

narcotics. An investigation of those charges was ongoing at year's end. In January Canadian authorities arrested dozens of small-time Central American drugdealers including many Honduran minors. In February the press reported that Honduran authorities were working to repatriate those minors.

In February a judge in San Pedro Sula, Alexa Cubero, was arrested for allegedly kidnaping six minors with intent to sell them to persons unknown; this case had not come to trial at year's end. In July the Government announced that it was working with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In September a local children's rights group charged that 498 children had been reported missing since 1986, including 22 children during the year. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000.

The Government does not provide economic aid to victims or potential victims of such crimes. However, in March the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Honduras. With the assistance of several international organizations, the Government hoped to be able to reinsert up to 4,000 persons into society each year.

## JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; a third major party was established in late 1995. Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in December 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and supporting the JCF. The JDF has no mandate to maintain law and order and no powers of arrest. The Ministry of National Security and Justice oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. The trade-dependent economy contracted (by 0.5 percent) for the fourth consecutive year in 1999. In 1999 annual per capita income was \$2,531, but there is 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 extrajudicial killings and beatings and carried out arbitrary arrests and detentions.

Although the Government moved to punish many of those police involved, continued impunity for police who commit abuses remains a problem. Police investigations often were hampered by lack of witnesses, and bottlenecks in the judicial systems cause long delays in resolution of criminal cases. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. The judicial system was overburdened, and lengthy delays in trials were common. There were allegations that citizens' privacy rights were infringed upon. Violence and economic discrimination against women remained problems. There were cases of societal discrimination against disabled persons and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor is a problem. Mob violence against those suspected of breaking the law remains a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings during the year.

However, there were two killings involving politically connected victims that produced allegations of possible political motivation. On December 6, unknown assailants shot and killed an organizer for Sharon Hay-Webster, a PNP Member of Parliament, in front of Hay-Webster's constituency office in South Clarendon, after a party event. On December 12, a PNP area leader was found strangled in St. Andrew parish. One Member of Parliament said that the victim had been threatened and that he was "sure she had been eliminated for political reasons," but another Member of Parliament contended that constituents had killed her in a dispute over jobs in a public works project. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections (see Section 3).

The police frequently employed lethal force in apprehending criminal suspects. During the year, there were 140 deaths, including those of 11 police officers, during police encounters with criminals. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faces a crime situation with a homicide rate exceeding 30 per 100,000 persons. Well-armed gangs trafficking in narcotics and guns control many inner-city communities. The gangs are often better equipped than the police force and have conducted coordinated ambushes of joint security patrols. There have been targeