 2000 guilty of murder and arson and sentenced them to hang.

For a more detailed discussion, see the 2003 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.

No formal government policy toward refugee or asylum requests existed. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens last exercised that right in generally free and fair elections on December 3, 2001, when Prime Minister Anthony's SLP defeated the United Workers Party (UWP), led by Morella Joseph. The SLP won 14 of 17 seats and the UWP won 3. The other opposition parties—the National Alliance, led by former SLP Foreign Minister George Odlum; the STAFF (Sou Tout Apwe Fete Fini) Party; and the St. Lucia Freedom Party—did not win any seats. The SLP capitalized on the failure of the opposition forces to unite in a national coalition due to a leadership struggle between Odlum and Sir John Compton, founder of the UWP and a former Prime Minister. Only 52 percent of those eligible voted, and the SLP won 55 percent of the popular vote.

Under the Constitution, general elections must be held at least every 5 years by secret ballot, but may be held earlier at the discretion of the government in power. The Governor General appoints the 11-member Senate, which includes 2 independents. Popularly elected local governments in the 10 administrative divisions (towns and villages) perform such tasks as regulation of sanitation and markets and maintenance of cemeteries and secondary roads.

There were no legal impediments to participation by women and minorities in government and politics, and 8 women competed in the 2001 elections in a field of 45 candidates for 17 positions. Voters elected two women to the House of Assembly, and there were four appointed female Senators. Two of the 13 members of the Cabinet were women, as was the Governor General.

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

The Government generally did not restrict international or nongovernmental investigations of alleged violations of human rights. Although the Government officially cooperated with such investigations, observers noted occasional reluctance by lower officials to cooperate.

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

Neither the Constitution nor the law address discrimination specifically; however, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

*Women.*—Violence against women was recognized as a serious problem. The Government prosecuted crimes of violence against women only when the victim pressed charges. Most charges involving domestic violence must be brought under the ordinary Civil Code, but rape and other crimes were subject to the Criminal Code. A family court heard cases of domestic violence and crimes against women and children. The police force conducted some training for police officers responsible for investigating rape and other crimes against women. In 2002, the police established a special unit to deal with domestic violence; the sole female sergeant in this section worked closely with the Ministry of Home Affairs and Gender Affairs. As of September, she reported 31 cases of domestic violence for the year. The victims were 29 women and 2 men. Most of the cases were referred to a counselor, and the police facilitated the acquisition of court protection orders for some. Police and courts enforced laws to protect women against abuse, although police were hesitant to intervene in domestic disputes, and many victims were reluctant to report cases of domestic violence and rape or to press charges.

The Domestic Violence Act allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, with the effect that the abuser no longer would have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for Women, a nongovernmental organization located in Castries, monitored cases of physical and emotional abuse and helped clients to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. As of August, the Crisis Center reported 35 cases of domestic violence, including physical, emotional and sexual abuse. During the year, the Women's Support Center, a government shelter for abused persons, received 105 crisis calls and offered residential services to 24 clients and 27 children. The center also engaged in an active community outreach program that included visits to schools, health centers, and community centers.

Women's affairs were under the jurisdiction of the Ministry of Home Affairs and Gender Affairs. The Ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

*Children.*—The Government gave high priority to improving educational opportunities and health care for children. Education was compulsory from age 5 through 15; registration fees were required. Approximately one-third of primary school children continued on to secondary schools, and the dropout rate from primary to secondary school was higher for boys than for girls. Government clinics provided prenatal care, immunization, child health care, and health education services.

The Saint Lucia Crisis Center reported that the incidence of child abuse remained relatively high; it received 13 new cases involving child abuse as of August. The St. Lucia Save the Children Fund (LUSAVE) reported receiving an average of three calls per day from abused children and documented numerous incidences of children as young as 10 giving birth as a result of sexual abuse. LUSAVE also claimed to have evidence of child pornography, including the rape of minors recorded on video for sale. As there was no welfare system in place, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of any babies born of such abuse.

*Persons with Disabilities.*—No specific legislation protects the rights of persons with disabilities or mandates provision of access to buildings or government services for them. Several government buildings added ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and for the blind up to the secondary level. There

also was a school for persons with mental disabilities. Several blind persons worked at banks.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees and about 36 percent of the total work force was unionized. The law prohibits anti-union discrimination by employers, and there were effective mechanisms for resolving complaints. The law also requires that employers reinstate workers fired for union activities.

Unions were independent of government control and were free to choose their own representatives. Union elections were often vigorously contested. There were no restrictions on the formation of national labor federations. Several of the major unions belonged to an umbrella grouping called the Industrial Solidarity Pact that dealt with certain political matters.

Unions were free to affiliate with international organizations, and some did so.

*b. The Right to Organize and Bargain Collectively.*—Unions have the legal right to engage in collective bargaining, and they fully exercised this right in practice. The Registration of Trade Unions and Employer Organizations Act regulates internal union governance. It also provides that an employer must recognize a union if the union obtains the support of 50 percent plus one of the employees at a particular business. Since the act entered into effect in January 2000, it resulted in increased organizational activity by unions. There were three major unions—the National Workers Union; the Civil Service Association; and the Seamen, Waterfront, and General Workers Union—plus specialized unions for nurses and teachers.

Strikes in both the public and private sectors were legal, but there were many avenues through collective bargaining agreements and government procedures that often precluded a strike. The law prohibits members of the police and fire departments from striking. Other “essential services” workers—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days’ notice before striking.

Labor law is applicable in the export processing zones (EPZs), and there were no administrative or legal impediments to union organizing or collective bargaining in those zones. Although many firms resisted union efforts to organize in the EPZs, the new registration law appeared to have a positive influence on organizing efforts.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor, and it was not known to occur. While there is no specific prohibition of forced or bonded labor by children, there were no reports of such practices.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Minors were protected legally from economic exploitation by several legislative acts, including the Employment of Women, Young Persons, and Children Act, which provides for a minimum legal working age of 14 years. The Government was in the process of updating the Labor Code to set the minimum legal working age at 16 years. At year’s end, a draft was submitted to the legislature and a vote was pending. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where larger, stronger, school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks. However, these activities occurred on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the 1938 child labor laws, which were being updated, were \$3.55 (EC\$9.60) for a first offense and \$8.88 (EC\$24) for a second offense. There were no formal reports of violations of child labor laws.

*e. Acceptable Conditions of Work.*—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was \$111 (EC\$300), for shop assistants \$74 (EC\$200), and for messengers \$59 (EC\$160). The minimum wage was not sufficient to provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. The 1999 Minimum Wage Act established a commission responsible for setting a minimum wage level; it met during the year but had not finished its work by year’s end.

There is no legislated workweek, although the common practice was to work 40 hours in 5 days. Special legislation covers hours that shop assistants, agricultural workers, domestics, and persons in industrial establishments may work.

Occupational health and safety regulations were relatively well developed; however, there was only one qualified inspector for the entire country, although the

other nine inspectors included some review of health and safety conditions in their general inspections. The Ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers were free to leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—No laws specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country.

## SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In March 2001 elections that were generally free and fair, the Unity Labor Party (ULP) won 12 of the 15 parliamentary seats, and ULP leader Ralph Gonsalves became the new Prime Minister. The judiciary is independent.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit with some paramilitary training. The security force was controlled by and responsive to the Government, but some members of the security force committed human rights abuses.

The market-based economy was small, weak, and heavily in debt. The country's population was approximately 115,000. The country was reliant on bananas, which account for upwards of 60 percent of the workforce and 50 percent of merchandise exports, although the growing tourism sector has become the leading earner of foreign exchange. The low price of bananas has given rise to increased marijuana production. Unemployment declined to an estimated 25 percent, and real gross domestic product increased by 1 percent in the first half of the year, compared with an increase of 0.7 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Principal human rights problems included instances of excessive use of force by police, the Government's failure to punish adequately those responsible for such abuses, poor prison conditions, and an overburdened court system. Violence against women and abuse of children also were problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no 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 other forms of cruel, inhuman, or degrading treatment or punishment. However, regional human rights groups noted that a high percentage of convictions were based on confessions. One human rights group believed that some of these confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights.

In September, a senior police officer at the Port Elizabeth Police Station reportedly beat a resident of the island of Bequia, Garnet Shallow. According to Shallow, the police accused him of stealing a woman's purse but later found the bag and released him. Shallow never made a formal request for a police investigation of the incident.

Prison conditions were poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding more than 351 inmates in a building designed for 75. These conditions resulted in serious health and safety problems. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners, although the Government was building a new facility for them and hiring new prison officers at year's end.

A 2001 report on prison conditions concluded that the main prison was "a university for crime" due to endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and prevalence of unhygienic conditions such as missing toilets. The report also noted that police and guards conducted sporadic, infrequent, and inefficient searches of the prison. In September, the

Prison Superintendent acknowledged these problems but claimed that the drug smuggling and violence were dramatically reduced after a series of reforms, which included random searches, an order for the public to stay 100 yards away from the prison wall, and the addition of a social worker and psychologist to work with the prisoners.

The Superintendent of Prisons reportedly ended the practice of inmates seeking protection from prison gangs. He also began in-house training of guards and arranged for guards to be trained in Barbados. There were 92 guards for 348 male inmates. A rehabilitation program allowed inmates to receive contracts and jobs with local entrepreneurs. A school program offered courses in carpentry, tailoring, baking, and mechanical engineering.

Inmates were allowed to speak freely with their lawyers, but a human rights lawyer asserted that there was a rule that a prison officer must stand not only within sight, but also within hearing of the inmate and his lawyer. Prison officials countered that the officer must be within sight of the inmate, and space constraints prevented the officer from standing beyond earshot.

Plans announced in 2002 to build a new \$4.8 million (EC\$13 million) prison in Bellisle were still in the negotiation stage.

There were 13 female inmates held in a separate section in the Fort Charlotte prison. A family court handled criminal cases for minors up to age 16. Children may be charged and convicted as criminals from the age of 16. In such cases, children then may be jailed with older criminals. Conditions were inadequate for juvenile offenders. Plans to place 40 to 50 first-time offenders in Fort Charlotte foundered because the prison system did not have the financial resources to transfer the prisoners.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that persons detained for criminal offenses must receive a fair hearing within a reasonable time by an impartial court, and the Government generally respected these provisions in practice; however, complaints continued regarding police practices in bringing cases to court.

The Royal St. Vincent Police has an overall force of 691, including 57 in the fire service, 74 in the coast guard, and 20 cadets. There is also a small Special Services Unit with some paramilitary training, which occasionally was accused of using excessive force. The Government established an Oversight Committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the Minister of National Security and to the Minister of Legal Affairs and actively participated in investigations during the year. In September, the Saint Vincent and the Grenadines Human Rights Association (SVGHRA) conducted a seminar on human rights for police cadets.

Although there were only three official magistrates, the registrar of the High Court and the presiding judge of the family court effectively served as magistrates when called upon to do so. Some defense attorneys claimed that there were 6- to 12-month delays in preliminary inquiries for serious crimes.

The Constitution prohibits exile, and it was not used in practice.

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

The judiciary consists of lower courts and a High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There were three official magistrates, including the Chief Magistrate, a senior magistrate, and one other magistrate. In addition, the Registrar of the High Court had the authority to sit as a magistrate if called upon. The Chief Magistrate was also president of the family court.

The Constitution provides for public trials. The court appointed attorneys for indigent defendants only when the defendant was charged with a capital offense. Defendants were presumed innocent until proven guilty and could appeal verdicts and penalties. The backlog of pending cases was reduced, even though the magistrate's court in Kingstown lacked a full complement of magistrates.

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.

In June, police searched the house of Donna Gibson, who alleged that they did not produce a warrant. The police told her they were searching for a George Lambert, and Gibson claimed not to know the man. Police officials said they had a warrant, but it mistakenly identified George Lambert as the owner of the house instead



of Gibson. The Oversight Committee determined that indeed the search was improper; but that Mr. Lambert was known to frequent the house and that the search was conducted without undue roughness. The police apologized to Ms. Gibson.

*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.

There were two major newspapers and numerous smaller, partisan publications; all were privately owned, and most were openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press during the year. The Government recently adopted a policy to distribute advertising revenue equally among the major newspapers.

The sole television station in St. Vincent was privately owned and operated without government interference. Satellite dishes were popular among those who could afford them. There was also a cable system with mainly North American programming that had over 300 subscribers. There were seven radio stations, one of which was government owned.

In September 2002, Prime Minister Gonsalves, in his personal capacity, filed slander charges against Edward Lynch, a popular radio talk show host, and BDS Limited, the company that owned the radio station, involving allegations that Gonsalves misused public funds. The matter was still before the court at year's end.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

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

In September, the police refused to grant permission for an New Democratic Party (NDP) march. NDP leaders claimed that the decision was politically motivated, but police officials said that permission was not granted for security reasons and because the NDP did not adequately explain the reasons for the march. Ultimately, the NDP held the march, which was not impeded by the police.

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

Members of the Rastafarian community have complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflect discrimination on the basis of religious belief by authorities or simply enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

For a more detailed discussion, see the 2003 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.

No formal government policy toward refugee or asylum requests exists. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum. A Red Cross representative served as the honorary liaison with the office of the U.N. High Commissioner for Refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a long history of multiparty parliamentary democracy. The Constitution provides for general elections at least every 5 years.

The 2001 elections were held in accordance with an agreement brokered by members of the Caribbean Community, after demonstrations and internal pressures stemming from allegations of fraud in the 1998 election. There was no serious violence, and observers declared the voting to be generally free and fair. The opposition ULP won 12 out of the Parliament's 15 elected seats, and Dr. Ralph Gonsalves became Prime Minister, ending 17 years of NDP rule.

In addition to the 15 elected Members of Parliament, the Governor General appoints 6 more members, 4 on the nomination of the Prime Minister and 2 on the nomination of the Leader of the Opposition. These nominated members, who are called Senators, have the same privileges as the elected members except that they are not permitted to vote on a motion of no confidence brought against the Government.

There were no legal impediments to women's full participation in politics or government. In 2001, voters elected two women to Parliament; they also served as cabi-

net ministers—the Minister of Tourism and the Minister of Social Services. There were two female Senators. The Deputy Governor General and the Attorney General were also female.

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

Opposition political groups and the press often commented on human rights matters of local concern. The SVGHRA monitored government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. The SVGHRA participated in training seminars. The Government generally was responsive to public and private inquiries about its human rights practices.

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

The Constitution provides for equal treatment under the law regardless of race or sex, and the Government generally adhered to this provision in practice.

*Women.*—Violence against women, particularly domestic violence, remained a serious problem. The Domestic Violence/Matrimonial Proceedings Act and the more accessible Domestic Violence Summary Proceedings Act provide for protective orders, as well as occupation and tenancy orders; the former only is accessible through the High Court, but the latter can be obtained without the services of a lawyer in family court. As part of a human rights education program, the SVGHRA conducted numerous seminars and workshops throughout the country to familiarize citizens with their rights. During the year, women made over 1,000 reports of physical, sexual, emotional, and other domestic violence. Development banks provided funding through the Caribbean Association for Family Research and Action for a program of Domestic Violence Prevention, Training, and Intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against people who brought charges but did not testify. Depending on the magnitude of the offense and the age of the victim, the sentence for rape generally was 10 years to life in prison.

The amended Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. There was a family court in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there were only a few bailiffs to service the country, summonses often were not served in time for cases scheduled to be heard in court.

The Office of Gender Affairs was under the Ministry of Education, Women's Affairs, and Culture. This office assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

Marion House, an independent social services agency, was established in 1989 to provide counseling and therapy services, as well as parenting and support programs for young adults aged 15 to 25. Four trained counselors staff it. At year's end, the staff was working on a system to maintain a database of cases.

*Children.*—Education is not compulsory, but the Government investigated cases in which children were withdrawn from school before the age of 16. The Government planned to phase in compulsory education with the construction of adequate facilities; it built two new schools during the year. As a supplement to secondary school, the Government sponsored the Youth Empowerment Program, which was an apprenticeship program for young adults interested in learning a trade. Approximately 500 youths were enrolled in this program, earning a stipend of about \$148 (EC\$400) a month, to which private sectors employers contributed additional amounts in some instances. The teachers' union estimated that between 8 and 10 percent of secondary school-age children did not attend school during the year. Despite the Government's efforts to support health and welfare standards, the infant mortality rate still was very high at 21 deaths per 1,000 live births, in part due to the large number of children born to teenage mothers.

The Domestic Violence Summary Proceedings Act provides a limited legal framework for the protection of children. The Family Services Department, Ministry of Social Development, was the government agency responsible for monitoring and protecting the welfare of children. The Department reported 51 cases of sexual abuse, 55 cases of physical abuse, 112 cases of neglect, and 22 cases of abandonment during 2002. The Department planned to initiate a National Child Abuse Register in 2004 to provide information to all agencies dealing with child abuse. The police were the enforcement arm; the Family Services Department referred all reports of child abuse to the police for action.

*Persons with Disabilities.*—There was no specific legislation addressing persons with disabilities, and the circumstances for such persons were generally difficult.

Most persons with severe disabilities rarely left their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supported a school for persons with disabilities, which had two branches. A separate, small rehabilitation center treated about five persons daily.

*Section 6. Worker Rights*

*a. The Right of Association.*—Citizens have the right to form unions and organize employees under the constitutional provisions for freedom of association; however, there was no law that requires employers to recognize unions. Less than 10 percent of the work force was unionized. The Trade Unions Act covers registration of unions; a draft Labor Relations Act under debate included a proposal for employer recognition of trade unions. The constitutional prohibition against discrimination could be applied to anti-union discrimination; however, in practice few such complaints were lodged because employers cited other reasons for dismissal.

The Protection of Employment Act provides for compensation and worker rights, but these were restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. The law provides a severance package of 2 weeks' pay for each year of service, with a maximum of 52 weeks. The Government's proposed Employment Relations Act would repeal the Protection of Employment Act and provide for enhanced worker rights.

Unions had the right to affiliate with international bodies, and they did so in practice.

*b. The Right to Organize and Bargain Collectively.*—There were no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. The Trade Dispute, Arbitration, and Inquiry Act provides that if both parties to a dispute consent to arbitration, the Minister of Labor can appoint an arbitration committee from the private sector to hear the matter.

There was no general prohibition against strikes; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and it was not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum working age at 16 years of age, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. The Labor Inspectorate at the Department of Labor received, investigated, and addressed child labor complaints. Labor officers in this unit conducted general inspections of work places annually. The age of leaving school at the primary level was 15 years; when these pupils left school, they usually were absorbed into the labor market disguised as apprentices. The only recognized child labor was children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government has partnered with the nongovernmental sector, including UNICEF, in an antipoverty strategy aimed at improving economic opportunities for youth.

*e. Acceptable Conditions of Work.*—The Government sets minimum wages, which were revised during the year. They vary by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture the minimum wage for workers provided shelter was \$9.26 (EC\$25) per day; industrial workers earned \$11.11 (EC\$30) per day. In many sectors, the minimum wage was not sufficient to provide a decent standard of living for a worker and family, but most workers earned more than the minimum. By law, the Wages Council should meet every 2 years to review the minimum wage, but it did not meet from 1989 to 2001.

The law prescribes workweek length according to category; for example, industrial employees work 40 hours per week, professionals work 44 hours per week, and agricultural workers work 30 to 40 hours per week. The law provides a minimum annual vacation of 5 to 14 days for agricultural workers, depending on the number of days employed during the year. Industrial workers receive 8 to 21 days of vacation, depending on the number of days employed during the year and the worker's length of service with the employer.

According to the Ministry of Labor, legislation concerning occupational safety and health is outdated. The most recent legislation, the Factories Act of 1955, has some regulations concerning factories, but enforcement of these regulations was ineffective. At year's end, the Government was reviewing this act and other laws and pro-

posed to limit the exposure of agricultural workers to hazardous substances. Trade unions addressed some violations regarding safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual impairment by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which plants must be maintained. Failure to comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

The International Transport Federation (ITF) lists the country among those that provide a “flag of convenience” to shipping companies. The ITF claims that many such ships were old and dangerous, and that crewmen were often exploited and underpaid. The ITF’s 2001–02 Campaign Report cited a locally registered shipping company for failing to pay crewmen for 6 months, denying employment contracts, and locking crewmen who complained about unpaid wages in their cabins without food.

*f. Trafficking in Persons.*—No laws specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

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## SURINAME

The Government is still in the process of consolidating democratic, constitutional rule in the country. After generally free and fair elections in May 2000, the 51-member National Assembly elected Ronald Venetiaan of the National Party of Suriname (NPS) as President in August 2000; he replaced Jules Wijdenbosch of the National Democratic Party (NDP). Venetiaan previously served as President in 1991–96. The judiciary, although extremely inefficient, was independent.

The armed forces are responsible for national security and border control, with the Military Police having direct responsibility for immigration control at the country’s ports-of-entry. All elements of the military were under the control of the Minister of Defense. Civilian police bore primary responsibility for the maintenance of law and order and reported to the Ministry of Justice and Police. During the year, due to increasing crime, the Government implemented Operation Safe Suriname whereby the military jointly patrolled with police to maintain security in the capital, as well as in remote communities near large commercial enterprises. During its previous term in office, the Venetiaan Government purged several officers and supporters of former dictator Desi Bouterse from the ranks of the military. Bouterse’s NDP won 10 seats in the National Assembly in 2000, 1 of which he occupied. Since the 2000 election, the NDP’s influence within the military has declined steadily, although Bouterse still retained influence with some military officers. The civilian authorities maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

A census conducted during the year reported the country’s population at approximately 480,000. The economy depended heavily on the export of bauxite derivatives. Government and state-owned companies employed over half the working population. Unregulated gold mining was an increasingly important economic activity that highlighted a lack of land rights for indigenous and tribal people and lack of government control of the interior. It had a serious negative environmental impact and deleterious consequences on the health of the indigenous people. Estimated gross domestic product grew by approximately 1 percent. By year’s end, the inflation rate was estimated at 20 percent, compared with 28.3 percent in 2002. Poverty was widespread; it was estimated that 50 to 60 percent of families lived below the poverty line.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police mistreated detainees, specifically at the time of arrest; guards abused prisoners; and local detention facilities remained overcrowded. The judiciary suffered from ineffectiveness and a huge case backlog due to the shortage of judges, resulting in lengthy pretrial detention. Media self-censorship continued. Societal discrimination against women, minorities, and tribal persons persisted. Violence against women continued, and while the Government took steps to combat trafficking in persons, trafficking in women and girls remained a problem.

## RESPECT FOR HUMAN RIGHTS

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

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

The Government did not address past abuses, which continued to be a focus of concern.

Despite reported interest by the Venetian Government, there was no investigation into the 1986 massacre of more than 50 civilians at the village of Moiwana. In 1997, Moiwana '86, a nongovernmental organization (NGO) established as a watchdog on this and other human rights issues, took the case to the Inter-American Commission on Human Rights (IACHR), which gave the Government until December 1, 2002, to report on the status of its investigation. The IACHR forwarded the Moiwana case to the Inter-American Court on Human Rights after receiving no response from the Government.

The 3-year investigation ordered by the Court of Justice into the 1982 killings by the Bouterse regime of 15 prominent political, labor, business, and media leaders continued throughout the year. The presiding judge drew up a list of more than 30 suspects, with Bouterse as the prime suspect; local officials stated that the case would likely be tried in 2004.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, the Government had yet to investigate allegations of certain disappearances that occurred under previous regimes.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman treatment or punishment; however, human rights groups continued to express concern about official mistreatment and documented cases of police mistreatment of detainees, particularly during arrests, and abuse of prisoners by prison officials during the year.

Citizens filed 203 cases with the Police Personnel Investigation Department (OPZ), the majority of which were for physical mistreatment (see Section 1.d.). The authorities arrested 24 officers and disciplined 145 for various offenses. Fourteen officers were charged with brutality and relieved of their duties. Police officers who were not trained in that work served as the jailers at local detention facilities, which human rights groups asserted contributed to the abuses.

Prison conditions were poor, and in many cases they did not meet international standards. There were three prisons and several detention facilities at police stations where detainees were held until appearing before a judge to be charged or to stand trial. Human rights activists were concerned about conditions in the prisons, especially in local detention facilities, which remained overcrowded. At police stations, prison officials allowed detainees no exercise and only rarely permitted them to leave their cells. Detainees and human rights groups also complained about inadequate meals, although families were permitted and encouraged to provide food to incarcerated relatives. There was generally no consideration given for persons requiring a specific diet for religious reasons. Human rights monitors reported that guards mistreated detainees, and that medical care and living conditions were inadequate. Members of the police and prison guards beat prisoners who complained about their lack of access to exercise and fresh air.

Violence among prisoners was common, and the authorities generally did not punish prisoners for violence against other prisoners. Some prison facilities were renovated in recent years, which improved health and safety conditions. However, most facilities, especially older jails, remained unsanitary and seriously overcrowded, with as many as four times the number of detainees for which they were designed. In August, the Government installed a commission, which included representatives from a human rights group, to investigate the prison system.

There was a wing of an adult prison for boys under age 18 who committed serious crimes. Juvenile facilities for boys between the ages of 10 and 18 within the adult prison were considered adequate, and educational and recreational facilities were provided. Conditions in women's jail and prison facilities were generally better than those in the men's facilities. There was no separate facility for girls under the age of 18; girls were held in the women's detention center and in the women's section of one of the prison complexes.

Since 1996, Moiwana '86 has monitored the conditions of prisoners. Representatives of the group reported that in general they had access to prisoners and received cooperation from prison officials on routine matters during the year. The authorities granted the group permission to visit prisons on a regular basis, on the condition that they request permission from the proper authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, prisoners who appealed their cases often served their full sentences due to the lengthy appeals process resulting from the lack of judges. The Attorney General's Office reiterated its concern that prisoners who served their entire original sentence were not released on a timely basis. Defense lawyers often utilized an article of the Code of Criminal Proceedings that allows a judge to release a suspect if the case against the accused appears weak.

The police force (Korps Politie Suriname) is comprised of 1,200 police officers and 400 to 500 civilians and is divided into 4 departments: judicial (intelligence, forensics, fraud, narcotics, investigative), general, Paramaribo, and interior (outside of Paramaribo). Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with other law enforcement agencies. During the year, police conducted limited joint operations with the military in areas of the country that lacked a police presence. Corruption remained a problem, and senior officers met monthly with the Attorney General's Office to review corruption and other cases against the police. The OPZ is responsible for investigating complaints against officers. It recommends whether an officer should be punished internally or if criminal charges should be brought. During the year, six police officers were taken to court for narcotics violations and corruption; of this number, five received jail terms ranging from 2 to 5 months.

The law provides that the police may detain an individual for investigation for up to 14 days if suspected of committing a crime for which the sentence is longer than 4 years. During the 14-day period, the law also permits incommunicado detention, which must be authorized by an assistant district attorney or a police inspector. Within the 14-day period, the police must bring the accused before a prosecutor to be charged formally. If additional time is needed to investigate the charge, a prosecutor may authorize the police to detain the suspect for an additional 30 days. Upon the expiration of the initial 44 days, a judge of instruction may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is brought to trial. The average length of pretrial detention was 30 to 45 days for lesser crimes, and the maximum 164 days for more serious crimes. Detainees were often held in overcrowded detention cells at local police stations. A steadily growing number of persons who already have been convicted but not yet placed in prisons, due to a lack of space in prison facilities, continued to be held in police custody or pretrial detention cells. Pretrial detainees, who constitute a large percentage of inmates, routinely were held without being brought before a judge.

The military police continued to observe the legal requirement of handing over civilians arrested for committing a crime in their presence to the civilian police. During the year, the investigation of a weapons theft from a military depot was handed over to the civilian police, because all suspects in the case were civilians.

The Constitution does not address exile; however, it was not used in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, disputes over the appointment of judges to the bench undermined the independence of the judiciary in recent years. The President had yet to confirm the Acting Attorney General, although he has served in that position since 2000. Appointment as Attorney General is a lifetime position. In addition, the President had yet to appoint a president of the Court of Justice; the acting president has been in his position since 2000. The judiciary was significantly hampered by a lack of judges, which limited the effectiveness of the civilian and military courts. There were seven permanent judges and five deputy judges for the entire country.

The judicial system consisted of three lower courts, two specialized courts, an appeals court, and the Court of Justice or Supreme Court. The Constitution calls for the establishment of an independent constitutional court; however, discussions to enact such legislation continued in the National Assembly due to concerns that the Constitutional Court would have the authority to overturn decisions of the Government. Other problems faced by the judiciary include financial dependency on the Ministry of Justice and Police and hence the executive branch, lack of professional court managers to oversee the courts' administrative functions, and lack of space. These obstacles caused a significant case backlog. The courts required a minimum of 6 months to process criminal cases and at least 1 year to process civil cases. Civil cases were resolved approximately 3 to 4 years after being heard by the courts.

The Constitution provides for the right to a fair, public trial in which defendants have the right to counsel. The courts assign private sector lawyers to defend indigent prisoners, paying the costs from public funds. However, court-assigned lawyers, of whom there were 14, generally only appeared at the trial, without prior consultation with defendants. According to Moiwana '86, these lawyers often did not appear

at all. In practice, the courts freed detainees who were not tried within the 164-day period, in accordance with the law.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtained them in the great majority of investigations. There was still a threat of forced resettlement of indigenous populations due to the granting of timber and gold concessions (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. Some media members, however, continued to practice occasional self-censorship due to a history of intimidation and reprisals by certain elements of the former military leadership, and to pressure by senior government officials and other important community leaders on journalists publishing negative or unflattering stories about the administration.

There were 3 daily newspapers, 11 television stations, and approximately 25 radio stations. Three television stations and two radio stations were publicly owned. Three companies, one owned publicly, provided cable television, which included foreign channels.

In April, the Ministry of Transport, Communications, and Tourism threatened to suspend a radio station for 48 hours for broadcasting a report that the President's wife had filed for divorce, alleging that this violated the station's licensing agreement and a government resolution on privacy. Instead of closing the station, the Ministry issued a severe warning.

Journalists and media entities often faced harassing lawsuits by public figures, such as one filed by a former Cabinet member against a journalist who exposed a sexual harassment case lodged against the official. The libel case was postponed, and the Cabinet member received a 1-year suspended sentence.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Despite a law from the 1930s requiring a permit to hold a public demonstration or gathering, the authorities allowed public marches to proceed without permits, if they were orderly and guided by police. In March, there were small demonstrations in front of the Vice President's office by nurses and autobus owners. There were also two large demonstrations obstructing the major east-west road by unemployed banana workers.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

For more detailed information, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice. Political dissidents who emigrated during the years of military rule were welcome to return, although few chose to do so, generally for economic reasons. Citizenship was not revoked for political reasons.

Although it is possible for persons to be granted refugee status under special circumstances, there are no provisions in the law for granting asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, in the past the military prevented its effective exercise. Although the military twice in 1987 and 1991 transferred power to elected civilian governments following coups, 2000 marked only the second time since the country's 1975 independence from the Netherlands that one elected government succeeded another in accordance with constitutional provisions; the previous time was in 1996. The Government is still in the process of consolidating democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly in turn elects the President by a two-thirds majority vote. If the legislature is unable to do so, as was the case both in the 1991 and 1996 national elections, the Constitution provides that a national people's assembly, composed of Members of Parliament and regional and local officials, shall elect the President.

The law allows early elections with the concurrence of both the National Assembly and the President. In May 1999, widespread street demonstrations triggered by the declining economy forced the Government of then-President Wijdenbosch to call early elections, which were held in May 2000. After those elections, which observers considered to be generally free and fair, the National Assembly elected NPS leader Ronald Venetiaan as President in August 2000.

The Constitution provides for the organization and functioning of political parties. Various parties and two political coalitions were represented in the National Assembly. President Venetiaan formed his cabinet from members of the New Front coalition, comprised of the NPS, a predominantly Creole party; the Progressive Reform Party, a predominantly Hindustani party; the Suriname Labor Party, a political wing of the largest labor union; and Pertjaja Luhur, a predominantly Javanese party.

There are historical and cultural impediments to equal participation by women in leadership positions in government and political parties. In the past, most women were expected to fulfill the roles of housewife and mother, thereby limiting opportunities to gain political experience or position. Participation by women in politics (and other fields) generally was considered inappropriate. While women made limited gains in attaining political power in recent years, political circles remained under the influence of traditional male-dominated groups, and women were disadvantaged in seeking high public office. There were 10 women in the 51-seat National Assembly, with a woman serving as the Vice Chairperson of the National Assembly. The Cabinet included women in the positions of Minister of Foreign Affairs, Minister of Internal Affairs, and Deputy Minister of Social Affairs. In 2001, the first female member of the Court of Justice was sworn in.

Although the Constitution prohibits racial and religious discrimination, several factors limit the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and Amerindians in the political process. The majority of the country's political activity takes place in the capital, Paramaribo, and a narrow belt running east and west of it along the coast. The Maroons and Amerindians are concentrated in remote areas in the interior, and therefore have limited access to, and influence on, the political process. In the 2000 elections, voters elected eight Maroons and one Amerindian to the National Assembly. There were no Maroons or Amerindians in the President's Cabinet.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, government officials generally were not cooperative or responsive to their views.

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

The Constitution and laws, with the exception of certain ethnic marriage laws, do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. However, in practice several groups within society suffered various forms of discrimination. There continued to be societal discrimination against persons with HIV/AIDS. Hospital workers and other health professionals were reluctant to treat infected persons.



*Women.*—Violence against women was a problem, which the Government had not addressed specifically. The law does not differentiate between domestic violence and other forms of assault. The law prohibits nonspousal rape. According to a national women's group, victims continued to report cases of violence against women and complained of an inadequate response from the Government and society to what appeared to be a trend of increasing family violence. No reliable statistics were available addressing the extent of the problem. In 2002, the NGO, Stop the Violence Against Women Foundation, stated that among those women who reported their abuse to the group, the average abused woman was married, between the ages of 25 and 50, had two to three children, and was employed in a low-paying job. There were approximately 300 abuse cases reported to the foundation during the year. Although the police were reluctant to intervene in instances of domestic violence, a national women's group noted that police attitudes improved significantly as a result of training conducted in 1999. For example, two police stations opened victim's rooms, the first in Nickerie in 2000 and the second in 2002 in Paramaribo, to provide better services to crime victims.

The law prohibits sexual exploitation but not prostitution. Police allowed many brothel-type establishments to operate, and officials asserted that they made random checks on the brothels twice a month to see if women were being abused, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations (see Section 6.f.).

There were various laws used to prosecute perpetrators of sexual harassment. During the year, a Cabinet Minister was pressured to resign after receiving a 2-month suspended sentence for violation of decency in a sexual harassment type case lodged against him by a contestant in a beauty contest.

Women have the legal right to equal access to education, employment, and property; nevertheless, social pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experienced economic discrimination in access to employment and in rates of pay for the same or substantially similar work. A report published in 2002 showed that 89 percent of women were employed in entry-level positions, 9 percent had mid-level jobs, and 3 percent held management positions. More than 60 percent of women worked in traditionally female administrative or secretarial jobs. The Government did not make specific efforts to combat economic discrimination.

The National Gender Bureau in the Ministry of Internal Affairs prepared an Integral Gender Action plan for 2000–2005 and appointed a program manager for gender policy in 2001. However, its effectiveness was limited severely by financial and staffing constraints. The principal concerns of women's groups were political representation, economic vulnerability, violence, and discrimination.

*Children.*—The Government allocated limited resources to ensure safeguards for the human rights and welfare of children. School is compulsory until 12 years of age, although some school-age children did not have access to education due to a lack of transportation, building facilities, or teachers. Although school attendance was free, most public schools were forced to impose a nominal enrollment fee, ranging from \$4 to \$24 (Sf10,000 to Sf60,000) a year to cover costs. Families were required to supply uniforms, books, and miscellaneous supplies. If a family was unable to pay, the Government provided assistance. Approximately 80 percent of children in cities attended school. Children in the interior did not receive the same level of education as those in the city, and as few as 50 percent actually attended school. Children faced increasing economic pressure to discontinue their education to seek employment (see Section 6.d.). There was no legal difference in the treatment of girls and boys in education or health care services, and in practice both were treated equally.

There were continuing reports of malnutrition among poor children, but it was difficult to quantify the extent of the problem. There were several orphanages and one privately funded shelter for sexually abused children in the capital, where 50 percent of the country's population was concentrated. Elsewhere, distressed children usually relied on the resources of their extended families.

There was no societal pattern of abuse directed against children; however, some children were sexually abused. In 2002, the local NGO Bureau for Child Development (BCD) began a campaign against child sexual abuse in a newspaper and on the radio to increase awareness. BCD continued its campaign during the year in cooperation with the Bureau for the Rights of the Child at the Ministry of Social Affairs, which resulted in an increase of cases reported to the Ministry. However, the Police Youth Department reported no increase in the number of sexual abuses it received. In July, one woman received a 2-year sentence for prostituting her 11-year-old daughter.

The legal age of sexual consent is 14; however, it was not enforced strictly. In March, the National Assembly adjusted the Asian Marriage Law to raise the age of consent from 13 to 15 for girls and 15 to 17 for boys. The law also mandated the presence of a Civil Registry official to register the marriage. All individuals must be 30 years old to marry without parental permission.

*Persons with Disabilities.*—There were no laws concerning persons with disabilities, no provisions for making private or public buildings accessible to them, nor any laws mandating that they be given equal consideration when seeking jobs or housing. Some training programs were provided for the blind and others with disabilities. In general, persons with disabilities suffered from discrimination when applying for jobs and services.

*Indigenous People.*—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians suffered a number of disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior. Government services in the interior were largely unavailable, and much of the infrastructure was destroyed during the 1986–91 insurgencies; progress in reestablishing services and rebuilding the infrastructure was very slow. Following demonstrations in 2001 by veterans of the Jungle Commando, who played a large role in the insurgencies, their de facto leader Ronny Brunswijk met with the Minister of Regional Development. This resulted in a promise of quarterly meetings to monitor implementation of the 2001 Lelydorp Accord, which superseded the 1992 peace accords. During the year, the Government integrated 10 former Jungle Commando members into the police but had not implemented the native land rights portion of the agreement.

The Maroon and Amerindian populations continued to face problems with illegal and uncontrolled logging and mining.

Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal Brazilian gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas.

In 2000, the Vereniging van Saramakaanse Gezagdragers, an organization representing 12 Saramaccaner villages, filed a petition with the IACHR claiming that lumber operations, mostly by Chinese-owned concessions, were threatening their way of life. Due to the IACHR's interest in the case, the Chinese ceased their activities and the Government granted permission to a Chinese company to restart a palm-oil factory in the eastern part of the country. The company also received permission for large-scale logging in concessions around the factory. The Maroon communities in the vicinity of the factory protested and threatened to use violence if the Chinese began logging activities. Human rights and environmental groups monitored the joint venture activities of SURALCO and BHP Billiton, which were planning to mine bauxite and generate hydropower in the western part of the country.

Maroon and Amerindian groups continued to cooperate with each other in an effort to exercise their rights more effectively. During an annual meeting in September, the Association of Indigenous Village Chiefs discussed socioeconomic problems, land rights, nature reserves, and biodiversity. The leaders want the Government to honor provisions of the peace accords with the Jungle Commandos in 1991 and with the Tucajana Amazonas in 1992 to establish economic zones around both Maroon and indigenous communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution protects the right of workers to associate and to choose their representatives democratically. Nearly 60 percent of the work force was organized into unions, and most unions belonged to one of the country's six major labor federations. Unions were independent of the Government but played an active role in politics. The Suriname Labor Party has historically been a very influential force in government.

The law prohibits anti-union discrimination by employers, and there were effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause, such as theft and frequent absenteeism. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There were no restrictions on unions' international activities. Unions were active members of both the International Labor Organization (ILO) and the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution explicitly recognizes these rights, and the authorities generally respected them in practice. Collective bargaining agreements covered approximately 50 percent of the labor force. Bauxite industry workers were organized, but gold miners were not.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors occurred often as workers attempted to regain wages lost to inflation and arrears in payments.

There were several strikes during the year. Teachers conducted a 1-day strike to protest the increase of prices of primary goods. Nurses began a strike but returned to work after 1 day when the Government threatened to adhere to a previously established “no work, no pay” principle and to take the union to court. Other strikes involved private companies where the unions negotiated labor conditions.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including labor by children; however, a local NGO reported that child prostitution existed.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum age for employment at 14 years; however, the Ministry of Labor and the police enforced this law only sporadically. Children under 14 worked as street vendors, newspaper sellers, or shop assistants. Working hours for youths were not limited in comparison with the regular work force. Although government figures reported that only 2 percent of children were economically active, a 2002 survey conducted by the Institute for Training and Research found that 50 percent of children between the ages of 4 and 14 were economically active, working mainly in the informal sector. The Government has not ratified the ILO’s Convention 182 on elimination of the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There was no minimum wage legislation. Including a cost of living allowance, the lowest wage for civil servants was approximately \$138 (Sf386,000) per month. This salary level did not provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the work force of 100,000 persons, frequently supplemented their salaries with second or third jobs, often in the informal sector. The President and Council of Ministers set and approve civil service wage increases.

Work in excess of 9 hours per day or 45 hours per week on a regular basis required special government permission, which was granted routinely. Such overtime work earned premium pay. The law requires one 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor was responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel precluded the division from making regular inspections. There was no law authorizing workers to refuse to work in circumstances they deem unsafe; they must appeal to the inspectorate to declare the workplace situation unsafe.

*f. Trafficking in Persons.*—Dated “white slavery” laws prohibit trafficking in persons; however, the laws rarely were enforced and applied only to women and children, and trafficking in persons was a problem. The 1914 Police Criminal Law prohibits solicitation, but the law is not enforced. Existing laws prohibit sexual exploitation but not prostitution.

There were reports of trafficking in women and girls to and through the country for prostitution. Several night clubs in the capital reportedly recruited women from Brazil, Colombia, Guyana, and the Dominican Republic.

The police had informal agreements with many “hotel” or brothel owners allowing them to proceed with their business. However, police conducted random checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women’s airline tickets and passports. During the year, there were fewer than 10 reports of brothel owners retaining passports and airline tickets to uphold contract obligations. In such cases, the police assisted these women to return to their country of origin at their own expense. In 2001, one club owner in Paramaribo was convicted in Brazil for trafficking in women.

The Public Prosecutor’s Office and the police established a registry of all brothels and their employees by nationality. The Public Prosecutor’s Office, in cooperation with police officials, extended services provided to victims of domestic violence to possible trafficked victims and in May established a “special victims’ unit” and a telephone hot line to handle all cases from the commercial sex industry. The Government established an anti-trafficking commission, comprised of various ministries and a local NGO and headed by the Ministry of Justice and Police, to study trafficking.

## TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been generally free and fair elections since independence from the United Kingdom in 1962. Parliament elects a president, whose office is largely ceremonial but does have some appointive power. In October 2002 general elections, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 20–16 seat victory over the United National Congress (UNC), breaking an 18–18 tie in Parliament and ending a 9-month parliamentary stalemate. The judiciary is independent.

The Ministry of National Security oversees the police service and the defense force, rendering them responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the Police Service, and the Ministry had little direct influence over changes in senior positions. While the civilian authorities maintained effective control of the security forces, some members of the security forces committed human rights abuses.

Oil and natural gas production and related downstream petrochemical industries, including ammonia and methanol production, provided the base for the market-based economy. The country's population was approximately 1.3 million. The service sector was the largest employer, although industrialization and associated plant construction created many jobs in the construction industry. Agriculture, while contributing only 11 percent to gross domestic product, remained an important employer, both at the subsistence and commercial level. Unemployment, at a reported 11 percent, contributed to a skewed income distribution. The Central Bank projected the economic growth rate to be approximately 3.2 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were police killings during apprehension and while in custody, and there were reports of police and guard abuse of prisoners. Poor prison conditions and significant violence against women remained problems.

### 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, the police killed a number of persons during arrest or questioning, in circumstances that were under investigation.

On May 25, media reported that a police officer shot Gideon Edwards, who apparently had become mentally deranged. Police alleged he wielded a knife during the incident. The next day, police officers shot and killed two persons in a drug raid. On May 27, police shot and killed two men, one in Toco and another in Port of Spain; the latter was an outpatient at a mental hospital. On May 31, police killed a man in Bagatelle when he tried to escape questioning. Police conducted investigations, and inquests or final disposition were pending at year's end.

On September 5, police in San Fernando arrested Shaun McLeod, age 23, for using obscene language. The police allegedly beat McLeod while in custody, and he died the same evening at San Fernando General Hospital. An autopsy revealed McLeod died of blunt trauma to the head. After an investigation, the authorities arrested a police constable and charged him with manslaughter; his trial was pending at year's end.

The Department of Public Prosecutions (DPP) indicted three prison officers in connection with the 2001 death of prisoner Anton Cooper. A magistrate's court established a prima facie case of murder, and the guards were jailed awaiting trial at year's end.

In October, a jury found former cabinet minister Danraj Singh not guilty for the 1999 slaying of politician Hanraj Sumairsingh.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Criminal kidnappings for ransom were a growing problem.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports of police and prison personnel abusing prisoners in incidents that involved beating, pushing, and verbal insults. In November, an Amnesty International (AI) team visited the country and found evidence of "rough" treatment of suspects. After walking tours of neighborhoods, they stated that the police were "obviously roughing up suspects."

In May, Uriel Mitchell claimed masked police officers repeatedly beat him with electrical cable and kicked and slapped him during an interrogation at his Chaguanas home. In June, Lendl Perez, a resident of Gasparillo, said that police

entered his home and proceeded to pistol-whip and kick him before taking him into custody. Police charged Perez with resisting arrest and denied any wrongdoing.

Residents of the Laventille and Sea Lots neighborhoods claimed police and army units, conducting raids in May, harassed and beat residents during their neighborhood sweeps. The police claimed to have shot their guns in the air to frighten the residents. Residents of El Soccoro made similar claims in June.

In September, Port of Spain resident Trevor Jack claimed he was brutally beaten by police while in custody on charges of shoplifting. He was treated at San Fernando General Hospital for broken ribs and a ruptured spleen. Police officials promised a full investigation into Jack's claim.

In September 2002, prison authorities opened an investigation into claims by death row inmate Damian Ramiah that he had been severely beaten by prison officers in July 2002. Prison authorities said that an inquiry recommended an officer be put in charge of an investigation of the officers alleged to have participated in the beating. At year's end, Ramiah remained in custody, and his claims were still being investigated.

In December 2002, Allan Saran confessed to involvement in the kidnaping for ransom of a Port of Spain resident (subsequently freed) and identified two police officers as accomplices. The DPP indicted Saran and his accomplices, and the case was in process at year's end.

On December 15, San Fernando's High Court awarded Selwyn Murray \$21,125 (TT\$130,000) for police brutality that occurred in April 2001. He was arrested for alleged possession of marijuana and was held overnight for delinquent spousal maintenance payments. The police beat him, breaking six ribs and inflicting additional injuries to his ankles, wrist, chest and forearm. The following day, Murray had to have surgery on his lung. The High Court's award comprised a pain and suffering package of \$14,700 (TT\$90,000) and a landmark \$6,550 (TT\$40,000) further penalty for the police brutality.

Prison conditions were poor. The Frederick Street Prison in Port of Spain, which was built in 1812, was designed for 250 inmates but held approximately 900 prisoners at year's end. Diseases such as chicken pox, tuberculosis, HIV/AIDS, and viruses spread easily, and prisoners had to purchase their own medication. The Commissioner of Prisons reported that the entire prison system held 3,991 inmates as of October. Prison overcrowding continued to be a problem. A maximum security prison, opened in late 1998, had an intended capacity of 2,450. However, as of October it held approximately 785 inmates and had done little to relieve the overcrowding in the detention system.

Pretrial detainees were held separately from convicted prisoners, although they could be in the remand section of the same facilities as convicted prisoners.

Women were held at a separate prison facility where conditions generally met international standards. Children between the ages of 15 and 19 were held at the Youth Training Center. Younger children were sent to the Boy's Industrial School.

In June, 75 prisoners staged a riot in the prison attached to the San Fernando Magistrate's Court. Criminal Investigation Division officers, along with Crime Suppression Unit officers and firemen quelled the uprising. The prisoners claimed they had been abused and that guards had stolen their possessions.

The Government permitted prison visits by independent human rights observers, but the Ministry of National Security must approve each visit.

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

The national police force is divided into nine countrywide divisions and had 5,896 members. It is headed by a commissioner who is appointed by the Police Service Commission, after consultation with the Prime Minister. Municipal police, who are under the jurisdiction of 14 regional administrative bodies, supplement the national service. In October, the Government announced formation of a Special Crime Fighting Unit, composed of police and Defense Force personnel, to address public concerns over the high rate of violent crime, kidnappings for ransom, and other security issues.

Police corruption continued to be a problem. An independent body, the Police Complaints Authority, received complaints about the conduct of any police officer, monitored the investigation of complaints, and determined disciplinary measures where appropriate, including dismissal. However, Police Service Commission restrictions limited the authority's ability to dismiss police officers. Recent governments agreed that there was a need for reform because the commission inhibits the way the Commissioner and his senior staff may discipline offending officers operationally.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission

of the alleged offense. For less serious offenses, the authorities typically brought the accused before a magistrate by way of a summons, requiring the accused to appear within 48 hours, at which time the accused could enter a plea. For more serious offenses, when the accused was brought before the court, the magistrate proceeded with a preliminary inquiry or, alternatively, committed the accused to prison on remand or allowed the accused to post bail until the inquiry. In practice, serious offenders also were charged within 48 hours following arrest.

The court may and customarily did grant bail to any person charged with any offense other than murder, treason, piracy, hijacking, or for any other offense for which death was the penalty fixed by law. In cases in which bail was refused, magistrates advised the accused of their right to an attorney and, with few exceptions, allowed them access to an attorney once they were in custody and prior to any interrogation. Police have the authority, under the Summary Courts Act, to grant bail to individuals charged with summary offenses.

In April, the courts freed six men who had been sentenced to prison terms longer than the law permitted. The Summary Courts Act provides that magistrates must limit multiple-offense consecutive prison terms to a maximum of 3 years. The six men, freed in April, had received consecutive sentences on their various charges for longer than 3 years. In one instance, an inmate served an additional 6 years beyond the 3 years required by law.

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for the detention. There were no reports that the authorities abused this procedure.

The Constitution prohibits forced exile, and it 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 judiciary provided citizens with a fair judicial process.

The judiciary is divided into a Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the Court of Appeal and the High Court; the Magistracy includes the summary courts and the petty civil courts.

All criminal proceedings commence with the filing of a complaint in the summary court. Minor offenses are tried before the magistrate. For more serious offenses, the magistrate must conduct a preliminary inquiry. If there is sufficient evidence to support the charge, the accused is committed to stand trial before a judge and jury of the High Court. All civil matters are heard by the High Court. Both civil and criminal appeals may be filed with the local court of appeal and ultimately to the Privy Council in London.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All criminal defendants have the right to an attorney. In practice, the courts sometimes appointed attorneys for those persons charged with indictable offenses (serious crimes) if they could not retain one on their own behalf. The law requires that a person accused of murder have an attorney. An indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement.

Despite serious efforts to improve the administration of justice, problems remained in some areas. Trial delays, while not as extensive as in past years, remained a problem: Adults prosecuted for serious offenses were committed for trial or discharged in 2 to 3 years in capital cases or within 5 years in noncapital cases; minors were tried or discharged within 1 year. The High Court reduced its trial backlogs, but they remained significant at the magistrate court level. To help improve efficiency, the courts used computer-aided transcription to more speedily and efficiently create a record.

The death penalty was mandatory in all murder convictions for persons 18 years of age or older; convicted minors were jailed pending a presidential pardon. After the Government sought to curtail appeals by death row inmates to the Inter-American Commission on Human Rights (IACHR) and the U.N. Human Rights Committee, the Privy Council ruled that by ratifying a treaty that provides for individual access to an international body, the Government made that process part of the domestic criminal justice system, thereby extending the scope of the due process clause of the Constitution, and that executing a prisoner with such an appeal pending would constitute a violation of due process. At year's end, the Government had not determined what to do with approximately 100 persons affected by this ruling.

The 2000 Integrity in Public Life Act, which established an Integrity Commission with jurisdiction and control over the financial activities and ethical conduct of persons in public life and persons exercising public functions, was used as the basis for investigations of the activities of several public officials, including former Prime Minister Panday, in the months prior to the 2002 elections. In 2002, Panday was

arraigned in Magistrate's Court; after continued legal filings and postponements, the case was adjourned until March 2004. The Panday case was the first filed under the new act.

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. An independent press and a functioning democratic political system combined to ensure freedom of speech and of the press.

A Board of Film Censors is authorized to ban films that it considers to be against public order and decency or contrary to the public interest. This includes films that it believes may be controversial in matters of religion or race, or that contain seditious propaganda. In practice, films rarely were banned.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. The police routinely granted the required advance permits for street marches, demonstrations, or other outdoor public meetings. Amendments to the Summary Offences Act require that permits for public meetings and rallies be applied for 48 hours in advance instead of 24 hours, and make it an offense to hold a public meeting without a permit under the guise of conducting an exempted religious, educational, recreational, or sports function.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Registration or other governmental permission to form private associations is not required.

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

The Government limited the number of foreign missionaries allowed to enter the country to 30 per denomination. Missionaries must meet standard requirements for an entry visa, must represent a registered religious group, and may not remain in the country for more than 3 years.

The Government was known to monitor closely only one religiously affiliated group, a radical Muslim organization called the Jamaat al Muslemeen, some members of which attempted a coup in 1990. The Government's surveillance focused on the group's links to crime, potential activities leading to civil unrest, and the actions of some members who traveled to Libya as students.

For a more detailed discussion, see the 2003 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 2000, the Government acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government had not yet passed legislation to implement obligations accepted under the Convention, although the authorities generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). Until Parliament approves the legislation, the Ministry of National Security's Immigration Division handled any requests for asylum on a case-by-case basis. In practice, the Government provided protection against refoulement and placed asylum seekers in the care of a local NGO pending resolution of their cases, which were reviewed by the office of the UNHCR.

During the year, there were six cases of persons who fell outside the definition of the U.N. Convention and its Protocol. On January 14, authorities detained three men from Cote d'Ivoire for entering the country illegally and handed them over to the NGO. In addition, the NGO housed two women from Guyana and a Cuban citizen who also requested asylum. The Government denied asylum to the Cuban.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. The Constitution extends the right to vote to citizens, as well as to legal residents at least 18 years of age who are citizens

of other Commonwealth countries. Parliamentary elections are held at intervals not to exceed 5 years, and elections for the Tobago House of Assembly occur every 4 years. The most recent general election was held on October 7, and observers found it to be generally free and fair.

The two major political parties were the People's National Movement and the United National Congress. The PNM was primarily but not exclusively Afro-Trinidadian; the UNC was primarily but not exclusively Indo-Trinidadian. Voters in the 2002 general elections supported the PNM, which retained control of the Government. The UNC has called repeatedly for constitutional reform to address what it considers imbalances in the distribution of political power. Until the Government addresses constitutional reform, the UNC has followed a policy of "total noncooperation" with the PNM. In the July local elections, the PNM won 9 electoral districts and the UNC won 5.

There were no specific laws that restrict the participation of women or minorities in government or the political parties. The PNM and UNC have numerous female party leaders and members, and both parties have appointed women to cabinet positions in their respective governments. During local elections in July, 50 of the 126 PNM candidates were women, and 7 of the 9 city councilpersons elected in San Fernando were women. Women comprised slightly more than half of all registered voters in the country, and the voters elected 7 women to the 36-seat House of Representatives. There were 11 women in the 31-member Senate and 6 women in the 25-member Cabinet.

Both major political parties reached out to ethnic minority voters, and ethnic minorities occupied significant positions in government. Senator Howard Chin Lee, PNM member and Minister of Tourism, and Gerald Yetming, Member of Parliament from the UNC, were both ethnic Chinese. Chinese were the third largest distinct ethnic group, representing approximately 1 percent of the population.

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

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, the Government responded strongly to AI's criticism of prison conditions and due process.

An independent Ombudsman received complaints relating to governmental administrative issues and investigated complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

In 2002, the Inter-American Court of Human Rights cited the Government for violating the American Convention on Human Rights by executing inmates who had unresolved appeals pending before the IACHR and ordered the Government to pay more than \$2.9 million to the families and attorneys of several death row inmates. The Government contested the Court's findings, stating that the executions in question had been carried out in accordance with applicable law, and continued to pursue measures to block having to comply with the ruling.

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

The Government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex.

*Women.*—Abuse of women continued to be a significant problem. There was increased media coverage of domestic abuse cases and signs of a shift in public opinion, which previously had held that such cases were a private matter. The Government also improved aid for victims. In February, the Attorney General opened a regional conference on gender-based violence and the administration of justice to review the legal system's response to gender-based violence with a focus on police training and supporting services. Murder, rape, and other crimes against women were reported frequently, but it was believed that many sexual crimes were unreported. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers were reportedly unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. Two government ministries, operating independently, directed the NGOs that ran most of the country's social programs addressing domestic violence, including five shelters for battered women.

Rape, spousal abuse, and spousal rape are criminal offenses. A rape crisis center offered counseling for rape victims and perpetrators on a voluntary basis. The Government operated a 24-hour domestic violence hotline, which received calls and re-



ferred victims to shelters, counseling, or other assistance. The hotline was for victims of rape, domestic violence, or other violence against women and received approximately 2,698 calls through September, although 1,182 were identified as prank calls.

Prostitution is illegal, and the authorities continued to monitor and pursue prosecutions against persons charged with soliciting for the purpose of prostitution.

There are no laws pertaining to sexual harassment, and it was a problem.

Many women held positions in business, the professions, and government. Nevertheless, men still tended to hold most senior positions. There was no law or regulation requiring equal pay for equal work.

Women's participation in education was virtually equal to that of men.

The Division of Gender Affairs in the Ministry of Community Development and Gender Affairs was charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also existed.

*Children.*—The Government's ability to protect children's welfare was challenged by a lack of funds and expanding social needs. Education was free and compulsory through primary school, usually ending at 11 or 12 years of age. Some parts of the public school system seriously failed to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. The Government committed resources to building new facilities and expanded access to free secondary education.

The Domestic Violence Act provides protection for children abused at home. Abused children removed from the home usually were placed with relatives. If there was no relative who could take them, there were several government institutions and NGOs that accepted children for placement.

A 2000 law establishes the upper age in the definition of a child at 18 years of age, abolishes corporal punishment as a penal sanction for children under 18, and prohibits sentencing a person between 14 and 18 years of age to prison. A companion law established a new Children's Authority to license and monitor community residences, foster homes, and nurseries, and to investigate complaints about the care of children in such locations. At year's end, the acts had not yet been proclaimed, as the Government was taking steps to appoint a board to manage the new authority.

*Persons with Disabilities.*—There is no legislation that specifically enumerates or protects the rights of persons with disabilities or mandates the provision of access to buildings or services. The lack of access to transportation, buildings, and sidewalks was a major obstacle for persons with disabilities. The Government provided some public assistance and partial funding to a variety of NGOs, which in turn provided direct services to members or clients with disabilities. During the summer, a number of persons with disabilities protested outside the gates of National Flour Mills over what they claimed were discriminatory hiring practices by the company; the protest ended when company officials and government authorities promised to look into their concerns.

*Indigenous People.*—Members of a very small group in the population identify themselves as descendants of the original Amerindian population of the country. They maintain social ties with each other and other aboriginal groups and were not subject to discrimination.

*National/Racial/Ethnic Minorities.*—Various ethnic and religious groups lived together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appeared between Afro-Trinidadians and Indo-Trinidadians, which each make up approximately 40 percent of the population. The private sector was dominated by Indo-Trinidadians and persons of European, Middle Eastern, or Asian descent. Indo-Trinidadians predominated in agriculture. Afro-Trinidadians were employed in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians asserted that they were excluded from equal representation in the civil service due to racial discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1972 Industrial Relations Act (IRA) provides that all workers, including those in state-owned enterprises, may form or join unions of their own choosing without prior authorization. The IRA provides for the mandatory recognition of trade unions when a union satisfies the Registration Recognition and Certification Board that it represents 51 percent or more of the workers in a specified bargaining unit. Union membership has declined, with an estimated 15 to 25 percent of the work force organized in approximately 19 active unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically was allied with the UNC.

The law prohibits anti-union activities before a union is registered legally, and the Ministry of Labor enforced this provision when it received a complaint. A union also may bring a request for enforcement to the Industrial Court, which may order employers who are found guilty of anti-union activities to reinstate workers and pay compensation or impose other penalties including imprisonment. When necessary the Ministry of Labor's conciliation service determines which unions should have senior status.

Unions freely joined federations and affiliated with international bodies.

*b. The Right to Organize and Bargain Collectively.*—The IRA establishes the right of workers to collective bargaining. The conciliation service maintained statistical information regarding the number of workers covered by collective bargaining agreements and the number of anti-union complaints filed.

All employees except those in "essential services," which include the police and many other government employees, have the right to strike. The International Labor Organization (ILO) has criticized the Government's definition of essential services as being overly broad and has requested that the legislation be amended.

There were significant strikes during the year. In January, major public hospitals in San Fernando curtailed their services when doctors staged sick-outs to protest workplace safety and collective bargaining arrangements. During August and September, workers at Carlisle Wheel and Manufacturing walked out on their jobs to protest employment terms. In September, DPP prosecutors staged a sick-out to protest lack of resources and inadequate staffing that, according to them, hampered their ability to prosecute criminal matters effectively.

The Labor Relations Act prohibits retribution against strikers and provides for grievance procedures if needed. A special section of the Industrial Court handles mandatory arbitration cases. Arbitration agreements are enforceable and can be appealed only to the Industrial Court. Most observers considered this court to be impartial; it consisted of government, business, and labor representatives.

There are several export processing zones (EPZs). The same labor laws applied in the EPZs as in the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The law does not prohibit specifically forced or bonded labor, but there were no reports that such practices occurred. There were also no reports of forced or bonded labor by children.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 legally may work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The Ministry of Labor and Small and Micro-Enterprises is responsible for enforcing child labor provisions, but enforcement was lax because there were no established mechanisms for receiving, investigating, and addressing child labor complaints.

There was no organized exploitation of child labor, but a UNICEF study estimated that 1.2 percent of children from 5 to 14 years of age were engaged in paid work, and that 0.3 percent were engaged in unpaid work for someone other than a family member. An ILO study reported that children engaged in several types of work, including scavenging, agriculture, domestic work, street vending, and commercial sexual activity.

In March, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor; however, it had yet to enact the relevant enabling legislation by year's end.

*e. Acceptable Conditions of Work.*—In January, Parliament approved an increase in the national minimum wage to \$1.30 (TT\$8.27) per hour. Actual wages varied considerably among industries, and while the minimum wage did not provide a decent standard of living for a worker and family, most workers earned more than the minimum. The Ministry of Labor enforced the minimum wage regulations.

The Minimum Wages Act establishes a 40-hour workweek, time-and-one-half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days, the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave formed part of most employment agreements.

The Factories and Ordinance Bill of 1948 sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The IRA protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

*f. Trafficking in Persons.*—While there are no laws that specifically address trafficking in persons, the illegality of such acts is covered broadly in a variety of laws that address kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports that persons were trafficking to, from, or within the country.

## URUGUAY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. In 1999, voters elected Senator Jorge Batlle of the Colorado party President in free and fair elections; he assumed office on March 1, 2000, for a 5-year term. In legislative elections in 1999, the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control more than half of the seats in the legislature. The judiciary is independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. Civilian authorities exercised effective control over the security forces. Some members of the security forces committed some human rights abuses.

The economy, which began recovering from a 4-year recession during the year, is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The country's population is estimated at 3.4 million. The leading exports are meat, leather, and rice. The unemployment rate was 16 percent; the economy contracted by 10.5 percent in 2002 and did not grow during the year. Inflation rose significantly to 14.1 percent in 2002 and was 13 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports of police violence, including abuse of prisoners in the jails and police stations, prison conditions were poor, and court cases sometimes last for many years, resulting in lengthy pretrial detention. Violence against women, and some discrimination against women and the black minority were problems. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, one prisoner died after allegedly being struck by guards (see Section 1.c.).

The 1986 Amnesty Law prohibits criminal prosecution of members of the security forces who perpetrated extrajudicial killings, torture, and other abuses during the 12 years of military rule from 1973–85. However, some victims and relatives of victims had success using the civilian courts to seek redress.

In May, a court ordered the release of former Minister of Foreign Affairs, Juan Carlos Blanco, having absolved him of deprivation of liberty charges in connection with the disappearance of Elena Quinteros, who was allegedly abducted from the Venezuelan Embassy in 1976. In June, the Government filed new charges of aggravated homicide against Blanco in connection with Quinteros' death. By year's end, Blanco had not been reincarcerated, and the charges remained pending.

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

The 1986 Amnesty Law required the Government to investigate the fate of those citizens who were detained and then disappeared during the dictatorship; however, the first three administrations following the return to democracy consistently refused to do so.

In 2000, President Batlle created a National Peace Commission to clarify the fate of citizens believed to have disappeared for political reasons during the dictatorship. The Commission received and analyzed information relative to 32 Uruguayans and 6 Argentines. On April 10, the final report was presented to President Batlle. Although the Commission did not meet with armed forces representatives, the report indicated that the Commission received and reviewed all information available in the country, as well as information from foreign embassies. The report confirmed human rights violations such as torture, illegal arrests, and detentions in clandestine centers during the military dictatorship. It prepared individual summaries of

its conclusions on each disappeared person and recommended legal measures that the Government should adopt to compensate the families of the victims and resolve the victims' legal status, such as by declaring them dead. The Commission's preliminary report—published in November 2002—concluded that the fate of 20 percent of the missing citizens was probably cremation and burial at sea. The information on the fate of the disappeared detainees was made available only to the victims' families, to the President, and in one case (the Blanco case) upon request to the judiciary.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports of abuse of prisoners, many of which have been investigated by the Government.

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. In July, two cases of police abuse of detainees in Maldonado resulted in the arrest and conviction of nine policemen. There were also numerous reports of abuse of prisoners inside the prison system. Human rights groups and an organization of the families of prisoners filed several complaints that included routine beatings in processing; routine hazing and beatings of prisoners during searches; poor quality and insufficient quantities of food, bedding, and clothing; and poor access to medical care.

Conditions in prisons were poor and deteriorated during the year. Overcrowding increased due to worsening budget problems, an influx of new prisoners at the rate of 200 per month, and the partial destruction of Canelones prison during a riot in August. There were 7,100 prisoners in prison facilities designed to hold only 2,940 prisoners, causing sanitation, social, and health problems in the major facilities. The Libertad prison destroyed in a riot in 2002 continued to house hundreds of prisoners despite its official capacity of zero. As a temporary solution, the Government resorted to holding some of the overflow prisoners within modified shipping containers. To alleviate overcrowding, the Government purchased modular cells providing secure, sanitary holding facilities for up to 600 prisoners, but these new cells were not occupied by year's end. National Prisons Director Enrique Navas stated that the prison system was on the edge of collapse.

In addition to overcrowding, the penal system suffered from understaffing, corruption, and physical violence. Prisoners were not always separated according to the severity of their crimes. Narcotics, weapons, and cell phones were smuggled into several facilities, allegedly with the official collusion. Family visitation, in which family members carry in food to supplement a prisoner's diet, was allowed but was made difficult as the family members were strip-searched in unhygienic conditions and subjected to invasive searches.

In May, the Parliament's Committee on Human Rights began an investigation into prison conditions, which followed a hunger strike by inmates protesting the death of a 19-year-old prisoner, held in connection with the theft of less than \$7.50 (200 pesos). The prisoner died after allegedly being struck by prison guards. Proposals from committee members to alleviate overcrowding included a plan to turn some prisoners over to the military for housing and a change in pretrial statutes that would require a judge to look at the potential sentence an accused faces in determining the maximum time for pretrial incarceration. In September, President Batlle promulgated a law creating a legislative committee to ensure that prison conditions comply with international norms.

According to press reports and the regional AIDS rights organization ASEPO (Asociacion de Ser Positivo), the majority of prisoners infected with HIV and AIDS did not receive adequate treatment or medication. The extent of the infection and transmission rates of the disease within the inmate population was unknown.

Female prisoners were held in separate facilities from male prisoners with the exception of the Artigas prison, in which women were housed in a separate facility within the prison. In general, conditions for female prisoners were significantly better than for male prisoners due to the small population and the availability of training and education opportunities.

Minors were held in institutions operated by the National Institute for Minors (INAME). Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in some of these facilities were as bad as in the adult versions, with some youths permitted to leave their cells only 1 hour per day.

Juvenile offenders who were not considered to pose a threat to society were placed in halfway house facilities, oriented towards rehabilitation. These facilities provided educational, vocational, and other opportunities, and the juvenile offenders were able to enter and leave without restriction.

The Government—citing safety reasons—did not permit general prison visits by independent human rights observers during the year; however, the Government permitted inmate visitation and visits from foreign diplomats.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice. The law requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respected this provision in practice. The only exception is when the police apprehend the accused during commission of a crime.

The National Police number approximately 30,000 officers with broad jurisdiction under the direction of the Ministry of Interior. The police have a hierarchical structure with the Chief of Police, Director of Intelligence Unit, and Director of the Drug Unit reporting to the Vice Minister of the Interior. The Minister of Interior has attempted to reform the police by creating a service mentality and moving toward a community-policing model; however, low salaries resulted in petty corruption and officers taking second jobs to support their families. New police officers earn \$130 (3,610 pesos) per month and 15-year veterans earn \$180 (5,000 pesos) per month.

An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it is understaffed and only can issue recommendations for disciplinary action. Ministry of Interior authorities act promptly if accusations of alleged police brutality are reported. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes are separated from active service until a court resolves their cases. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, and this law was respected in practice.

The authorities reportedly indicted more than 400 police officers in the last 4 years for violations ranging from corruption to abuse.

The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) have no validity. Further, should a detainee claim that he has been mistreated, by law the judge must investigate the charge.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail (which seldom happens). As a result, between 65 and 70 percent of all persons incarcerated were awaiting a final decision in their case. However, only those committing more serious crimes were actually jailed while waiting for the judge to investigate charges. The majority of persons facing charges were not jailed. The length of time the accused spends in jail pending trial also varies depending on the complexity of the case and the size of the judge's docket. The uncertainty respecting length of imprisonment contributed to tension in the prisons.

The Government does not use forced exile. The Constitution provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment; however, this option has not been exercised for at least 2 decades.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which normally are not made public. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

Parliament continued delaying the implementation of a 1997 law to reform and modernize the Criminal Code. The law provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and an accelerated pace for criminal trials.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice; however, the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.”

The independent media were active and all elements of the political spectrum freely expressed their viewpoints in both print and broadcast media. However, human rights activists and journalists alleged that state enterprises such as the telephone and electric companies on occasion withheld advertising from independent media that were critical of the Government and favored media friendly to the Government with extensive paid advertising. There were a few reports that stories critical of the Government were edited to be less critical or dropped altogether. In 2002, there were reports of at least two journalists who were fired for criticizing the Government too harshly.

The law stipulates that expression and communication of thoughts and opinions are free, within the limits contained in the Constitution, and it outlines methods of responding to “inexact or aggravating information.” The law provides for between 3 months’ and 2 years’ imprisonment for “knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State” or for “insulting the nation, the State, or their powers.” The authorities rarely used this law and did not do so during the year.

Access to the Internet was available and unrestricted.

The national university is autonomous, and the Government did not restrict 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.

In May, as in prior years, thousands of persons marched in memory of the persons who disappeared during the rule of the dictatorship (see Section 1.b.). Several demonstrations protested the Government’s decision to criticize Cuba for human rights violations. The demonstrators were allowed to march and express themselves freely. Protests and demonstrations about economic conditions, labor issues, bio-technical issues, the war in Iraq, and student issues took place without interference.

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

There is a strict separation of church and state, and religious instruction in public schools is prohibited.

The most significant reported incident of harassment was an outbreak of anti-Semitic graffiti in several neighborhoods in Montevideo. This was traced to a small neo-Nazi group in the capital, which was quickly broken up. Following a complaint filed by Tolerancia Si (Tolerance Yes), a nongovernmental organization (NGO), the members were prosecuted under the country’s strict hate crimes law and sentenced to brief jail terms.

For a more detailed discussion, see the 2003 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 grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. However, the country lacks a formal mechanism for determining third country resettlement requests submitted by UNHCR. The Government grants temporary protection in cases in which a refugee’s claims are verified by the UNHCR. The Government continued

to cooperate with international organizations to provide temporary residence to human rights advocates who claim that they are subject to persecution in their home country; if still at risk after 1 year, the person may apply for refugee status.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a multiparty democracy with mandatory voting for those 18 years of age or older. The Colorado party, the National (Blanco) party, and the Broad Front coalition are the major political groupings.

In November 1999, in free and fair elections, voters elected Senator Jorge Batlle of the Colorado party President, and he assumed office on March 1, 2000, for a 5-year term. In legislative elections in October 1999, the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus becoming the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together controlled more than half of the seats in the legislature.

Women participated actively in the political process and government, although primarily at lower and middle levels. Three of 30 senators and 13 of 99 deputies were women. None of the 13 cabinet ministers were women. There were no female justices on the Supreme Court. With the exception of an alternate deputy, there were no Afro-Uruguayans in Congress.

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

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

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

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability. Despite these provisions, societal discrimination against some groups existed.

*Women.*—Violence against women continued to be a problem. The law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The state-owned telephone company provided a free nationwide hotline answered by trained NGO employees for victims of domestic violence. A 2000 law increased sentences for rape and certain other sexually related crimes. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely were initiated for those crimes.

A government office of assistance for victims of domestic violence trains police how to resolve complaints of violence against women. A directorate within the Ministry of Interior continued a public awareness campaign about domestic violence and operated community assistance centers where abuse victims receive information and referrals to government and private organizations in their area that aid abused women. Both the Ministry of Interior and NGOs operated shelters in which abused women and their families could seek temporary refuge. However, the country's economic crisis threatened assistance to an increasing number of victims of domestic violence, as lack of funding led to closure of a number of centers.

The law prohibits sexual harassment in the workplace; however, few such complaints were filed.

Women enjoyed equality under the law in the workplace but faced discrimination stemming from traditional attitudes and practices; however, there never have been any cases brought under the law. The work force exhibited some segregation by gender. Women, who made up almost one-half the work force, tended to be concentrated in lower paying jobs. Women's salaries averaged two-thirds those of men, continuing a gradual improvement with respect to pay equity. Approximately 60 percent of the students at the public university were women. Women often pursued professional careers but were underrepresented in traditionally male-dominated professions.

A small institute in the Ministry of Education coordinated government programs for women. There were a number of active women's rights groups, and many of their activities remained centered on follow-up to the platform of action of the 1995 U.N. Conference on Women.

*Children.*—The Government generally is committed to protecting children's rights and welfare, and it regarded the education and health of children as a top priority. INAME oversees implementation of the Government's programs for children but received only limited funding for programs. The Government provided free compulsory kindergarten, primary, and secondary education, and 95 percent of children completed their primary education. Girls and boys were treated similarly. Free education was available through the undergraduate level at the national university.

There is no societal pattern of abuse of children. Minors under the age of 18 are not subject to criminal trial but receive special treatment with special judges and, when sentenced, stay in institutions run by INAME for the period determined by the judge; these institutions emphasize the rehabilitation of minors. INAME maintained an extensive network of programs, including shelters for at-risk children. INAME also operated a confidential hotline for children who were victims of domestic abuse.

UNICEF estimated that 40 percent of children under the age of 5 live in the poorest 20 percent of homes. Health care is free to all citizens, and the Government, with the help of UNICEF, has undertaken a program to educate parents regarding the need for regular checkups and immunization.

Although there were few substantiating statistics, polls and arrests of children participating in sexual work indicated that child prostitution existed. INAME has never conducted research on the subject of child prostitution, and no NGO specifically addressed the problem (see Section 6.f.).

While not yet a major problem, the incidence of sexual exploitation has increased in recent years. According to the NGO Casa de los Niños, commercial sexual exploitation of children between the ages of 11 and 15 occurred mostly in the states bordering Brazil and Argentina. Authorities believed that this trafficking was specifically for prostitution and pornography. There was also concern about possible child prostitution rings in Montevideo and the resort areas of Punta del Este and Maldonado.

In 2002, the State of Maldonado announced that child prostitution and sexual tourism had increased and identified 70 locations where this had occurred. For the first time, there were isolated reports of male prostitution. Anecdotal evidence also indicated that in recent years child prostitution has increased, especially in the interior of the country. Children's rights NGOs and the media received reports that minors resorted to prostitution as a means of survival in rural areas where unemployment was more than 20 percent.

Prostitution is legal in the country, and there is no law specifically prohibiting participation by minors. The Government created the Interdepartmental Commission for the Prevention and Protection of Children Against Sexual Exploitation, which—with INAME—was responsible for creating the national plan of action, which includes education programs.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the Government provided access to a number of existing buildings. The law reserves 4 percent of public sector jobs for persons with disabilities. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—The country's Afro-Uruguayan minority, estimated at nearly 6 percent of the population, continued to face societal discrimination. A 1999 study by the NGO Mundo Afro found that the illiteracy rate among black women was twice the national average, that the percentage of black women who had pursued higher education was one-third that of the general population, and that one-half of Afro-Uruguayan women worked as household domestics. Afro-Uruguayans were practically unrepresented in the bureaucratic and academic sectors.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies; however, there is almost no legislation specifically entitling workers to form and join unions of their choice. Unions traditionally organized and operated free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization was high in the public sector (more than 80 percent) and low in the private sector (under 5 percent). Labor unions were independent of political party control but traditionally associated more closely with the left-of-center Broad Front political coalition.



A Ministry of Labor commission investigates anti-union discrimination claims filed by union members. There have been no such claims since 2000. Labor unions have complained that some businesses have encouraged formation of worker cooperatives, which served to reduce their labor costs. Although such cooperatives did not necessarily affect workers' social insurance and other public benefits, this outsourcing could reduce workers' job security, result in a loss of seniority, and weaken the power of trade unions and of collective bargaining.

There are mechanisms for resolving workers' complaints against employers, but unions complained that these mechanisms sometimes were applied arbitrarily. Unions maintained that organizers were dismissed for fabricated reasons, thus allowing employers to avoid penalties under the law.

Allegations by workers against the Government concerning anti-union measures, brought at the International Labor Organization's (ILO) Governing Body meeting in March 2002, remained pending at year's end.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation chose not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting anti-union discrimination, but a 1993 executive decree established fines for employers engaging in anti-union activities. The law does not require employers to reinstate workers fired for union activities and does not require employers to pay an indemnity to such workers. In cases of legal challenges by union members for unlawful firings, courts tended to impose indemnization levels that were higher than those normally paid to dismissed workers. The ILO's Committee of Experts found that imposition of a fine "provided for by law in all cases of unjustified dismissal when the real motive is trade union membership or activity" was an inadequate protection against anti-union discrimination.

The Constitution provides workers with the right to strike. The Government may legally compel workers to work during a strike if they perform an essential service, which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society." A few strikes took place in the transportation and education sectors.

All labor legislation fully covers workers employed in the eight special export zones. There are no unions in these zones because the few workers employed there were not in traditionally organizable occupations, that is, one in which a number of workers are employed in a nonprofessional capacity.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and the Government generally enforced this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child Labor Code protects children, and the Ministry of Labor and Social Security is responsible for enforcing this law. Enforcement has proven difficult due to a lack of resources and the fact that the majority of child labor is in the informal sector (which accounts for 40 percent of total employment in the country). Some children worked as street vendors in the expanding informal sector or in the agrarian sector, which generally were regulated less strictly and where pay was lower. The law does not permit minors under the age of 14 to work, and this was generally enforced in practice. Minors between the ages of 14 and 15 were granted permission to work only in extremely rare circumstances and even then usually only to work with other members of their families. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work.

Permission to work is only granted to minors who have completed 9 years of compulsory education or who remain enrolled in school and are working toward completing the period of compulsory education. Controls over salaries and hours for children are stricter than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. A program by INAME and an NGO to provide food vouchers of \$36 (1,000 pesos) per month to parents who take their children off the streets and send them to school continued during the year. This amount approximated what a child might earn working on the street.

*e. Acceptable Conditions of Work.*—The Ministry of Labor enforces a legislated minimum monthly wage that covers both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The min-

imum wage, set in September at approximately \$43 (1,194 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—worked off the books and thus forfeited certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions.

*f. Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons, and there were some cases involving trafficking of women and child prostitution (see Section 5). Irregular border controls also limit the collection of trafficking statistics. Officials believe that trafficking mostly affects women between the ages of 18 and 24. Suspected traffickers have been prosecuted in the past on charges of corruption, conspiracy, fraud, and other felonies. The Ministry of the Interior has primary responsibility for investigating trafficking cases. The Government prosecuted 10 cases related to trafficking in the past decade; however, no convictions were obtained.

There were no reliable estimates on the number of women who worked as prostitutes abroad—generally in Europe and Australia—or on the proportion that were induced into such work by fraud or were subjected to conditions approaching servitude. Families of three women who disappeared from Maldonado in the last decade (the last in 2000) renewed demands for an investigation of the disappearances. Recent reports of disappearances among young females in Maldonado gave rise to speculation that the three women may have been trafficked to Europe.

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## VENEZUELA

Venezuela is a constitutional democracy with a president and unicameral legislature in which citizens periodically choose their representatives in free and fair multiparty elections. In addition to the executive, legislative, and judicial branches of government, the Constitution provides for a “Citizen Power” branch of government—which includes the Ombudsman, the Public Prosecutor, and the Controller General—and an “Electoral Power” branch, the National Electoral Council (CNE). In July 2000, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento al Socialismo (MAS) party won 92 seats in the 165-member legislature; subsequent party splits reduced the pro-Chavez members to 83 seats. In December 2000, in a manner that some observers criticized as unconstitutional, the National Assembly named members of the Citizen Power and Supreme Court. In August, the Supreme Court appointed a transitional CNE after the National Assembly failed to do so. The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges at all levels were subject to influence from a number of sources, including the executive branch.

From December 2002 to February 1, opposition groups led a national work stoppage to demand the resignation of the President. The strike failed. On May 29, after months of negotiations under the Organization of American States’ (OAS) auspices, government and opposition representatives signed an agreement that committed both sides to follow the Constitution and laws and acknowledged the constitutional right to hold recall referenda if legal criteria were met. On August 20, opposition groups submitted 3.2 million signatures gathered in February petitioning for a referendum on the presidency. On September 12, the CNE declared the petition invalid. The opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall the President and more than 70 legislators. The verification process for all collected signatures was underway at year’s end.

The security apparatus includes civilian and military elements, both accountable to elected authorities. Active and retired military officers held high-ranking government positions, and 5 of the 14 presidential cabinet members previously served in the military. The presidents of two major state-owned corporations—Corporacion Venezolana de Guayana and Corporacion Zulia—are active duty military officers, and one was placed in charge of the maritime operations of the state-owned oil company in response to the national work stoppage. The military was involved heavily with public service projects. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order. The Interior and Justice Ministry controls the Investigative and Criminal Police Corps (CICPC), which conducts most criminal investigations, and the Directorate for Intelligence and Prevention Services (DISIP), which collects intelligence. Municipal mayors and state governors are responsible for local and state police forces and maintain independence from the central Government. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and is headed by a career police officer, rather than a military officer. While civilian authorities generally maintained control over security forces, individual members of the security forces committed numerous and serious human rights abuses during the year.

The population was approximately 25 million. The country has abundant natural resources and a mixed agricultural/industrial, market-based economy; however, the vast majority of natural resource extraction and production was done by entities owned and operated wholly or in part by the Government. The economy was in its second year of severe contraction, estimated at a decline of 10–12 percent, compared to an 8.9 percent contraction in 2002. Government statistics placed the unemployment rate at approximately 18 percent; however, about 52 percent of employed adults work in the informal sector of the economy. The petroleum sector provides the vast majority of foreign exchange earnings, although participation of employees of the state-owned oil company in the national work stoppage crippled production during the first quarter of the year. Despite a significant recovery in oil income and resulting tax revenue for the Government, the country faced ongoing deficits and other financial difficulties. Private economists estimated the government deficit for the year could reach as high as 6 percent of gross domestic product.

The Government's human rights record remained poor; although there were attempts at improvement in a few areas, serious problems remained. The police and military committed extrajudicial killings of criminal suspects. The police reportedly had links to vigilante death squads responsible for hundreds of killings in at least 11 states. Investigations into the forced disappearances by the security forces of criminal suspects remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Prison conditions remained harsh; violence and severe overcrowding constituted inhuman and degrading treatment. Arbitrary arrests and detentions increased. Impunity was one of the country's most serious human rights problems. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Corruption, lengthy pretrial detention, and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government conducted illegal wiretapping of private citizens and intimidated political opponents. The President, officials in his administration, and members of his political party frequently criticized the media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many government supporters interpreted these remarks as tacit approval of violence; they then threatened, intimidated, and physically harmed individuals from groups opposed to Chavez during the year. The Government abused its legal power to call national radio and television "chains" by requiring all television and radio stations to air over 136 hours of speeches by President Chavez and other government officials, and other programming favorable to the Government. Violence and discrimination against women, abuse of children, discrimination against people with disabilities, and inadequate protection of the rights of indigenous people remained problems. The atmosphere for independent labor unions deteriorated due to the Government's ongoing confrontation with the Venezuelan Workers Confederation (CTV) and fired petroleum sector employees. Child labor increased as economic conditions worsened. Trafficking in persons was a problem, although the Government took steps to reduce corruption among immigration authorities.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—At least a dozen killings during the year may have been politically motivated. Members of the political opposition received death threats and were the victims of intimidation by government supporters. Security forces were accused of committing extrajudicial killings, primarily of criminal suspects. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a human rights nongovernmental organization (NGO), documented 130 extrajudicial killings from October 2002 through September, compared with 137 killings from October 2001 to September 2002. These figures reflected a range of killings in different situations committed by organizations with varying levels of control and responsibilities and included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. Police continued to fire on criminal suspects who disobeyed orders to halt.

The police often failed to investigate crimes allegedly committed by their colleagues and, in 2002, the Government created a separate system for investigating and bringing to trial criminal cases that it deemed political. During the year, one such political case, that of Joao De Gouveia, who shot and killed three individuals present at an opposition rally in December 2002, resulted in a conviction. Prosecutors alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political cases were delayed indefinitely or had a pre-ordained result. In addition, the civilian judicial system struggled to implement the 1999 Organic Criminal Procedures Code (COPP) and remained highly inefficient and corrupt (see Section 1.e.).

On February 16 and 17, the bodies of three soldiers and one woman were found with hands tied and mouths taped shut. All had died from gunshot wounds. A young girl who had been shot and left for dead was found with the corpses. The soldiers had links to a group of dissident military officers who sought to establish an opposition headquarters in the Altamira neighborhood of Caracas in October 2002. Homicide division prosecutors initially began the investigation, only to have the case reassigned to the special police unit and prosecution team in charge of political cases. Police had several suspects in custody, and the investigation continued at year's end.

On April 12, Carlos Manuel Pico Gutierrez was killed under unknown circumstances. Neighbors testified that he had been injured by a police unit formed by four men.

On April 26, pro-government Fatherland for All (PPT) party leader Jorge Nieves was killed in Apure State. On September 23, another PPT-Apure leader, Edgar Patino, was killed. On October 1, Apure State PPT and farm worker leaders accused the terrorist Colombian National Liberation Army (ELN) of the killings. National PPT leader Jose Albornoza disputed the accusation, calling it baseless and imprudent. At year's end, no suspects had been arrested or charged with the killings.

From January through August, eight ranchers were kidnapped and later killed. Their abductions did not follow the region's usual pattern of kidnapping for ransom of a wealthy victim. At times, the kidnapers demanded ransoms well beyond the financial means of the victims or made no ransom demand, then killed the victim, suggesting that some or all were killed at least partially for political reasons, according to ranchers' groups.

On August 27, human rights worker Joe Luis Castillo was killed while driving with his wife and child near their home in Machiques, Zulia State. Two assailants on a motorcycle opened fire on the family; Castillo was hit with 11 bullets in his torso and head. Castillo worked for the U.N. High Commissioner for Refugees (UNHCR) and dealt primarily with Colombians who had fled to Venezuela and indigenous groups. An investigation was under way at year's end.

The Government rarely prosecuted perpetrators of extrajudicial killings and characterized such incidents as "confrontations" (in which use of deadly force is legally justified), even when eyewitness testimony and evidence strongly indicated otherwise. "Death squads" comprised mostly of police reportedly killed hundreds of people during the year in the states of Anzoategui, Aragua, Bolivar, Carabobo, Falcon, Lara, Miranda, Portuguesa, Tachira, Yaracuy, and Zulia. From January to August, 854 cases were registered, according to news reports. In the small number of cases in which the courts convicted perpetrators of extrajudicial killings and other abuses, sentences frequently were light, or the convictions were overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes were rarely imprisoned.

The Public Ministry's Directorate for the Protection of Fundamental Rights is responsible for investigating alleged abuses by officials, including the police. The Chief

Prosecutor reported that death squads or police forces killed 1,541 people in 10 states since the end of 1999. In June, Attorney General Isaias Rodriguez instructed the Directorate to expedite death squad case investigations and prosecutions. Rodriguez also met with Portuguesa state officials to formulate a response to the state's death squad activity and conducted surprise inspections in Zulia. Although the number of death squad cases nationwide grew exponentially since 2002, official state responses remained mixed. For example, as of June, Portuguesa had indicted 15 police officers in the deaths of 95 individuals, while Falcon state officials denied the existence of local death squads. The human rights organization Committee for the Families of Victims of 1989 (COFAVIC) documented death squad activity in 11 states, including Falcon. In almost all cases, the victims were young, poor, and had criminal records. According to COFAVIC, death squads commonly demanded money from the victims, and when they were not able to pay, they were killed; such killings were not political. COFAVIC attributed the proliferation of extrajudicial killings to the lack of autonomous public institutions, resources to combat crime by legal means, and government will to root out corruption.

The Anzoategui State Human Rights Ombudsman registered 300 extrajudicial killings from 2000 through May in that state. Of those, 70 percent were attributed to Anzoategui state police and the remaining 30 percent to municipal police, CICPC, and National Guard members. In many of these cases, a family member was targeted for another individual's alleged violation.

There were some killings of demonstrators. On May 1, Ricardo Herrera was shot while participating in an opposition rally. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march. Both men were killed by unidentified gunmen. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating against job losses in the petroleum sector (see Section 2.b.).

There were no developments reported in the April 2002 case of 15-year-old Jose Gregorio Lopez, who was killed without provocation while riding his bicycle by municipal police forces.

There were no further developments reported in the September 2002 case of 22-year-old Adolfo Arcia and 19-year-old Elvis Montesinos who were killed by the Libertador municipality police force.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

On April 3, an Aragua State court ordered the release of army Lieutenant Alessandro Sicat. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial. As of November, Sicat had not been detained. Sicat sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers in January 2001. Two men were seriously burned; a third, Jesus Alberto Febres, died as a result of burns. A military court convicted Sicat; however, the Attorney General appealed, and in October 2001, the Supreme Court granted a civilian court jurisdiction.

In October, there was one attempted mob lynching in Caracas of an accused rapist. The Metropolitan Police intervened and prevented the lynching. A significant portion of the population tacitly supported "vigilante" death squad actions as the only viable means to control crime.

*b. Disappearance.*—The Constitution prohibits forced disappearance and also states that an individual must refuse to obey an order to commit such a crime and provides for the prosecution of the intellectual author of the crime.

From January through August, 68 ranchers were kidnapped, according to the National Cattle Ranchers Federation (Fedenaga). Although rancher kidnappings by Colombian terrorist organizations have been a growing problem in the border states for decades, Fedenaga blamed most of the increase on common criminals and the Bolivarian Liberation Forces (FBL), a relatively new organization allegedly comprised of militant supporters of the President. The Government denied any links to the FBL. According to Fedenaga, organized and professional kidnappings by Colombian groups were being replaced by disorganized, and more dangerous, kidnappings from homegrown criminal gangs and the FBL. They believed the FBL targets ranchers as much for political reasons as economic considerations, demanded untenable ransoms, and was more likely to kill prisoners. Government officials downplayed the importance of the FBL, some even denying the group's existence.

More than half of rancher kidnappings tracked by Fedenaga since 1963 occurred during the past 5 years. There were 116 rancher kidnappings during the year and 103 in 2002. Some kidnappings during the year may have been politically motivated. According to Fedenaga, 22 victims remained captive at year's end.

In an attempt to curtail border lawlessness, the Government announced the movement of 2,700 additional troops to border states. Government officials argued that few resources, increased crime, and the difficulty of differentiating combatants from civilians have hampered their efforts. During the year, the Government discontinued providing National Guard troops to protect threatened ranchers, citing limited resources.

On August 22, the CICPC and the Colombian Police (DAS) freed Christian Democrat (COPEI) leader and former Tachira State Governor Sergio Omar Calderon, who was kidnapped from his Tachira farm on July 25. In a press conference after his release, Calderon stated that he doubted that his kidnappers had acted for political reasons, explaining that they believed that his television appearances indicated that he must be wealthy. The rescuers killed Calderon's five kidnappers during the rescue operation, and their identity remained under investigation.

In September 2002, an appeals court dismissed the case against DISIP Commissioner Jose Yanez Casimiro and retired Commissioner General Justiniano Martinez Carreno in the 1999 disappearances of Oscar Blanco Romero and Marco Monasterio. In February 2002, the Vargas state penal court dismissed charges against the two men because witnesses could not identify them. At year's end, the case was before the Inter-American Commission on Human Rights (IACHR).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation; however, security forces continued to torture and abuse detainees physically and psychologically. This abuse most commonly consisted of beatings during arrest or interrogation, but there were also incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims were poor (see Section 1.a.).

PROVEA documented 137 cases of torture, beatings, and other abuse from October 2002 through September (affecting 567 victims), compared with 324 cases from October 2001 through September 2002 (affecting 1,064 victims). The human rights organization Support Network for Justice and Peace (Red de Apoyo) received 16 complaints from alleged torture victims during the period from January to May.

The Government did not ensure independent investigation of complaints of torture. COFAVIC questioned the Attorney General's ability to oversee neutral investigations, because he is an active member of the President's political party and served as Vice President. Human rights groups asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Red de Apoyo claimed that the CICPC was the security force most often implicated in accusations of torture. Very few cases of torture resulted in convictions.

In December, a group of military officers and defense attorneys accused Prosecutor Danilo Anderson and other Public Ministry prosecutors of complicity in torturing prisoners. The evidence they presented included statements from two imprisoned National Guard officers.

In January, the DISIP arrested 24-year-old law student Jesus Soriano during a march at Central University of Venezuela. During his incarceration, Soriano claimed that he was placed in a cell with convicted murderer Joao De Gouveia, tortured, and denied medical attention. Two days later, he was released and was admitted to a hospital. The DISIP claimed he was beaten during the march, was a known criminal, and denied all of Soriano's charges.

Four bombings by unknown perpetrators occurred in Caracas from February to July: At the Spanish and Colombian diplomatic missions, at the Caracas Teleport Building, and at a PDVSA office building. FBL leaflets were found nearby after the bombing of the Colombian Consulate. The bombings, which resulted in minor injuries but extensive property damage, were still under investigation at year's end. During the same time period, a fifth bomb exploded in the town of Los Teques southwest of Caracas, for which the FBL claimed responsibility. No one was injured. On August 27, a fragmentary grenade exploded in front of the home of Juan Barreto, a National Assembly deputy and member of the MVR. Two neighbors were injured in that attack. On December 9, a fragmentary grenade exploded inside the Social Welfare Institute for Education Ministry Personnel building in Caracas. Three employees were injured.

Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison population was at 117 percent of capacity with 22 of the country's 30 prisons overpopulated, some severely, according to the Ministry of the Interior and Justice (MIJ). Severe overcrowding in some prisons constituted inhuman and degrading treatment. According to the MIJ, 48 percent of all prisoners were in pretrial detention. Underfunding resulted in the

lack of such basic equipment as telephones in the prison director's office. Prisoners often complained of food and water shortages.

The Government failed to provide adequate prison security. In August, 25 prisoners escaped from the Yare I and II prisons in Valles del Tuy southeast of Caracas. The directors of both prisons were replaced, and officials opened an investigation into the possible complicity of guards. According to the MIJ, there were 340 deaths and 1,419 injuries from violence in jails from October 2002 through August. A Window to Freedom, a prison monitoring NGO, recorded approximately the same rate of deaths for the January-November period (300), but more injuries from violence (2,500). Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsafe conditions in prison facilities.

On November 10, seven inmates were killed at the Vista Hermosa prison in Ciudad Bolívar. In addition, 6 inmates disappeared and 50 were injured. Official statements indicated that the violence was gang-related, but media reports claimed that the National Guard and prison guards were responsible for the massacre. Authorities were continuing to investigate the incident at year's end.

In May, inmates of La Planta Prison in Caracas became ill with what the Government claimed was salmonella. Two weeks later, 548 prisoners had become ill and 4 had died. Prison officials confirmed privately that the outbreak was caused by dead rats in the prison's water supply. The Government claimed that the outbreak was the result of contaminated food.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, most prisoners got their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, especially as convicted murderers and rapists often were housed with unsentenced or first-time petty offenders. Gang-related violence and extortion were fueled by the substantial trafficking in arms and drugs that occurred in prisons. Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (see Section 1.e.).

On March 7, hundreds of prisoners in the Barcelona Prison took more than 300 visitors hostage to demand more food, medical attention, and COPP benefits, such as permission to work outside the prison and access to the early release program. The standoff ended on March 19 with the release of all hostages. No one was injured, and 52 prisoners won access to various COPP benefit programs.

Women inmates were held in separate prisons, where conditions generally were better than those in the men's facilities. Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

Despite objections from the Catholic Church and NGOs, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permitted prison visits by independent human rights observers; however, internal criticism was not well tolerated (see Section 2.a.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily.

The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Interior and Justice Ministry controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Municipal mayors and state governors are responsible for local and state police forces, and maintain independence from the central Government. Often, mayors and governors look to the National Guard for the top leadership for state and municipal police forces. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and is headed by a career police officer, rather than a military officer. The Government intervened in the administration of the Metropolitan Police in November 2002, alleging that the police force was repressing pro-government protests. Following a Supreme Court decision on October 7, the Government returned control to the local authorities approximately 2 weeks later.

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person was caught in the act of committing a crime, or a judge determines that there was a danger that the accused may flee or impede the investigation. Detainees have the right to a judicial determination of the legality of their detention within 3 days, but there is no law to implement the constitutional protections. The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for that crime, nor may it exceed 2 years. Under the COPP, persons accused of petty crimes who have not been convicted but already had been in custody 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they pass a psychiatric examination. However, confusion over implementation of the COPP still existed, and arbitrary arrests continued to be common. In 2001, the National Assembly broadened the definition of the "in flagrante" circumstances in which a person may be apprehended and lengthened slightly the time provided to police to present charges prior to the release of an arrested individual. Human rights groups claimed this change led to an increase in detentions.

Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which statistics were available. There were 19,466 prisoners at the end of 2002, 49 percent of which had not been convicted of a crime and were held without bail. Prisoners had reasonably good access to counsel and family members.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the CICPC, especially during anticrime sweeps in poor sections of major cities. PROVEA documented 3,627 persons detained in sweeps from October 2002 through September, compared with 4,549 persons similarly detained from October 2001 through September 2002.

On October 5, 16-year-old Deivy Jaspe Gutierrez was arrested for offering resistance to police after he and three others were ordered to exit their vehicle, which was halted arbitrarily. Jaspe recognized one of the police officers as the alleged killer of his brother Carlos Manuel Pico Gutierrez (see Section 1.a.). At the police station, he was hit several times and then released.

On November 8, municipal police in Puerto La Cruz, Anzoategui State, detained six young men who were banging pots and pans in protest against the President, who had just arrived with his entourage. According to media reports, police accused the men of throwing rocks at the President and of trying to kill him. The men claimed they were beaten and robbed during their 5-day detention. On November 12, the judge hearing the case released the men, citing insufficient and unfounded evidence against them.

In December 2002, the DISIP detained National Guard General Carlos Alfonso Martinez while participating in an anti-Government demonstration and placed him under house arrest. On February 28, the Attorney General charged him with rebellion, desertion, and violating national security zones before the Supreme Court. In September, Martinez was transferred to the Military Detention Facility in Los Teques, Miranda State; he had been under house arrest for approximately 8 months. The Supreme Court and the Inter-American Human Rights Court ruled that he should be released, but the Government had not responded at year's end.

Human rights activists in border areas alleged that security forces continued to detain individuals and groups arbitrarily, citing the need to examine identity documents. Hundreds of Colombian nationals reportedly were detained and deported without due process (see Section 2.d.).

Forced exile is illegal.

*e. Denial of Fair Public Trial.*—The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges were subject to influence from a number of sources, including the executive branch.

From January 2001 to March, panels of legal experts selected judges in competitive examinations. On March 12, the Supreme Court suspended the competitive process without explanation, and announced that the Judicial Commission, composed of Supreme Court justices, would select judges. By statute, the Supreme Court can suspend the competition only when it suspects irregularities in the process. The inability to establish a transparent and efficient selection process has led to a shortage of permanent (titled) judges, who make up less than 30 percent of all working judges. According to the DEM, corruption was widespread among the provisional and temporary judges who represented over 70 percent of working magistrates.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of



criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the DISIP and the CICPC, files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistracy (DEM), which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

The 1999 COPP provides for the right to a fair trial and considers the accused innocent until proven guilty in a court. The COPP also introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. Defendants and complainants have the right of appeal. The adversarial system establishes the right to plead guilty without trial and make reparation agreements; however, lengthy delays in trials remained common.

A November 2001 amendment to the COPP strengthens out-of-court settlements and increases victims' rights to compensation; provides physical protection to crime victims during trials; bolsters the work of juries for some crimes and eliminates them for others; eliminates some sentence reduction benefits for jailed criminals; and expands powers of detention (see Section 1.d.).

The law provides for public defenders for those unable to afford an attorney; however, there were not enough public defenders. According to statistics from the DEM, as of September there were 619 public defense attorneys for the entire country, of which 188 were dedicated exclusively to juvenile cases and 431 for all other cases. In 2002, public defenders handled more than 63,000 cases throughout the country, with an average caseload of 150 cases per public defender. In some states, the average annual caseload was as high as 520 per public defender.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings. Those who were unable to pay often were forced to forgo their hearings (see Section 1.c.).

On July 21, the Supreme Court declared a 60-day state of emergency in the DEM, placed it under the supervision of Justice Yolanda Jaimes Guerrero, and opened an investigation into alleged mismanagement by former DEM coordinators. The investigation continued at year's end.

On October 23, the Supreme Court ordered the replacement of the First Court for contentious administrative matters with two new courts for contentious administrative matters. On November 3 and 4, three of the First Court's five judges were dismissed, and the Supreme Court announced that they would not be appointed to either new court. The dismantled First Court heard cases involving alleged illegal government actions. The three dismissed judges formed a majority that issued several rulings contrary to key Government interests since December 2002. Domestic and international law groups criticized the actions against the First Court and the three judges as interference with the independence of the judiciary. At year's end, creation of the new courts and selection of judges were still in process.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution.

On April 3, an Aragua state court ordered the release of army Lieutenant Alessandro Sicat who had been charged with a human rights violation. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial (see Section 1.a.).

Human rights NGOs continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in poor neighborhoods. Reports of illegal wiretapping and invasion of privacy by the security forces increased during the year; many of these activities targeted members of the media (see Section 2.a.). In October and November, the Government released recordings of conversations it alleged occurred among opposition leaders. The Government did not acknowledge how it obtained the recordings.

On August 12, DISIP agents accompanied by a prosecutor with a search warrant entered the offices of an opposition political party ostensibly to search for counterfeiting equipment (none was found). Party members present claimed that the raid's actual purpose was to create a political distraction and possibly to plant listening devices. There were also reports that DISIP listened to phone conversations of witnesses to extrajudicial killings in Falcon State. Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see Section 1.a.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; although the Government generally respected these rights in practice, press freedom deteriorated during the year with efforts by some persons associated with the Government to provoke, threaten, or physically harm or encourage others to attack private media owners, their installations, and journalists working for them. Physical violence against the media declined during the year in comparison to 2002. Government pressure against the media—tax investigations, technical inspections and seizures, and verbal condemnation—increased, as did legislative efforts to limit private media's ability to exercise freedom of expression. During the year, both sides also continued accusing one another of broadcasting subliminal messages to incite violence against the other group.

There were reprisals against individuals who publicly criticized the Government. In April, the general coordinator of the prison monitoring NGO A Window to Freedom, was fired from his teaching position at the National University Institute of Penitentiary Studies after commenting on the country's poor prison conditions to a foreign journalist (see Section 1.c.). In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the petition for a referendum on the Presidency (see Section 3).

Print and electronic media were independent, although many felt threatened by the Government and its sympathizers. There were at least 77 newspapers; 89 magazines and weekly journals; 344 mainstream and over 150 community FM and AM radio stations; and 31 television channels, 23 of which are outside the metropolitan Caracas area. These community radio and television stations are distinct from mainstream commercial media in legal status, frequency licensing requirements, and advertising regulations. Most community media were new and were pro-government in editorial policy.

The Government-owned a national television station, Venezolana de Television (VTV); a metropolitan Caracas television station, TV Venezuela; a national radio network, Radio Nacional; and a newswire service, VenPres, whose directors are named by the President. The President had a weekly show on state television, radio, and the Internet. Independent media observers criticized the state media for extreme pro-government politicization. During the year, state media employees continued to complain about purges of employees considered to be anti-Chavez, and some employees of Radio Nacional and VTV claimed they lost their jobs because of their political views.

Individuals and the media freely and publicly criticized the Government; however, as noted by the IACHR Special Rapporteur on Press Freedom, reprisals and threats of violence against journalists and media organizations restricted freedom of expression in practice. President Chavez repeatedly singled out media owners and editors and charged that the media provoked political unrest. The statements resulted in a precarious situation for journalists, who were often attacked and harassed.

According to media sources and published reports, at least 1 reporter was shot and approximately 70 physically attacked with weapons such as clubs, knives, rocks, and battery acid while covering street demonstrations and political rallies. In 2002, 7 reporters were shot and more than 80 were physically attacked. During the year, approximately 50 reported having received threats, in some instances telephoned death threats; there were 100 such reports in 2002. According to the NGO Reporters Without Borders, the Government committed 93 "aggressions against journalists" during the year. At least six attacks involved the use of bombs or other explosive devices. There were over 60 attacks on installations or media property.

In his annual message to the National Assembly in January, the President declared the "year of the war against the media." International organizations and domestic journalists charged the Government with encouraging a climate of hostility toward the media that jeopardized freedom of the press.

In May, Human Rights Watch (HRW) issued a report regarding threats to freedom of expression, estimating that at least 130 assaults and threats of physical harm to journalists and press property occurred during January 2002 and through

February, mostly committed by pro-Chavez civilians. The report also criticized the government investigations into four private television stations and the proposed Law of Social Responsibility in Radio and Television (Broadcast Media Content Law). The Vice President rejected the HRW argument as a biased intrusion in domestic affairs. Under the bill, which was pending its second reading in the Assembly, broadcasters must release "truthful information." Additionally, television companies, advertisers, and broadcasters could be punished for transmitting "contents that promote, defend, or incite lack of respect of legitimate authorities." Programs containing violence of any kind, including coverage of disasters, political conflicts, and criminal incidents, would be restricted to the hours of 11:00 p.m. to 5:00 a.m. The bill would require disclosure of sources of information and would assign to the National Telecommunications Commission (CONATEL) the task of determining whether broadcast contents meet regulations. Heavy fines would be imposed on violators. On October 23, the official news service, VenPres, published comments by the HRW Executive Director that appeared to support the proposed broadcast media law. HRW immediately issued a statement that VenPres had taken the comments out of context and used them in a misleading way.

Both government and private media were highly politicized. HRW criticized private media for their pro-opposition bias. The Government asserted that some of the private media owners participated in the failed 2002 coup attempt, and claimed that some media were continuing to plot anti-constitutional measures. Most media owners state that they feared the Government planned to curtail basic liberties. Many journalists expressed dismay over the hostility and lack of communication between the groups. There were credible reports of state security agents spying on, harassing, intimidating, and physically attacking journalists. There were numerous cases of wiretaps of journalists, media owners, and media telephones, apparently without legal authorization (see Section 1.f.).

In August, the Cuban Government distributed a video titled "The Vulgar Fallacies of El Universal of Caracas," in an apparent attempt to discredit El Universal's investigation of the alleged diversion of government funds to assist the Cuban regime. Cuban television also broadcast the video. Government media accused private media of defaming and slandering government leaders and attempting to overthrow the Government.

Violent or threatening pro-government demonstrations occurred at several media offices. In August, two men on a motorcycle threw an explosive device into Regional Tachira radio station's parking lot and left flyers saying, "We will eliminate media terrorism." Also in August, El Mundo reported that National Guardsmen had stopped its delivery truck in Barquisimeto and accused the paper of being anti-Chavez; only after paying a small "fine" was the truck allowed to proceed. At year's end, none of these cases had been resolved.

In August, VTV announced a march on RCTV, which was followed by a group of Chavez sympathizers who spray-painted threats to the channel's vice president on the station's front wall: "Marcel G en la mira militar" (Marcel G in the crosshairs of the military), a reference to the station's owner.

Although the bulk of attacks were directed against private media journalists and installations, there were also actions against journalists and installations affiliated with the Government. In June, Catia TV, a government-sponsored community television station closed temporarily by order of opposition Mayor Alfredo Pena with jurisdiction over Catia. Several days later, the mayor's office re-opened the station, apologized for the closure, and noted that it did not have the authority to intervene in the operations of the media.

In November 2002, the Inter-American Human Rights Court applied "provisional actions" to the Government, the next step after the Court's "precautionary actions," for the Government's failure to protect individual rights, safety, and freedom of expression. The provisional actions ordered the Government to investigate and punish those responsible for aggressive acts and to publicly condemn violence against the media. At year's end, the Government had not responded to the Court's provisional actions.

In December 2002, the OAS Permanent Council's Resolution 833 called on the Government to ensure full freedom of expression, based on the OAS Democratic Charter. During the year, the IACHR Special Rapporteur for Freedom of Expression criticized the administrative proceedings against private television channels and radio communications regulations that forbid transmission of false or misleading information; condemned an attack against columnist and talk show host Marta Colomina; and criticized the July 15 Supreme Court decision to uphold laws making it a crime to insult, injure, or threaten public officials. At year's end, the Government had not successfully investigated any of more than 80 assaults on and threats

against journalists and at least 40 reported attacks on media installations and equipment during the year.

Since late 2002, the Ministry of the Interior and Infrastructure opened a number of administrative cases against Globovision, RCTV, Venevision, and Televen. The following cases were unresolved: Globovision had three pending cases for alleged misuse of content (including subversion of public order and the slander and libel of government officials and institutions; RCTV had seven court cases based on the Organic Law for the Protection of Children and Adolescents (for inappropriate programming); Venevision had one administrative case for alleged violation of the national broadcasting regulations, which prohibits the transmission of messages that incite rebellion and disrespect for institutions and officials, as well as the broadcasting of propaganda that subverts public order and the transmission of false or misleading news. CONATEL also submitted charges based on its allegations that Venevision was delinquent on its tax payments. Venevision appealed the case; Televen had one administrative case for broadcasting opposition civil and military leaders' statements and propaganda between October 2002 and January, as well as for televising opposition ads between 3:00 p.m. and 6:00 p.m. (hours reserved for children's programming).

On October 3, CONATEL filed administrative charges against Globovision and seized microwave equipment alleging the station had used it to broadcast on illegal frequencies. The seizure limited the 24-hour news station's ability to cover live events. The IACHR issued two precautionary measures in favor of Globovision in October calling on the Government to return the equipment and to ensure a speedy resolution of the case by impartial and independent Venezuelan judges. On October 3, Globovision filed an appeal with the First Court for Contentious Administrative Matters. On October 8, the First Court voted in favor of Globovision and ordered the return of the equipment while CONATEL determined the outcome of the case. The same day, the Supreme Court closed the First Court and suspended the judges who had ruled in favor of Globovision; their ruling was never released. At the request of the Attorney General, the Second Court of Appeals of the Penal Judicial Circumscription ruled that the Court's protective measures previously issued for certain journalists be extended to all journalists, technicians, representatives, directors, and employees of five private television stations: Globovision, RCTV, Venevision, Televen, and CMT. The ruling noted consequences the Government might face if it failed to comply with international obligations, including the IACHR's protective measures. The ruling also ordered local and Miranda State authorities to guarantee the safety of personnel and protection of assets of private TV stations, including microwave and other broadcast equipment. On December 9, CONATEL fined Globovision approximately \$364,000 (582,000,000 bolivars) for illegal use of frequencies and announced that it would not return the microwave equipment it seized from the television station on October 3.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. Media figures criticized the Supreme Court's 2001 ruling that established criteria for determining and exercising the right to timely, true, and impartial information.

According to the Constitution, it is "contrary to the freedom of information" for a medium to criticize ideas, rulings, etc., without indicating what is being criticized. A 2001 Supreme Court ruling established criteria to determine whether a media report is "true" or not. Violations included expressing opinions that contain statements that were "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirmed that information could be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Supreme Court also ruled that the true information clause would be violated if a majority of a medium's editorial writers express the same ideological tendency, unless that medium openly declares itself to be a party to those views. In May 2002, the Supreme Court ruling was taken to the IACHR to be submitted to the Inter-American Court of Human Rights. At year's end, there was no decision on the case.

According to the 2000 Organic Telecommunications Law, the Government may order obligatory national broadcasts (cadenas), pre-empting scheduled programming. Domestic and international observers criticized the Government for excessive abuse of this right. As of August, the Government increased the frequency and length of cadenas. According to private media sources, there were approximately 162 hours of cadenas during the year, compared with 73 hours in 2002.

The Government influenced the press through licensing requirements for journalists, broadcast licensing concessions, and public sector advertising. Some commercial radio stations complained that the allocation of frequencies to community stations violated broadcast regulations, according to the National Venezuelan Radio Broadcasting Chamber. Funding for the stations reportedly came from the Government, not the communities, and the broadcasts were pro-government.

The Government denied equal access of private media journalists to many official events. Beginning in December 2002, the presidential palace denied access to reporters from private media, while state controlled media and some foreign news reporters continued to have access.

Media analysts, journalists, and other observers alleged that the Government used criminal defamation and libel laws to intimidate or harass the media. Because of the lengthy process and considerable legal costs, some observers regarded these lawsuits, or threats of lawsuits, as attempts to discourage investigative journalism. The editor of La Razon newspaper remained overseas because of one such long-running lawsuit. Other media owners and executives sent their families abroad fearing they could be attacked or kidnapped if they were to remain in the country.

In July, army Colonel Angel Bellorin and MVR Deputy Luis Tascon sued journalist Ibeysa Pacheco for defamation of character. Pacheco printed accusations that Bellorin had altered the grades he received while a university student and published a photo linking Tascon to the events of April 11, 2002. The case was pending at year's end.

On December 23, the DIM ordered that a book written by Luis Pineda Castellano, former chief of security for President Chavez, be removed from sales shelves at the National Armed Forces library. Castellano's book included accounts of his 29 years in DISIP, citing stories of the President's responsibility for concealing irregularities.

The Telecommunications Law permits the President to suspend media broadcasts when he judges it to be in the national interest. Some observers believed this law could allow the suspension of broadcasts for vague and arbitrary reasons. During the year, the President referred to this law many times and threatened to revoke commercial broadcast licenses or not convert pre-2000 licenses to new ones. Many media professionals complained that investigations of television and radio stations by CONATEL were politically motivated.

There were at least 15 government administrative interventions in private media during the year, and the President publicly accused media owners and institutions of tax evasion. Media figures charged that the Government used ongoing tax investigations to pressure media owners. The CONATEL web page highlighted its fining of Globovision for the station's alleged delay in tax payments. The fines totaled over \$310,000 (496 million bolivars); Globovision asserted it had paid all required taxes.

The Government did not restrict access to the Internet.

While academic freedom traditionally was generally respected, government funding was withheld from the country's universities. Rectors of those institutions charge that the Government did so to punish them. All of the major public university rectors were elected on anti-government platforms. In July, the Government established the Bolivarian University while withholding budgeted funds to many of the existing universities. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government appoints a majority of members. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these rights in practice. Public meetings, including those of all political parties, generally were held unimpeded, although numerous marches and rallies were disrupted by alleged government supporters. The Government required permits for public marches but did not deny them for political reasons.

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of the Government repeatedly demonstrated in the capital and other cities during the year. Several demonstrations resulted in injuries or loss of life. Both the authorities and the demonstrators used firearms (including military weapons), tear gas, and billy clubs against each other.

The opposition held several rallies in neighborhoods considered pro-government strongholds, leading to government accusations that the rallies were intended to provoke supporters of the President. Opposition organizers claimed their intention was to reveal the opposition's high level of support among the poor. The Government did not stop the rallies from taking place.

On March 8, an opposition march turned violent after DISIP was unable to capture Juan Fernandez, the president of Petroleum People, the civil society organiza-

tion and support group for fired PDVSA workers. Protesters attacked DISIP vehicles and officers, who withdrew using tear gas.

In April, four men who were identified shooting at demonstrators from Llaguno Bridge in downtown Caracas, and arrested after the temporary alteration of constitutional order in April 2002, were released after an appeals court ruled there was insufficient evidence to hold them. Both opposition and government supporters claimed case evidence had been manipulated to favor the other side. On September 17, a judge cleared the four of all charges against them, citing lack of evidence. The prosecutor appealed the decision, but at year's end the case had not been concluded.

On May 1, Ricardo Herrera was shot while participating in an opposition rally in Caracas. Police claimed to have a suspect in custody. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march in the Catia neighborhood of Caracas. No one was charged with his death. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating in Anzoategui State against job losses in the petroleum sector (see Section 1.a.).

The Government alleged that the Caracas Metropolitan Police used excessive force during various demonstrations; however, no charges were brought against officers. On June 13, the Metropolitan Police used tear gas and shotguns to disperse government supporters who were threatening an opposition rally in the Petare district of Caracas. Police reported that pro-government demonstrators targeted them with firebombs, and violence broke out. The pro-government protesters destroyed the police post.

In September 2002, the Government issued a decree establishing eight security zones within Caracas. The decrees gave the central Government, rather than municipal officials, the authority to permit demonstrations there. The zones included areas around military installations, state television and radio stations, and PDVSA headquarters and continued in force throughout the year. Opposition groups criticized these security zones as a restriction on the right of assembly. In August, the Minister of the Interior complained that opposition groups planning a rally in support of the recall of the President had not coordinated security for the event with the proper authorities. The Minister cited concern that the march routes published in newspapers indicated they would be going through some security zones; however, the Government did not impede the marches or the rally.

Professional and academic associations generally operated without interference; however, in 2000, the Supreme Court ruled that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent citizens in court or bring their own legal actions; and that religious organizations are not part of civil society and were subject to the same restrictions. The ruling stated that the Government has an obligation to ensure that NGOs are "democratic in nature" and therefore, the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the CNE. The Government had not moved to implement the Court's decision.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, on the condition that the practice of a religion does not violate public morality, decency, or the public order, and the Government generally respected this right in practice.

In 1964, the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups receive monetary assistance for the repair of building for religious use; however, the amount available to non-Catholic groups was less than 7 percent of the annual religious subsidy budget. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government, except in the form of building repairs.

Religious groups must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups complained that the process of registration was slow and inefficient. A special visa is required for foreign missionaries to enter the country. Missionaries were not refused entry generally, but faced the general bureaucratic inefficiency of the Government taking months or years to process a request.

In May, Archbishop Baltazar Porras, chairman of the Venezuelan Bishops' Conference, accused the Government of seeking to destroy the Catholic Church's credibility by manufacturing scandals aimed at priests and bishops. He described a series of attacks on churches, cathedrals, and priests' houses whose apparent aim was to create fear, rather than steal objects of value. Prior to at least one attack, normal police presence had been withdrawn after authorities allegedly claimed it was a privilege the Catholic Church should not enjoy.

On September 21, during his weekly national broadcast, the President referred to the Bishops' Conference as "liars" and "immoral" for allegedly using church services to distribute leaflets and other messages in support of the opposition.

In December, there were five attacks on churches and church symbols. On December 6, pro-government groups marching to a presidential rally in Caracas decapitated a statue of the Virgin Mary in Altamira Plaza, a site associated with the opposition. On December 9 and 16, unknown arsonists set a church on fire in Los Teques, Miranda State, damaging an outside wall and destroying two shrines. On December 10 and 12, statues of the Virgin Mary and other religious images were destroyed in Cardon, Falcon State. The Catholic Church accused the Government of organizing the attacks. Government officials denied responsibility and blamed dissident military officers, infiltrators, and opposition supporters. Authorities had four suspects in custody for the Falcon State attacks, and at year's end, investigations of all the attacks continued.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respected these rights in practice. However, the Government may suspend the freedom to travel. The Government also restricted foreign travel for persons being investigated for criminal activities. In addition, the Government requires persons who are departing the country with minors that are not their children to present to immigration officials proof of authorization from the minors' parents.

Both the Constitution and the Organic Refugee Law that took effect in October 2001 provide for the granting of refugees status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status.

Implementing regulations for the Refugee Law have not been drafted; the new National Refugee Commission was sworn in on August 7. The Commission will receive and decide applications for refugee status. At year's end, there was still no formal mechanism for those seeking asylum to legalize their status. During the year, the UNHCR worked with the Attorney General's office to investigate cases on an ad hoc basis to speed the Commission's ability to decide cases once it can begin doing so.

Persons who applied formally for refugee status received no provisional documentation that legalized their presence in the country. Therefore, they had no legal protection, and could not legally work, attend public school, or receive public health services. National Guard troops rarely investigated the cases of undocumented aliens found at security checkpoints along the border before deporting them. In July 2002, PROVEA requested a ruling from the Supreme Court that would give temporary legal status to refugees. Nearly a year later, the Court requested additional information from PROVEA and the Government but did not issue a ruling. UNHCR reported that files were often lost or misplaced, since the Attorney General's Office had no fixed department to centralize the processing of these cases.

As of August, there were approximately 200 persons in the country who had been granted refugee status from prior years, and approximately 1,500 additional refugee claims pending.

In theory, the Government provides temporary protection; however, the Government denied the existence of all but a small number of Colombian refugees who crossed the border and claimed to be fleeing paramilitary incursions. It called those Colombians whose presence it did acknowledge, "displaced persons in transit." According to UNHCR, the number of small groups entering the country, including individuals and small family groups, increased. In these cases, the persons often chose to blend into the local population rather than apply for formal refugee status.

On December 22, authorities denied Juan Fernandez permission to travel out of the country. Fernandez, the head of Petroleum People, faced pending charges of sabotage and treason for his alleged role in the national work stoppage (see Sections 2.b. and 6.b.).

There were no reports of forced return of persons to a country where they feared persecution. In 2002, the latest year for which numbers were available, the National Guard in the border region in Zulia, Tachira, and Apure states, reported that they deported on average 42 Colombian nationals per day. As of August 2002, they deported 9,533 persons. Although the law requires the authorities to take 30 days to investigate each undocumented person's case, this was done only rarely.

*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. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. The Constitution also permits citizens to request recall referenda after the mid-point of the term of all elected officials. Political parties organize, and their candidates are allowed to run for office freely and to seek the support of voters. The President has extensive powers, and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power Branch consisting of the Ombudsman, Public Prosecutor, and Controller General.

Opposition groups and political parties have sought to remove President Chavez from power since 2002. In April 2002, military officers with the support of some opposition groups illegally detained Chavez, and opposition business leader Pedro Carmona, without any constitutional authority, proclaimed himself interim president and suspended the National Assembly and the courts. On April 14, 2002, troops loyal to Chavez returned him to power. During the accompanying violence, there were as many as 18 deaths and more than 100 injuries, as well as looting. An investigation into the April violence, plagued by irregularities, failed to result in any convictions.

In February, opposition groups collected approximately 3 million signatures from citizens to petition a referendum to recall the President. On August 20, the petitions were submitted, but the Supreme Court ruled they were invalid since they had been collected before the President had completed half of his term of office. On May 29, government and opposition representatives signed an agreement, after months of negotiation under OAS auspices, that acknowledged respect for the Constitution and its provisions that give citizens the right to hold a recall referendum for any elected official, including the President. Meanwhile, the National Assembly failed to agree on the membership of a new CNE and on August 14 was found to be in "constitutional omission" by the Supreme Court for this failure. In September, the Court named the CNE, which then rejected the opposition's petition based on the February signatures. Using rules formulated in September, the opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall more than 70 legislators. The CNE was expected to verify the signatures collected at both events by January 2004.

On August 14, a judge ruled against the Human Rights Ombudsman for converting 79 types of career civil service jobs into political appointments. Career employees who had lost their jobs as a result claimed that the process was used to remove those who were not pro-government. In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the February petitions for a referendum.

Women and minorities participated fully in government and politics. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the 2000 elections, women won 20 seats in the 165-seat Assembly. There are 2 women in the 18-member Cabinet. In the Citizen Power Branch, a woman holds the position of Solicitor General. The 20-member Supreme Court includes 2 female justices.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the 2000 election. There were no indigenous members in the Cabinet. One of the vice presidents of the National Assembly is an indigenous person.

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

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were occasionally responsive to their views. However, NGOs objected to a 2000 Supreme Court ruling that imposed restrictions on NGOs that receive funding from foreign governments should they be found to be "undemocratic in nature" (see Section 2.b.). This ruling has not impeded the work of NGOs.

There have been no meetings between President Chavez and NGOs to discuss human rights issues since 1999. However, NGOs have developed relationships with



specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international tribunals), and the National Assembly (to discuss proposed legislation affecting human rights).

Several human rights NGOs received an increased number of threats and intimidation by government representatives and government supporters. Throughout the year, COFAVIC received e-mail and telephone threats from persons who identified themselves as Chavez supporters. The Attorney General's office and Human Rights Ombudsman's office did not pursue requests by COFAVIC for investigations of this harassment. In 2002, the IACHR recommended that the Government provide police protection to COFAVIC's offices and director. The Government did not respond to this request. The Metropolitan Police provided bodyguards for the COFAVIC director and protection in and around COFAVIC's office. On December 2, the IACHR issued a report stating that the Government had not effectively implemented its recommendations. In addition, the IACHR reported that attacks on COFAVIC's director and other officials were directly linked to the NGO's defense of human rights.

In August, the IACHR ordered the Government to pay \$1,559,800 (2,495,680,000 bolivars) to compensate relatives of the victims of the Caracazo riots and killings of 1989, the events that prompted formation of COFAVIC. In 2002, the IACHR had called for the Government to prosecute those responsible for the Caracazo and to compensate the victims' families within 1 year.

On October 8, the President declared that the Government was not obligated to comply with decisions of the IACHR. He also stated that compliance with the IACHR order to return confiscated broadcasting equipment to the media outlet Globovision would uphold criminality.

The Ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state and, together with the Public Prosecutor and Controller General, make up the Citizen Power branch of government. Human rights NGOs claimed that the Ombudsman's office acted on only a small number of cases presented to it. COFAVIC claimed that the Ombudsman and the Attorney General's Office were not independent of the Executive Branch and were therefore unable to carry out effective investigations.

On August 27, Joe Luis Castillo, an employee of the UNHCR, was assassinated in Machiques, Zulia State. Many human rights organizations and the IACHR called on the Government to investigate the killing and to do more to protect human rights workers. Rumors circulated that Castillo, in his professional role, may have aided a member of a paramilitary group, garnering the anger of rival groups. Ombudsman German Mundarain asked and Attorney General Isaias Rodriguez agreed to assign a special prosecutor to the case. At year's end, no suspects had been identified or charged.

On July 1, HRW criticized the Government's proposed law to regulate broadcast media and its ongoing investigations of four private television stations as detrimental to the exercise of free speech. The Government responded with a personal attack on the HRW Executive Director but did not address the substance of HRW's concerns (see Section 2.a.).

On June 11, Freddy Gutierrez was elected to the IACHR. Previously, the Government had few dealings with the Commission, causing concern among human rights groups about the Chavez administration's lack of a human rights agenda. Some human rights groups saw Gutierrez' presence on the Commission as the Government's attempt to reduce or deflect criticism from the Commission, rather than as genuine concern for human rights.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum.

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

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure persons with disabilities access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year. On June 29, several hundred participants demonstrated against discrimination toward homosexuals and to demand equal rights for them.

*Women.*—Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence during the year. Domestic violence against women was common and was aggravated by the country's economic difficulties. The Venezuelan Association for Alternative Sexual Education (AVESA) registered 40 cases of domestic violence. At

year's end, AVESA was working to compile domestic violence statistics from other NGOs and governmental entities to reflect more accurately the extent of the problem. Many domestic violence cases were not reported to the police, according to women's organizations. The police generally were unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse, according to local monitors. In addition, poor women generally were unaware of legal remedies and have little access to them. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when it admits patients who are victims of domestic abuse cases.

Rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code also provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to assist rape victims. AVESA registered 330 cases of rape or attempted rape during the year; a majority of the victims were children. However, women's organizations asserted that these figures were low and did not accurately portray the problem of rape and sexual assault. They claimed that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

One human rights organization received reports that women were trafficked to Europe for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace was a common problem but is not a criminal offense.

Women gradually surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still were underrepresented in leadership positions and, on average, earned 30 percent less than men. Women accounted for approximately half the student body of most universities and advanced in many professions, including medicine and law. A 2000 government decision allowed women to attend military academies and serve in expanded roles as officers in the armed forces. As of August, 70 women were in training at the Army's military academy, 60 were in training at the Naval academy, 39 were at the Air Force academy, and 75 were in training at the National Guard academy.

Women and men are legally equal in marriage. The Constitution provides for sexual equality in exercising the right to work. The 1990 Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for 1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the Confederation of Venezuelan Workers (CTV), the country's major labor federation, these regulations were enforced in the formal sector, although social security payments often were delayed.

In 2001, the National Institute for Women—an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor—designed two programs to assist women in need and enhanced the economic independence of women. The first program was the "Women's Bank" to provide small-scale financing to micro-enterprises run by women. In February 2002, the Government said that \$10 million (15 billion bolivars) had been placed into this fund, and numerous micro-loans were issued during the year. There were allegations of corruption and mismanagement within the fund. In August, the bank admitted that it had negative balances, and the Central Bank of Venezuela called for it and other microfinancing institutions to be placed under greater regulatory supervision. The second initiative was the Women's Shelters Program—the construction of a series of centers to receive, care for, and rehabilitate women in distress.

There were a number of NGOs concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups were not implemented widely by the police or other concerned government agencies.

*Children.*—The Organic Procedural Law on Adolescents and Children establishes legal protection of children under the age of 18, regardless of nationality; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services decreased during the year due to a weakening economy and government budget deficits. Primary and secondary education was chronically under funded. According to the Constitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, an estimated 57 percent of children left school before the 9th grade.

In addition, approximately 1 million children were not eligible to receive government assistance, including public education, because they were either illegal aliens, or their births were not documented properly, according to the annual report of the

NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a general lack of resources made compliance nearly impossible. The Center for Peace and Human Rights at the Central University of Venezuela estimated that 20 percent of the poor had no identity documents, and the majority of these were children between the ages of 2 and 18.

According to a 2001 report by CECODAP, approximately 25 percent of children under the age of 15 had a nutritional deficit. Substandard conditions contributed to the increase in preventable diseases that were leading causes of infant mortality.

Reports of child abuse were rare due to a fear of entanglement with the authorities and societal ingrained attitudes regarding family privacy. The judicial system, although slow, ensured that in most situations children were removed from abusive households once a case had been reported. However, public facilities for such children were inadequate and had poorly trained staff.

According to CECODAP, approximately 1.6 million children worked in the country, mostly in the informal sector where they worked as street vendors or as beggars. An estimated 206,000 children were involved in prostitution, drug trafficking, and petty crime (see Section 6.d.).

According to UNICEF, there were 240,000 children on the streets; however, CECODAP reported that there were 500,000 street children. The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claimed that curfews permitted the police to act arbitrarily and detain persons who had committed no crime. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, 119 children remained missing. With the 2002 closing of the police office responsible for investigating the missing children, the Displaced Persons Unit of CICPC began handling the cases. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

*Persons with Disabilities.*—Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent, even in government buildings. According to local advocates, persons with disabilities were discriminated against in many sectors, including education, health care, and employment. A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also prohibits discrimination in employment practices and in the provision of public services. However, the Government had not made a significant effort to implement the law, inform the public of it, or try to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

*Indigenous People.*—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffered from inattention to and violation of their rights. There were approximately 316,000 indigenous persons in 27 ethnic groups. Many of the indigenous were isolated from modern civilization and lacked access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plagued their communities.

The Constitution creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions affecting their lands, cultures, and traditions, or the allocation of natural resources. Few indigenous persons held title to their land, but many did not want to because most indigenous groups rejected the concept of individual property. Instead, they called on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

On May 23, the Yaruro indigenous group of Apure State complained to the human rights group PROVEA that landholders and ranchers allegedly invaded Yaruro lands with negative results for the area's natural resources on which the indigenous community depended. Equally worrisome to the Yaruro was the discovery of petroleum within their territory. The Yaruro demanded compliance with Articles 120 and 129 of the Constitution requiring that any exploitation of natural resources within an indigenous group's territory only be undertaken after consultation with the affected group.

In July 2001, three members of the Pume indigenous people in Apure State were killed during an apparent effort to take control of the land they occupied. Two adults and one child were attacked by nonindigenous persons armed with machetes and firearms. Another Pume member, Carmen Flores, witnessed the killings and escaped unnoticed. In August 2001, two persons were arrested in connection with the killings. In November 2001, a court found them innocent and they were released. In July 2002, the Supreme Court reopened the case and ordered that the two men be detained. There were no further developments in this case during the year.

*Section 6. Worker Rights*

*a. The Right of Association.*—Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, the Government continued to violate the right of association. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as the right to join—or refrain from joining—these organizations. The Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces.

The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the CNE the authority to administer the internal elections of labor confederations. This article, which contravenes ILO Conventions 87 and 98, has been the subject of a long-running dispute between the Government and the ILO. However, during the year, the ILO took note of the will expressed by the Government and the National Assembly to adjust the legislation to the requirements of Convention 87, and requested the Government to furnish a detailed report, including the texts of any new draft elaborated, so that the ILO Committee of Experts could examine the situation once again at its next meeting.

The Inter-American Regional Organization of Workers and International Confederation of Free Trade Unions concluded that the Government seriously violated the right of association. The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO noted that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violates freedom of association. It also "deplored allegations of acts of violence committed with government backing [that] had been presented to the ILO mission by workers' and employers' organizations."

According to 2002 figures, approximately 10 to 12 percent of the 10-million-member national labor force was unionized. The CTV, three small union confederations, and a number of independent unions operated freely. The CTV represents most of the unionized workers and was especially strong in the public sector; its membership was approximately 900,000 workers. The CTV's top leadership included members of several political parties, but the majority was affiliated with either Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally influence each other. The Bolivarian Workers Force (FBT) organized unions within the CTV and participated in the CTV internal elections held in October 2002. During the year, the head of the Caracas metro union established the pro-government National Workers Union (UNT) as a counterweight to the CTV; the UNT claimed to have 630 affiliate unions.

Despite ILO objections, the Government continued to insist on the CNE's oversight authority for labor leadership elections. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role.

In spite of the CNE's hands-off approach and a 2002 Supreme Court ruling on the matter, the Government did not accept the validity of CTV internal elections in which pro-government candidates were defeated. As a result, the Government invited the UNT to represent labor on the delegation to the annual ILO Conference in June, rather than recognize the CTV leadership as the leading labor representative for the country. On June 2, Manuel Cova, CTV Secretary General, filed a complaint with the Supreme Court against the government delegation and later formally challenged the delegation's credentials at the ILO Conference in Geneva.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and only for reasons listed in the law.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the Labor Code, if a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to the worker's seniority.

There are no restrictions on affiliation with international labor organizations, and many union organizations were active internationally; however, a 2000 Supreme Court ruling regarding the legal rights of NGOs that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (see Section 2.b.).

*b. The Right to Organize and Bargain Collectively.*—According to the Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns over this and in March 2000 requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members." The Code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

During the year, the conflict between the Government and the CTV intensified, beginning with the labor confederation's leadership of a national work stoppage from December 2002 to February 1. On February 20, a criminal court ordered CTV Secretary General Carlos Ortega's detention on charges of rebellion, sabotage, and treason. On March 27, Ortega arrived in Costa Rica after being granted asylum in the Costa Rican embassy in Caracas. According to the media, Ortega said several times that he will return to the country but had not done so at year's end.

On February 19, DISIP officers detained strike leader and Fedecamaras president Carlos Fernandez and held him incommunicado until around 10:00 a.m. February 20 when he was allowed to speak with his wife via telephone. The Government announced that Fernando was being held on charges including rebellion, treason, instigation to commit a crime(s), criminal association, and "devastation." An opposition attorney stated that no warrant or court order was displayed at the time of Fernandez's capture. Human Rights Ombudsman German Mundarain acknowledged that Fernandez's detention was not "entirely transparent" because judicial officials were prohibited from seeing Fernandez immediately following his detention. Later in the year, Ortega and Fernandez submitted a complaint against President Chavez to the IACHR, alleging that Chavez breached internationally recognized human rights. On March 20, a court of appeals authorized the release from house arrest of Fernandez citing insufficient evidence. However, the judge stated that Fernandez could be re-arrested if the Public Ministry presented sufficient evidence at a later date. Fernandez had left the country at year's end.

The Constitution and the Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

During and after the national work stoppage, PDVSA fired 19,000 mostly white-collar petroleum sector workers, saying they had abandoned their jobs for more than 3 days and were therefore terminated under the Labor Code. The Government denied the former workers continued access to company housing, schools, and medical benefits. Claiming their termination was illegal, fired employees filed suit for either reinstatement or compensation. The Government filed criminal charges against seven former oil company executives for alleged incitement to rebellion and sabotage of the oil industry. On June 10, the Supreme Court ruled that the Government's case had procedural errors and would have to be refiled.

During the year, several brief strikes occurred among government employees such as doctors and health workers in public hospitals and clinics, teachers, and transportation workers.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The 1990 Labor Code states that no one may “obligate others to work against their will,” and such practices generally were not known to occur; however, there were reports of trafficking in children for employment purposes (see Sections 6.d. and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector. In 2002, according to UNICEF, approximately 2.5 percent of children were in the labor market, and they worked in agriculture, as artisans, in offices, and in the services sector.

The Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health, or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development (see Section 5). The Criminal Code prohibits inducing the prostitution and corruption of minors. Persons convicted of these crimes may be sentenced to imprisonment from 3 to 18 months, and up to 4 years if the minor is younger than 12 years old.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Children who worked in the informal sector, mostly as street vendors, generally worked more hours than the total permitted under the law. According to a Foundation for Social Action (FUNDAS) study, 63 percent of child street vendors work 7 days a week and 69 percent began working between the ages of 2 and 3. The Government's Central Office of Statistics and Information reported that 12 percent of the country's children between the ages of 10 and 17 were working, had worked at some time, or were seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. According to another report, 1.1 million children worked in the informal sector, 300,000 in the formal sector, and 206,000 in jobs related to prostitution, drugs, and theft.

*e. Acceptable Conditions of Work.*—The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. On April 30, President Chavez announced a plan to increase the minimum wage by 30 percent. The plan was designed to raise the monthly minimum wage in two increments during the year. In July, the Government raised the minimum wage for public and private employees by 10 percent. Following the increase, the monthly minimum wage was \$125 (200,000 bolivars) in the private sector for urban workers, \$120 (192,000 bolivars) for employees of small and medium-sized companies, and approximately the same for rural workers. The President decreed a 20 percent increase to take effect October 1. The increases applied only to those already earning the minimum wage—approximately 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits added to these minimum figures generally increased wages by about

one-third. However, even with these benefits, the minimum wage was not sufficient to provide a decent standard of living for a worker and family. Unions noted that a worker's income was often less than the cost of basic monthly food for a family of five, estimated by the Government's Central Office of Statistics and Information to be \$158 (253,000 bolivars). The figure did not include other necessities such as medical care, transportation, clothing, and housing. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately 55 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforced these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which was not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The Constitution prohibits trafficking in persons, although there is no implementing law specifically for prosecution of all forms of trafficking in persons; however, there were reports that the country was a source, destination and transit country for trafficked men, women, and children during the year.

Trafficking may be prosecuted under laws against forced disappearance and kidnapping (punishable by 2 to 6 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a fine of 1 to 10 months salary for trafficking in children). The Government did not prosecute any individuals for trafficking in persons during the year, and no figures were available from either government or NGO sources, making it difficult to gauge the extent of the problem. The authorities showed little awareness of trafficking in persons as a human rights problem. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates can be obtained created favorable conditions for trafficking. In June, the Director General of the passport agency and the General Manager of Simon Bolivar International Airport were replaced due to their alleged involvement in trafficking of Chinese nationals.

PROVEA received complaints that women were trafficked to Europe for purposes of prostitution. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country en route to Mexico and reportedly were forced to work off the cost of their transportation in conditions of servitude. The Ombudsman's office continued to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked. At year's end, 119 children remained missing. In 2002, there were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids; there were no further reports of this during the year. It also was believed widely that young women were lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then became victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were behind some of these trafficking activities.

Government efforts to prevent trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking had recourse to the Government's national

system of women's shelters (see Section 5). NGOs such as CECODAP and the Coalition Against Trafficking in Women also were involved in activities to combat trafficking.



## APPENDIXES

### APPENDIX A.—NOTES ON PREPARATION OF THE COUNTRY REPORTS AND EXPLANATORY NOTES

The annual *Country Reports on Human Rights Practices* are based on information available from a wide variety of sources, including U.S. and foreign government officials, victims of human rights abuse, academic and congressional studies, and reports from the press, international organizations, and nongovernmental organizations (NGOs) concerned with human rights. We find particularly helpful, and make reference in the reports to the role of NGOs, ranging from groups within a single country to those that concern themselves with human rights worldwide. While much of the information that we use is already public, information on particular abuses frequently cannot be attributed, for obvious reasons, to specific sources.

By law we must submit the *Country Reports* to Congress by February 25. To comply with this requirement, we provide guidance to U.S. diplomatic missions in July for submission of draft reports in September and October, which we update at year's end as necessary. Other offices in the Department of State provide contributions, and the Bureau of Democracy, Human Rights, and Labor prepares a final draft. Because of the preparation time required, it is possible that year-end developments may not be reflected fully. We make every effort to include references to major events or significant changes in trends.

We have attempted to make the reports as comprehensive, objective and uniform as possible in both scope and quality of coverage. We have paid particular attention to attaining a high standard of consistency in the reports despite the multiplicity of sources and the obvious problems associated with varying degrees of access to information, structural differences in political and social systems, and differing trends in world opinion regarding human rights practices in specific countries.

Evaluating the credibility of reports of human rights abuses often is difficult. With the exception of some terrorist organizations, most opposition groups and certainly most governments deny that they commit human rights abuses and sometimes go to great lengths to conceal any evidence of such acts. There are often few eyewitnesses to specific abuses, and they frequently are intimidated or otherwise prevented from reporting what they know. On the other hand, individuals and groups opposed to a particular government sometimes have powerful incentives to exaggerate or fabricate abuses, and some governments similarly distort or exaggerate abuses attributed to opposition groups. We have made every effort to identify those groups (for example, government forces or terrorists) that are believed, based on all the evidence available, to have committed human rights abuses. Where credible evidence is lacking, we have tried to indicate why it is not available. Many governments that profess to oppose human rights abuses in fact secretly order or tacitly condone them or simply lack the will or the ability to control those responsible for them. Consequently, in judging a government's policy, the reports look beyond statements of policy or intent and examine what a government has done to prevent human rights abuses, including the extent to which it investigates, brings to trial, and appropriately punishes those who commit such abuses.

To increase uniformity, the introduction of each country's report contains a brief setting that provides the context for reviewing its human rights performance. A description of the political framework and the role of security agencies in human rights is followed by a brief paragraph on the economy. The introduction concludes with an overview of human rights developments during the calendar year that mentions specific areas (for example, torture, freedom of speech and of the press, discrimination) where abuses and problems occurred.

We have continued the effort from previous years to expand coverage of human rights problems affecting women, children, persons with disabilities, and indigenous people in the reports. The appropriate section of each country report discusses any abuses that are targeted specifically against women (for example, rape or other vio-

lence perpetrated by governmental or organized opposition forces, or discriminatory laws or regulations). In Section 5, we discuss socioeconomic discrimination; discrimination against persons with HIV/AIDS; societal violence against women, children, homosexuals, persons with disabilities, or ethnic minorities; and the efforts, if any, of governments to combat these problems.

The following notes on specific section headings in each country report are not meant to be comprehensive descriptions of each subject but to provide an overview of the key issues covered and to show the overall organization of subjects:

*Arbitrary or Unlawful Deprivation of Life.*—Includes killings in which there is evidence of government involvement without due process of law or of political motivation by a government or by opposition groups. Also covers extrajudicial killings (for example, the unlawful and deliberate killing of individuals carried out by order of a government or with its complicity), as well as killings committed by police or security forces that resulted in the unintended death of persons without due process of law (for example, mistargeted bombing or shelling or killing of bystanders). In general, excludes combat deaths and killings by common criminals, if the likelihood of political motivation can be ruled out (see also “Internal Conflicts” below). Although mentioned briefly here, deaths in detention due to official negligence are covered in detail in the section on “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.”

*Disappearance.*—Covers cases in which political motivation appears likely and in which the victims have not been found or perpetrators have not been identified. Cases eventually classified as political killings in which the bodies of those missing are discovered also are covered in the above section, while those eventually identified as arrest or detention may be covered under “Arbitrary Arrest, Detention, or Exile.”

*Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Covers torture (an act of intentionally inflicting severe pain, whether physical or mental) and cruel, inhuman, or degrading treatment or punishment, committed by or at the instigation of government forces or opposition groups. Concentrates discussion on actual practices, not on whether they fit any precise definition, and includes use of physical and other force that may fall short of torture but which is cruel, inhuman, or degrading. Covers prison conditions, including information based on international standards, and deaths in prison due to negligence by government officials.

*Arbitrary Arrest, Detention, or Exile.*—Covers cases in which detainees, including political detainees, are held in official custody without being charged or, if charged, are denied a public preliminary judicial hearing within a reasonable period. Also discusses whether, and under what circumstances, governments exile citizens.

*Denial of Fair Public Trial.*—Describes briefly the court system and evaluates whether there is an independent judiciary and whether trials are both fair and public (failure to hold any trial is noted in the section above). Includes discussion of “political prisoners” (political detainees are covered with arbitrary detention), defined as those convicted and imprisoned essentially for political beliefs or nonviolent acts of dissent or expression, regardless of the actual legal charge. Also includes the systemic failure of a government to enforce court orders with respect to restitution or compensation for the taking of private property under domestic law.

*Arbitrary Interference with Privacy, Family, Home or Correspondence.*—Discusses the “passive” right of the individual to noninterference by the State. Includes the right to receive foreign publications, for example, while the right to publish is discussed under “Freedom of Speech and Press.” Includes the right to be free from coercive population control measures, including coerced abortion and involuntary sterilization but does not include cultural or traditional practices, such as female genital mutilation, which are addressed in Section 5.

*Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts.*—An optional section for use in describing abuses that occur in countries experiencing significant internal or external armed conflict. Includes indiscriminate, nonselective killings arising from excessive use of force, or by the shelling of villages (deliberate, targeted killing is discussed in the section on “Arbitrary or Unlawful Deprivation of Life”). Also includes abuses against civilian noncombatants. For countries where use of this section would be inappropriate, that is where there is no significant internal or external conflict, lethal use of excessive force by security forces is discussed in the section on “Arbitrary or Unlawful Deprivation of Life”; nonlethal excessive force is discussed in the section on “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.”

*Freedom of Speech and Press.*—Evaluates whether these freedoms exist and describes any direct or indirect restrictions. Includes discussion of Internet and academic freedom.

*Freedom of Peaceful Assembly and Association.*—Evaluates the ability of individuals and groups (including political parties) to exercise these freedoms. Includes the ability of trade associations, professional bodies, and similar groups to maintain relations or affiliate with recognized international bodies in their fields. The right of labor to associate, organize, and bargain collectively is discussed under the section on “Worker Rights” (see Appendix B).

*Freedom of Religion.*—Discusses whether the Constitution or laws provide for the right of citizens of any religious belief to worship free of government interference and whether the government generally respects that right. Includes the freedom to publish religious documents in foreign languages; addresses the treatment of foreign clergy and whether religious belief or lack thereof affects membership in a ruling party, a career in government, or ability to obtain services and privileges available to other citizens. The annual International Religious Freedom Report supplements the information in this section.

*Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Includes discussion of Internally Displaced Persons (IDPs); “refugees” may refer to persons displaced by civil strife or natural disaster as well as persons who are “refugees” within the meaning of the Refugee Act of 1980, that is, persons with a “well-founded fear of persecution” in their country of origin or, if stateless, in their country of habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion.

*Respect for Political Rights: The Right of Citizens to Change Their Government.*—Discusses the extent to which citizens have freedom of political choice and have the legal right and ability in practice to change the laws and officials that govern them. Assesses whether elections are free and fair.

*Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.*—Discusses whether the government permits the free functioning of local human rights groups (including the right to investigate and publish their findings on alleged human rights abuses), whether these groups are subject to reprisal by government or other forces, and whether government officials are cooperative and responsive to their views. Also discusses whether the government grants access to and cooperates with outside entities (including foreign human rights organizations, international organizations, and foreign governments) interested in human rights developments in the country.

*Discrimination Based on Race, Sex, Disability, Language, or Social Status.*—Contains a subheading on *Women, Children, and Persons with Disabilities*. As appropriate also includes subheadings on *National/Racial/Ethnic Minorities, Indigenous People and Incitement to Acts of Discrimination*. Discrimination against other groups is discussed in the introductory paragraph(s) of the section. Addresses discrimination and abuses not discussed elsewhere in the report, focusing on laws, regulations, or state practices that are inconsistent with equal access to housing, employment, education, health care, or other governmental benefits for members of specific groups. (Abuses by government or opposition forces, such as killing, torture and other violence, or restriction of voting rights or free speech targeted against specific groups would be discussed under the appropriate preceding sections.) Discusses societal violence against women, e.g., “dowry deaths,” “honor killings,” wife beating, rape, female genital mutilation, and government tolerance of such under the subheading on women. Discusses the extent to which the law provides for, and the government enforces, equality of economic opportunity for women. Discusses violence or other abuse against children under that subheading. Discusses the extent to which persons with disabilities, including persons with mental disabilities, are subject to discrimination in, among other things, employment, education, and the provision of other government services.

*Worker Rights.*—See Appendix B.

#### EXPLANATORY NOTES

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

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

Since the Secretary of State designates foreign groups or organizations as Foreign Terrorist Organizations (FTOs) on the FTO list, only those groups on the FTO list dated May 23, 2003 will be described as “terrorists” in the reports.

When describing whether a government provides “protection against refoulement,” the reports are referring to the international legal principle that prohibits states from expelling or returning a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, political opinion, or membership in a particular social group.

Subject headings in these reports are used to introduce general topics, and the report text that follows such headings is intended to describe facts generally relevant to those topics and is not intended to reach conclusions of a legal character.

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#### APPENDIX B.—REPORTING ON WORKER RIGHTS

The 1984 Generalized System of Preferences Renewal Act requires reporting on worker rights in GSP beneficiary countries. It states that internationally recognized worker rights include: “(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.” All five aspects of worker rights are discussed in each country report under the section heading “Worker Rights.” An additional subsection, listed as (F), addresses trafficking in persons. The discussion of worker rights considers not only laws and regulations but also their practical implementation and takes into account the following additional guidelines:

A. “*The right of association*” has been defined by the International Labor Organization (ILO) to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.

The right of association includes the right of workers to strike. While strikes may be restricted in essential services, the interruption of which would endanger the life, personal safety, or health of a significant portion of the population, and in the public sector, these restrictions must be offset by adequate safeguards for the interests of the workers concerned (for example, mechanisms for mediation and arbitration, due process, and the right to judicial review of legal actions). Reporting on restrictions on the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers’ interests.

B. “*The right to organize and bargain collectively*” includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers, the right to protection against interference, and the right to protection against acts of antiunion discrimination. Governments should promote mechanisms for voluntary negotiations between employers and workers and their organizations. Coverage of the right to organize and bargain collectively includes a review of the extent to which collective bargaining takes place and the extent to which unions, both in law and practice, effectively are protected against antiunion discrimination.

C. “*Forced or compulsory labor*” is defined as work or service exacted under the menace of penalty and for which a person has not volunteered. “Work or service” does not apply where obligations are imposed to undergo education or training. “Menace of penalty” includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Forced labor should not be used as a means of: (1) mobilizing and using labor for purposes of economic development; (2) racial, social, national, or religious discrimination; (3) political coercion or education, or as a punishment for holding or expressing political or ideological views opposed to the established political, social, or economic system; (4) labor discipline; or (5) as a punishment for having participated in strikes. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of “freely chosen employment.”

D. “*Minimum age for employment of children*” concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. ILO Convention 182

on the “worst forms of child labor”, which had been ratified by 147 countries by the end of the year, identifies anyone under the age of 18 as a child and specifies certain types of employment as “the worst forms of child labor”. These worst forms of labor include slavery, debt bondage, forced labor, forced recruitment into armed conflict, child prostitution and pornography, involvement in illicit activity such as drug production or trafficking, and “work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” ILO Convention 182 permits the employment of children between the ages of 16 and 18 in what the convention describes as an “unhealthy environment,” if adequate protective measures have been taken.

E. “*Acceptable conditions of work*” refers to the establishment and maintenance of mechanisms, adapted to national conditions, that provide for minimum working standards, that is: wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour rest day; a specified number of annual paid leave days; and minimum conditions for the protection of the safety and health of workers. Differences in the levels of economic development are taken into account in the formulation of internationally recognized labor standards. For example, many ILO standards concerning working conditions permit flexibility in their scope and coverage. They also may permit governments a wide choice in their implementation, including progressive implementation, by enabling them to accept a standard in part or subject to specified exceptions. Governments are expected to take steps over time to achieve the higher levels specified in such standards. However, this flexibility applies only to internationally recognized standards concerning working conditions, not to the basic human rights standards, that is, freedom of association, the right to organize and bargain collectively, the prohibition of forced labor and child labor, and the absence of discrimination in employment.

F. “*Trafficking in persons*” is defined as all acts involving the recruitment, harboring, transportation, provision, or obtaining of a person (man, woman, or child) for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. Reporting describes any legal prohibitions against trafficking; the extent to which the government enforces these prohibitions; the extent and nature of trafficking in persons to, from, or within the country, other geographic regions or countries affected by the traffic; the participation, facilitation, involvement or complicity of any government agents in trafficking; and aid or protection available to victims.

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APPENDIX C.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS  
 [See footnotes for key to Human Rights Conventions denoted here. See Appendix D for descriptions of these conventions.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
Afghanistan .....	P			P		P	P	P		P	P	P	P	P	P							S	P	P
Albania* .....	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Algeria .....	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P		P	P	P	P	P	P
Andorra .....						P	P		P				S	S								P	S	P
Angola .....		P	P		P	P	P			P		P		P	P	P			P	P		P		P
Antigua & Barbuda .....	P	P	P	P	P	P	P			1	P	P	P		P	P		P	P	P	P	P	P	P
Argentina .....		P	P	P	P	P	P	P		P	P	P	P	P	P	P		P	P	P	P	P	P	P
Armenia .....				P		P	P		P				P	P	P	P				P	P	P	P	P
Australia .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P	P
Austria .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	P	P	P
Azerbaijan .....	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P			P			P	P	P
Bahamas .....	P	P	P	P	P	P	P			P	P	P	P			P			P	P	P	P		P
Bahrain .....	P	P		P		P	P				P	P	P							P	P	P	P	P
Bangladesh .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P				P	P	P	P	P
Barbados .....	P	P	P	P	P	P	P			P	P	P	P	P	P			P	P	P	P	P		P
Belarus .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P	P
Belgium .....	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P
Belize .....	1	P	P	P	P	P	P				1	P	P	P	S	P			P	P	P	P	P	P
Benin .....	2	P	P	P	P	P	P					P	P	P	P	P			P	P	P	P	P	P
Bhutan* .....						P	P						S									P		P



APPENDIX C.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS—Continued  
 [See footnotes for key to Human Rights Conventions denoted here. See Appendix D for descriptions of these conventions.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
Comoros .....		P	P		P	P	P					P	S						P	P	P	S	P	
Congo, Dem. Rep. of .....		P	P	P	P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Congo, Republic of .....	2	P	P		P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cook Islands .....						P	P													P	P			
Costa Rica .....		P	P	P	P	P	P			P		P	P	P	P	P	P	P	P	P	P	P	P	P
Cote D'Ivoire .....	2	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	P	P
Croatia .....	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P
Cuba .....	P	P	P	P	P	P	P	P		P	P	P	P							P	P	P	P	P
Cyprus .....	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P
Czech Republic .....	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P
Denmark .....	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P			P	P	P	P	P
Djibouti .....		P	P		P	P	P				P	P		P	P	P	P				P	P	P	P
Dominica .....	P	P	P		P	P	P			1	P	P		P	P	P	P			P	P	P		P
Dom Republic .....	S	P	P	S	P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	S	P	P
Ecuador .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	P	P
Egypt .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	P	P
El Salvador .....		P		P		P	P			S	S	P	P	P	P	P	P			P	P	P	P	P
Equatorial Guinea .....		P	P		P	P	P					P	P	P	P	P	P			P	P	P	P	P
Eritrea .....		P	P		P	P	P					P	P	P	P									P
Estonia .....	2	P	P	P	P	P	P		P			P	P	P	P	P	P			P	P	P	P	P





APPENDIX C.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS—Continued  
 [See footnotes for key to Human Rights Conventions denoted here. See Appendix D for descriptions of these conventions.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
Iraq .....	P	P		P	P	P	P	P			P	P	P	P	P			P				P		P
Ireland .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Israel .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P			P	P	P
Italy .....	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Jamaica .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P	P		P	P	P		P
Japan .....		P	P		P	P	P	P		P			P	P	P	P	P		P			P	P	P
Jordan .....	P	P		P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P	P
Kazakhstan .....		P	P	P	P	P	P			P		P	P			P	P		P	P	P	P	P	P
Kenya .....		P			P	P	P				P	P	P	P	P	P	P		P	P	P	P	P	P
Kiribati* .....	1	P	P		P	P	P			1	1	P		1	1	1	1							P
Korea, Dem.Rep. of* .....				P		P	P							P	P					P		P		P
Korea, Rep. of .....				P		P	P			P			P	P	P	P	P		P	P	P	P	P	P
Kuwait .....	P	P	P	P		P	P				P	P	P	P	P				P	P	P	P	P	P
Kyrgyzstan .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Laos .....		P			P	P	P			P	P		P	S	S					P	P	P		P
Latvia .....	2		P	P	P	P	P			P	P	P	P	P	P	P	P			P	P	P	P	P
Lebanon .....	2	P		P	P	P	P			P		P	P	P	P					P	P	P	P	P
Lesotho .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Liberia .....	P	P	P	P	P	P	P	S	S	S	S	P	P	S	S	P	P			P	P	P	P	P
Libya .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	P



APPENDIX C.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS—Continued  
 [See footnotes for key to Human Rights Conventions denoted here. See Appendix D for descriptions of these conventions.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
Netherlands .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
New Zealand .....	P	P		P		P	P			P	P	P	P	P	P	P	P			P	P	P	P	P
Nicaragua .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	P	P	S
Niger .....	P	P	P		P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Nigeria .....	P	P	P		P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Niue .....																								P
Norway .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Oman* .....		P				P	P						P							P	P			P
Pakistan .....	P	P	P	P	P	P	P			P	P	P	P							S	S	P		P
Palau .....						P	P													P	P			P
Panama .....	S	P	P	P	P	P	P					P	P	P	P	P	P	P	P	P	P	P	P	P
Papua New Guinea .....	P	P	P	P	P	P	P			P		P	P			P	P	P	P		P			P
Paraguay .....		P	P	P	P	P	P			P		P	S	P	P	P	P	P	P	P	P	P	P	P
Peru .....		P	P	P	P	P	P			P	S	P	P	P	P	P	P	P	P	P	P	P	P	P
Philippines .....	P		P	P	P	P	P			P	P	P	P	P	P	P	P		P	S	P	P	P	P
Poland .....	2	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Portugal .....	2	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Qatar .....		P				P	P						P							P				P
Romania .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Russia .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P



APPENDIX C.—INTERNATIONAL HUMAN RIGHTS CONVENTIONS—Continued  
 [See footnotes for key to Human Rights Conventions denoted here. See Appendix D for descriptions of these conventions.]

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
Sweden .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Switzerland .....	P	P	P	P	P	P	P		P		P	P	P	P	P	P	P		P	P	P	P	P	P
Syria .....	P	P	P	P	P	P	P	P			P	P	P	P	P	P			P	P				P
Tajikistan* .....		P	P		P	P	P			P		P	P	P	P	P	P		P	P	P	P	P	P
Tanzania .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Thailand .....		P				P	P			P		P	P	P	P							P		P
Togo .....	2	P	P	P	P	P	P	P			P	P	P	P	P	P	P		P	P	P	P	P	P
Tonga* .....	1			P		P	P			1	1	1	P								P			P
Trinidad & Tobago .....	P	P	P		P	P	P			P	P	P	P	P	P	P	P	P		P	P	P	P	P
Tunisia .....	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P	P	P	P
Turkey .....	P	P	P	P	P	P	P		P	P	P	P	P	S	S	P	P		P			P	P	P
Turkmenistan .....	P	P	P		P	P	P			P	P	P	P	P	P	P	P			P	P	P	P	P
Tuvalu* .....	1					P	P			1	1			1		P	P							P
Uganda .....	P	P		P	P	P	P			P	P	P	P	P	P	P	P			P	P	P	P	P
Ukraine .....	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	P
United Arab Emir. ....		P				P	P					P	P						P	P	P			P
United Kingdom .....	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
United States .....	P			P		P	P			P	P	P	P	P	S	S	P	S	S	S	S	S	S	S
Uruguay .....	P	P	P	P	P	P	P			S	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Uzbekistan .....		P		P	P	P	P			P		P	P	P	P	P				P	P	P	P	P



APPENDIX D.—DESCRIPTION OF INTERNATIONAL HUMAN RIGHTS  
CONVENTIONS IN APPENDIX C

- A.** Convention to Suppress the Slave Trade and Slavery of September 25, 1926, as amended by the Protocol of December 7, 1953.
- B.** Convention Concerning Forced Labor of June 28, 1930 (ILO Convention 29).
- C.** Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948 (ILO Convention 87).
- D.** Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948.
- E.** Convention Concerning the Application of the Principles of the Right to Organize and Bargain Collectively of July 1, 1949 (ILO Convention 98).
- F.** Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.
- G.** Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.
- H.** Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21, 1950.
- I.** European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950.
- J.** Convention on the Political Rights of Women of March 31, 1953.
- K.** Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of September 7, 1956.
- L.** Convention Concerning the Abolition of Forced Labor of June 25, 1957 (ILO Convention 105).
- M.** International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965.
- N.** International Covenant on Civil and Political Rights of December 16, 1966.
- O.** International Covenant on Economic, Social and Cultural Rights of December 16, 1966.
- P.** Convention Relating to the Status of Refugees of July 28, 1951.
- Q.** Protocol Relating to the Status Of Refugees of January 31, 1967.
- R.** American Convention on Human Rights of November 22, 1969.
- S.** Convention Concerning Minimum Age for Admission to Employment of June 26, 1973 (ILO Convention 138).
- T.** Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977.
- U.** Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of June 8, 1977.
- V.** Convention on the Elimination of All Forms of Discrimination Against Women of December 18, 1979.
- W.** Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.
- X.** Convention on the Rights of the Child of November 20, 1989.
-



**APPENDIX E.—ECONOMIC AND SECURITY ASSISTANCE**  
**Country/Account Summaries ('Spigots')—FY 2004**  
(\$ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	IMET	INCLE/ ACI	MRA	NADR	Peace Corps	PKO	SEED	Other	Total	P.L. 480
<b>AFRICA</b>															
Africa Regional .....	82,258	59,656	—	—	—	—	6,700	—	—	—	11,000	—	—	159,614	19,128
Africa Regional Fund .....	—	—	30,130	—	—	—	—	—	—	—	—	—	—	30,130	—
Africa Regional Peacekeeping .....	—	—	—	—	—	—	—	—	—	—	59,134	—	—	59,134	—
African Contingency Operations Training and Assistance .....	—	—	—	—	—	—	—	—	—	—	8,000	—	—	8,000	—
African Development Bank .....	—	—	—	—	—	—	—	—	—	—	—	—	5,071	5,071	—
African Development Foundation .....	—	—	—	—	—	—	—	—	—	—	—	—	18,568	18,568	—
African Development Fund .....	—	—	—	—	—	—	—	—	—	—	—	—	107,371	107,371	—
Angola .....	7,797	4,568	3,825	—	—	152	—	4,000	—	—	—	—	—	20,342	104,545
ATA Regional—Africa .....	—	—	—	—	—	—	—	5,690	—	—	—	—	—	5,690	—
Benin .....	6,638	9,403	—	—	—	382	—	—	—	2,809	—	—	—	19,232	4,292
Botswana .....	—	—	—	490	—	716	—	—	—	1,236	—	—	—	2,442	—
Burkina Faso .....	—	—	—	—	—	—	—	—	—	2,616	—	—	—	2,616	6,493
Burundi .....	750	4,400	1,150	—	—	—	—	—	—	—	—	—	—	6,300	23,838
Cameroon .....	—	—	—	—	—	306	—	—	—	3,317	—	—	—	3,623	100
Cape Verde .....	—	—	—	—	—	143	—	—	—	1,437	—	—	—	1,580	3,682
Central African Republic .....	—	—	—	—	—	13	—	—	—	—	—	—	—	13	204
Chad .....	—	—	—	—	—	253	—	—	500	1,110	—	—	—	1,863	5,050
Congo Basin Forest Partnership .....	—	15,000	—	—	—	—	—	—	—	—	—	—	—	15,000	—
Cote d'Ivoire .....	—	—	—	—	—	—	—	—	—	948	—	—	—	948	6,296
Countries in Transition .....	—	—	1,750	—	—	—	—	—	—	—	—	—	—	1,750	—
Democratic Republic of Congo .....	15,916	11,376	2,800	—	—	—	—	—	—	—	—	—	—	30,092	43,530
Djibouti .....	—	2,000	25,000	13,150	—	154	—	—	350	—	—	—	—	40,654	3,348
East Africa Counterterrorism .....	—	—	2,700	—	—	—	—	—	—	—	—	—	—	2,700	—
Eritrea .....	5,600	4,560	—	—	—	181	—	2,400	—	—	—	—	—	12,741	66,245
Ethiopia .....	30,752	19,686	1,075	4,000	—	210	—	300	—	—	—	—	—	56,023	352,248
Gabon .....	—	—	—	—	—	233	—	—	—	2,498	—	—	—	2,731	—
Gambia .....	—	—	—	—	—	68	—	—	—	1,961	—	—	—	2,029	1,475
Ghana .....	19,150	20,716	—	—	—	522	—	—	—	2,730	—	—	—	43,608	20,345
Guinea .....	6,860	16,717	—	490	—	210	—	—	50	2,424	—	—	—	26,261	9,809
Guinea-Bissau .....	—	—	—	—	—	77	—	225	—	—	—	—	—	302	1,670
Kenya .....	36,488	14,183	2,950	1,000	—	596	—	622	3,318	—	—	—	—	59,157	34,664
Kimberley Process .....	—	—	2,000	—	—	—	—	—	—	—	—	—	—	2,000	—
Lesotho .....	—	—	—	—	—	52	—	—	—	2,347	—	—	—	2,399	—
Liberia .....	2,627	3,758	4,420	—	—	209	—	—	200	—	—	—	—	11,005	17,684
Madagascar .....	9,293	10,504	—	—	—	—	—	—	—	2,211	—	—	—	22,217	10,381

**APPENDIX E.—ECONOMIC AND SECURITY ASSISTANCE—Continued**  
**Country/Account Summaries ('Spigots')—FY 2004**  
(\$ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	IMET	INCLE/ ACI	MRA	NADR	Peace Corps	PKO	SEED	Other	Total	P.L. 480
Malawi .....	17,480	9,849	—	—	—	312	—	—	—	2,228	—	—	—	29,869	3,202
Mali .....	13,821	26,581	—	—	—	309	—	—	—	3,683	—	—	—	44,394	—
Mauritania .....	—	—	—	—	—	131	—	—	—	1,941	—	—	—	2,072	16,252
Mauritius .....	—	—	—	—	—	110	—	—	—	—	—	—	—	110	—
Military Health Affairs .....	—	—	—	1,990	—	—	—	—	—	—	—	—	—	1,990	—
Mozambique .....	22,601	27,567	—	—	—	196	—	—	2,632	2,027	—	—	—	55,023	16,166
MRA Africa .....	—	—	—	—	—	—	—	228,523	—	—	—	—	—	228,523	—
Namibia .....	7,601	4,851	—	—	—	175	—	—	600	2,492	—	—	—	15,719	—
Niger .....	—	—	—	—	—	103	—	—	—	2,634	—	—	—	2,737	9,548
Nigeria .....	47,911	23,385	1,900	—	—	96	—	—	—	—	—	—	—	73,292	—
REDSO/ESA .....	10,452	23,774	—	—	—	—	—	—	—	—	—	—	—	34,226	—
Regional Center for Southern Africa ..	—	21,115	—	—	—	—	—	—	—	—	—	—	—	21,115	—
Regional Organizations .....	—	—	1,700	—	—	—	—	—	—	—	—	—	—	1,700	—
Republic of the Congo .....	—	—	—	—	—	108	—	—	—	—	—	—	—	108	655
Rwanda .....	16,168	6,555	—	—	—	162	—	—	375	—	—	—	—	23,260	16,089
Sate Skies .....	—	—	5,000	—	—	—	—	—	—	—	—	—	—	5,000	—
Senegal .....	—	—	—	500	—	180	—	—	—	—	—	—	—	680	—
Sao Tome and Principe .....	—	—	—	480	—	1,062	—	—	—	3,543	—	—	—	35,266	2,146
Sechelles .....	15,167	15,014	—	—	—	53	—	—	—	—	—	—	—	53	—
Sierra Leone .....	784	3,007	11,910	—	—	318	—	—	—	—	—	—	—	16,019	19,486
Somalia .....	250	3,122	—	—	—	—	—	—	450	—	—	—	—	3,822	136,422
South Africa .....	28,565	34,393	80	5,950	—	1,258	—	—	—	2,745	—	—	—	72,991	—
Sudan .....	700	18,171	7,000	—	—	—	—	—	896	—	—	—	—	26,767	111,316
Swaziland .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Tanzania .....	25,040	12,769	—	—	—	97	—	—	—	1,171	—	—	—	1,268	—
Togo .....	—	—	—	—	—	210	—	—	—	2,822	—	—	—	40,841	22,535
Uganda .....	41,114	27,183	—	—	—	116	—	—	—	2,415	—	—	—	2,531	—
West Africa Regional .....	19,461	18,232	—	—	—	170	—	—	—	1,480	—	—	—	69,947	75,896
Zambia .....	37,904	15,676	—	—	—	—	—	—	—	—	—	—	—	37,693	1,141
Zimbabwe .....	11,923	2,919	4,050	—	—	225	—	—	450	3,128	—	—	—	57,383	—
<b>Total Africa</b> .....	<b>541,071</b>	<b>490,690</b>	<b>108,440</b>	<b>28,050</b>	—	<b>9,868</b>	<b>6,700</b>	<b>228,523</b>	<b>19,740</b>	<b>63,271</b>	<b>78,134</b>	—	<b>131,010</b>	<b>1,706,487</b>	<b>1,165,881</b>
<b>EAST ASIA AND THE PACIFIC</b>															
ATA Regional—East Asia and the Pacific .....	—	—	—	—	—	—	—	—	1,820	—	—	—	—	1,820	—
Burma .....	2,000	—	6,954	—	—	—	—	—	—	—	—	—	—	8,954	—
Cambodia .....	22,100	3,687	15,000	—	—	—	—	—	2,765	—	—	—	—	43,552	—
China .....	—	—	—	—	—	—	—	—	—	977	—	—	—	977	—



APPENDIX E.—ECONOMIC AND SECURITY ASSISTANCE—Continued  
Country/Account Summaries ("Spigots")—FY 2004  
(\$ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	IMET	INCLE/ ACI	MRA	NADR	Peace Corps	PKO	SEED	Other	Total	P.L. 480
Georgia .....	—	—	—	6,900	84,056	1,184	—	—	1,050	1,521	—	—	—	94,711	3,006
Greece .....	—	—	—	—	—	594	—	—	—	—	—	—	—	594	—
Hungary .....	—	—	—	18,900	—	1,888	—	—	350	—	—	—	—	21,138	—
International Fund for Ireland .....	—	—	24,838	—	—	—	—	—	—	—	—	—	—	24,838	—
Irish Visa Program .....	—	—	3,460	—	—	—	—	—	—	—	—	—	—	3,460	—
Kazakhstan .....	—	—	—	2,900	43,416	872	—	—	1,900	2,208	—	—	—	51,296	—
Kosovo .....	—	—	—	3,900	37,878	1,068	—	—	2,000	1,470	—	85,000	—	85,000	—
Kyrgyz Republic .....	—	—	—	9,250	—	1,091	—	—	1,150	—	—	—	—	46,316	—
Latvia .....	—	—	—	10,500	—	1,087	—	—	820	—	—	—	—	11,491	—
Lithuania .....	—	—	—	11,900	—	676	—	—	300	1,393	—	50,000	—	12,407	—
Macedonia .....	—	—	—	5,000	—	292	—	—	480	—	—	—	—	64,269	—
Malta .....	—	—	—	1,000	30,242	988	—	—	975	1,996	—	—	—	35,201	—
Moldova .....	—	—	—	—	—	—	—	74,915	—	—	—	—	—	74,915	—
MRA Europe .....	—	—	—	—	—	—	—	—	—	—	9,900	—	—	9,900	—
OSCE Bosnia .....	—	—	—	—	—	—	—	—	—	—	7,858	—	—	7,858	—
OSCE Regional—Europe .....	—	—	—	27,900	—	2,172	—	—	500	—	—	—	—	30,572	—
Poland .....	—	—	—	—	—	850	—	—	—	—	—	—	—	850	—
Portugal .....	—	—	—	—	59,970	—	—	—	—	—	—	—	—	59,970	—
Regional FSA .....	—	—	—	—	—	—	—	—	—	—	—	69,437	—	69,437	—
Regional SEED .....	—	—	—	—	—	—	—	—	—	—	—	30,500	—	30,500	—
Romania .....	—	—	—	24,900	—	1,651	—	—	867	3,653	—	—	—	61,571	—
Russia .....	3,000	—	—	—	143,307	777	—	—	2,500	888	—	—	—	150,472	5,536
Science Centers/Bio Redirection .....	—	—	—	—	—	—	—	—	52,000	—	—	—	—	52,000	—
Serbia and Montenegro .....	—	—	—	—	—	—	—	—	1,782	—	—	150,000	—	151,782	—
Slovakia .....	—	—	—	14,500	—	920	—	—	700	—	—	—	—	16,120	—
Slovenia .....	—	—	—	4,000	—	935	—	—	500	—	—	—	—	5,435	—
Tajikistan .....	—	—	—	—	25,853	339	—	—	350	—	—	—	—	26,542	—
Turkey .....	—	—	1,000,000	17,350	—	2,800	—	—	600	—	—	—	—	1,020,750	—
Turkmenistan .....	—	—	—	690	7,805	216	—	—	50	1,609	—	—	—	10,370	—
Ukraine .....	1,750	—	—	4,500	138,700	1,698	—	—	2,000	4,785	—	—	—	153,433	—
Uzbekistan .....	—	—	—	8,600	39,435	1,104	—	—	1,927	1,871	—	—	—	52,937	—
<b>Total Europe and Eurasia .....</b>	<b>6,000</b>	<b>—</b>	<b>1,043,200</b>	<b>252,640</b>	<b>755,060</b>	<b>31,544</b>	<b>—</b>	<b>74,915</b>	<b>104,208</b>	<b>28,363</b>	<b>17,758</b>	<b>521,567</b>	<b>35,572</b>	<b>2,870,847</b>	<b>25,501</b>
<b>NEAR EAST</b>															
Algeria .....	—	—	—	—	—	612	—	—	—	—	—	—	—	612	—
ATA Regional—Near East Asia .....	—	—	—	90,000	—	448	—	—	11,815	—	—	—	—	11,815	—
Bahrain .....	—	—	911,002	1,291,550	—	1,232	—	—	—	—	—	—	—	90,448	—
Egypt .....	—	—	—	—	—	—	—	—	—	—	—	—	—	2,203,784	2,347



**APPENDIX E.—ECONOMIC AND SECURITY ASSISTANCE—Continued**  
**Country/Account Summaries ("Spigots")—FY 2004**  
(\$ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	IMET	INCLE/ ACI	MRA	NADR	Peace Corps	PKO	SEED	Other	Total	P.L. 480
Central American Regional .....	4,950	24,383	—	—	—	—	—	—	—	—	—	—	—	29,333	—
Chile .....	—	—	—	990	—	559	—	—	—	—	—	—	—	1,549	—
Colombia .....	—	—	—	17,100	—	1,165	580,200	—	3,279	—	—	—	—	601,744	—
Costa Rica .....	—	—	—	—	—	336	—	—	—	1,217	—	—	—	1,553	—
Cuba .....	—	—	6,000	—	—	—	—	—	—	—	—	—	—	6,000	—
Dominican Republic .....	12,508	8,631	3,000	300	—	570	—	—	—	3,090	—	—	—	28,099	—
Eastern Caribbean .....	—	—	—	782	—	686	—	—	—	2,787	—	—	—	4,255	—
Ecuador .....	—	7,127	14,500	990	—	645	30,896	—	—	2,993	—	—	—	57,151	—
El Salvador .....	9,800	26,334	—	2,480	—	1,165	—	—	50	2,466	—	—	—	42,295	1,809
Guatemala .....	12,017	14,810	6,500	—	—	350	2,500	—	—	4,326	—	—	—	40,503	16,673
Guinea .....	4,200	2,180	—	390	—	316	—	—	—	1,321	—	—	—	8,407	—
Haiti .....	19,207	13,999	—	390	—	51	—	—	—	1,660	—	—	—	35,307	36,580
Honduras .....	13,400	24,112	—	168	—	724	—	—	—	4,418	—	—	—	42,822	10,479
Inter-American Development Bank— Multilateral Investment Fund .....	—	—	—	—	—	—	—	—	—	—	—	—	24,431	24,431	—
Inter-American Foundation .....	—	—	—	—	—	—	—	—	—	—	—	—	16,095	16,095	—
Inter-American Investment Corporation .....	—	—	—	—	—	—	—	—	—	—	—	—	18,233	18,233	—
International Mother & Child HIV Prevention .....	4,000	—	—	—	—	—	—	—	—	—	—	—	—	4,000	—
Jamaica .....	3,713	13,713	—	690	—	646	1,200	—	—	2,375	—	—	—	22,337	—
LAC Regional .....	7,194	36,734	—	—	—	—	—	—	—	—	—	—	—	43,928	—
Latin America Regional .....	—	—	—	—	—	—	9,500	—	—	—	—	—	—	9,500	—
Mexico .....	5,200	10,440	11,650	—	—	1,250	12,000	—	—	—	—	—	—	40,540	—
MRA Western Hemisphere .....	—	—	—	—	—	600	—	20,366	—	—	—	—	—	20,366	—
Nicaragua .....	9,830	23,460	—	1,000	—	—	—	—	—	2,667	—	—	—	37,557	16,200
OAS Demining .....	—	—	—	—	—	—	—	—	1,511	—	—	—	—	1,511	—
OAS Development Assistance Programs .....	—	—	—	—	—	—	—	—	—	—	—	—	5,500	5,500	—
OAS Fund for Strengthening Democracy .....	—	—	—	—	—	—	—	—	—	—	—	—	3,356	3,356	—
Panama .....	—	5,499	3,000	990	—	209	4,500	—	50	2,442	—	—	—	16,690	—
Paraguay .....	1,959	3,895	3,000	—	—	297	—	—	—	3,067	—	—	—	12,218	—
Peru .....	19,912	16,437	10,000	990	—	592	128,052	—	—	1,410	—	—	—	177,393	26,678
Peru-Ecuador Peace .....	—	—	6,000	—	—	—	—	—	—	—	—	—	—	6,000	—
South America Regional .....	2,300	—	—	—	—	—	—	—	—	—	—	—	—	2,300	—
Suriname .....	—	—	—	240	—	156	—	—	—	1,001	—	—	—	1,397	—



APPENDIX E.—ECONOMIC AND SECURITY ASSISTANCE—Continued  
Country/Account Summaries ('Spigots')—FY 2004  
(\$ in thousands)

Countries/Accounts	CSH	DA	ESF	FMF	FSA	IMET	INCLE/ ACI	MRA	MADR	Peace Corps	PKO	SEED	Other	Total	P.L. 480
International Atomic Energy Agency	—	—	—	—	—	—	—	—	52,900	—	—	—	—	52,900	—
Voluntary Contribution .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Civil Aviation	—	—	—	—	—	—	—	—	—	—	—	—	—	300	—
Organization .....	—	—	—	—	—	—	—	—	—	—	—	—	—	6,225	—
International Conservation Programs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Contributions for	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Scientific, Educational, and	—	—	—	—	—	—	—	—	—	—	—	—	—	1,750	—
Cultural Activities .....	—	—	—	—	—	—	—	—	—	—	—	—	—	844,475	—
International Development Association	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Disaster and Famine	—	—	—	—	—	—	—	—	—	—	—	—	—	288,115	—
Assistance .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Fund for Agricultural	—	—	—	—	—	—	—	—	—	—	—	—	—	14,906	—
Development .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Law Enforcement	—	—	—	—	—	—	14,500	—	—	—	—	—	—	14,500	—
Academies .....	—	—	—	—	—	—	12,200	—	—	—	—	—	—	12,200	—
International Organizations	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Organizations/	386,935	—	—	—	—	—	—	—	—	—	—	—	—	386,935	—
Partnerships .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Panel on Climate	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Change/UN Framework Convention	—	—	—	—	—	—	—	—	—	—	—	—	—	6,000	—
on Climate Change .....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
International Trust Fund—MADR	—	—	—	—	—	—	—	—	10,000	—	—	—	—	10,000	—
International Aviation Support	—	—	—	—	—	—	65,000	—	—	—	—	—	—	65,000	—
Legislative and Public Affairs	—	750	—	—	—	—	—	—	—	—	—	—	—	750	—
Lockerbie (Pan Am 103) .....	—	—	8,000	—	—	—	—	—	—	—	—	—	—	8,000	—
Montreal Protocol Multilateral Fund	—	—	—	—	—	—	—	—	—	—	—	—	23,000	23,000	—
MRA Administration .....	—	—	—	—	—	—	—	16,457	—	—	—	—	—	16,457	—
MRA Migration .....	—	—	—	—	—	—	—	16,275	—	—	—	—	—	16,275	—
MRA Refugee Admissions .....	—	—	—	—	—	—	—	81,155	—	—	—	—	—	81,155	—
MRA Strategic Global Priorities	—	—	—	—	—	—	—	60,330	—	—	—	—	—	60,330	—
Multilateral Investment Guarantee	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Agency .....	—	—	—	—	—	—	—	—	—	—	—	—	—	1,620	—
Muslim Outreach .....	—	—	10,000	—	—	—	—	—	—	—	—	—	—	10,000	—
Muslim Secondary Exchange Program	—	—	3,000	—	—	—	—	—	—	—	—	—	—	3,000	—
New Course Development .....	—	—	—	—	—	—	—	—	4,627	—	—	—	—	4,627	—
Non-Proliferation and Disarmament	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Fund .....	—	—	—	—	—	—	—	—	14,902	—	—	—	—	14,902	—





**APPENDIX F.—59TH UNCHR VOTING RECORD**  
**Resolutions Adopted by the Commission on Human Rights at its Fifty-Ninth Session**

<b>Year/ No.</b>	<b>Title</b>	<b>Method of adoption<sup>1</sup></b>	<b>Agenda item</b>
2003/1	Question of Western Sahara	without a vote	5
2003/2	The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	recorded vote (37/9/7)	5
2003/3	Situation in occupied Palestine	recorded vote (51/1/1)	5
2003/4	Combating defamation of religions	recorded vote (32/14/7)	6
2003/5	Human rights in the occupied Syrian Golan	recorded vote (31/1/21)	8
2003/6	Question of the violation of human rights in the occupied Arab territories, including Palestine	recorded vote (33/5/15)	8
2003/7	Israeli settlements in the occupied Arab territories	recorded vote (50/1/2)	8
2003/8	Human rights situation of the Lebanese detainees in Israel	recorded vote (32/1/20)	9
2003/9	Cooperation with representatives of United Nations human rights bodies	without a vote	9
2003/10	Situation of human rights in the Democratic People's Republic of Korea	recorded vote (28/10/14)	9
2003/11	Situation of human rights in Turkmenistan	recorded vote (23/16/14)	9
2003/12	Situation of human rights in Myanmar	without a vote	9
2003/13	Situation of human rights in Cuba	recorded vote (24/20/9)	9
2003/14	Situation of human rights in Belarus	Recorded vote (23/14/16)	9
2003/15	Situation of human rights in the Democratic Republic of the Congo	without a vote	9
2003/16	Situation of human rights in Burundi	without a vote	9
2003/17	Human rights and unilateral coercive measures	recorded vote (36/14/2)	10
2003/18	Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve human rights	without a vote	10
2003/19	The right to education	without a vote	10
2003/20	Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	recorded vote (38/13/2)	10
2003/21	Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights	recorded vote (29/14/10)	10

**APPENDIX F.—59TH UNCHR VOTING RECORD—Continued**  
**Resolutions Adopted by the Commission on Human Rights at its Fifty-Ninth Session**

<b>Year/ No.</b>	<b>Title</b>	<b>Method of adoption<sup>1</sup></b>	<b>Agenda item</b>
2003/22	Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing	without a vote	10
2003/23	Globalization and its impact on the full enjoyment of human rights	recorded vote (38/15/0)	10
2003/24	Human rights and extreme poverty	without a vote	10
2003/25	The right to food	recorded vote (51/1/1)	10
2003/26	Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities	without a vote	10
2003/27	Adequate housing as a component of the right to an adequate standard of living	without a vote	10
2003/28	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health	recorded vote (39/1/13)	10
2003/29	Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria	without a vote	10
2003/30	World Conference against racism, racial discrimination, xenophobia, and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action	recorded vote (38/1/13)	6
2003/31	Question of arbitrary detention	without a vote	11
2003/32	Torture and other cruel, inhuman or degrading treatment or punishment	without a vote	11
2003/33	Human rights and forensic science	without a vote	11
2003/34	The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms	without a vote	11
2003/35	Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy	recorded vote (29/12/12)	11
2003/36	Interdependence between democracy and human rights	recorded vote (36/0/17)	11
2003/37	Human rights and terrorism	recorded vote (30/12/11)	11
2003/38	Question of enforced or involuntary disappearances	without a vote	11
2003/39	Integrity of the judicial system	recorded vote (31/1/21)	11
2003/40	Hostage taking	without a vote	11
2003/41	The incompatibility between democracy and racism	without a vote	11
2003/42	The right to freedom of opinion and expression	without a vote	11
2003/43	Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	without a vote	11
2003/44	Integrating the human rights of women throughout the United Nations system	without a vote	12

**APPENDIX F.—59TH UNCHR VOTING RECORD—Continued**  
**Resolutions Adopted by the Commission on Human Rights at its Fifty-Ninth Session**

<b>Year/ No.</b>	<b>Title</b>	<b>Method of adoption<sup>1</sup></b>	<b>Agenda item</b>
2003/45	Elimination of violence against women	without a vote	12
2003/46	Human rights of migrants	without a vote	14
2003/47	The protection of human rights in the context of human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS)	without a vote	14
2003/48	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	without a vote	14
2003/49	Human rights of persons with disabilities	without a vote	14
2003/50	Rights of persons belonging to national or ethnic, religious and linguistic minorities	without a vote	14
2003/51	Internally displaced persons	without a vote	14
2003/52	Human rights and mass exoduses	without a vote	14
2003/53	Extrajudicial, summary or arbitrary executions	recorded vote (37/0/16)	11
2003/54	Elimination of all forms of religious intolerance	recorded vote (51/0/2)	11
2003/55	Working group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights	recorded vote (34/15/4)	15
2003/56	Human rights and indigenous issues	without a vote	15
2003/57	Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994	without a vote	15
2003/58	Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights and the International Decade of the World's Indigenous People	without a vote	15
2003/59	The work of the Sub-Commission on the Promotion and Protection of Human Rights	without a vote	16
2003/60	Enhancement of international cooperation in the field of human rights	without a vote	17
2003/61	Promotion of peace as a vital requirement for the full enjoyment of all human rights by all	recorded vote (33/16/4)	17
2003/62	Development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights	without a vote	17
2003/63	Promotion of a democratic and equitable international order	recorded vote (31/15/7)	17
2003/64	Human rights defenders	without a vote	17
2003/65	The role of good governance in the promotion of human rights	without a vote	17
2003/66	Convention on the Prevention and Punishment of the Crime of Genocide	without a vote	17
2003/67	The question of the death penalty	recorded vote (24/18/10)	17

**APPENDIX F.—59TH UNCHR VOTING RECORD—Continued**  
**Resolutions Adopted by the Commission on Human Rights at its Fifty-Ninth Session**

<b>Year/ No.</b>	<b>Title</b>	<b>Method of adoption <sup>1</sup></b>	<b>Agenda item</b>
2003/68	Protection of human rights and fundamental freedoms while countering terrorism	without a vote	17
2003/69	Human rights and bioethics	without a vote	17
2003/70	United Nations Decade for Human Rights Education	without a vote	17
2003/71	Human rights and the environment as part of sustainable development	without a vote	17
2003/72	Impunity	without a vote	17
2003/73	Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region	without a vote	18
2003/74	Composition of the staff of the Office of the United Nations High Commissioner for Human Rights	recorded vote (32/14/7)	18
2003/75	Regional arrangements for the promotion and protection of human rights	without a vote	18
2003/76	National institutions for the promotion and protection of human rights	without a vote	18
2003/77	Situation of human rights in Afghanistan	without a vote	19
2003/78	Assistance to Somalia in the field of human rights	without a vote	19
2003/79	Situation of human rights in Cambodia	without a vote	19
2003/80	Situation of human rights in Sierra Leone	without a vote	19
2003/81	Technical cooperation and advisory services in Chad	without a vote	19
2003/82	Technical cooperation and advisory services in Liberia	without a vote	19
2003/83	The right to development	recorded vote (47/3/3)	7
2003/84	Situation of human rights in Iraq	recorded vote (31/3/12)	9
2003/85	Abduction of children in Africa	without a vote	13
2003/86	Rights of the child	without a vote	13

<sup>1</sup> In the case of a vote, the figures in brackets represent: votes in favor/votes against/abstentions.

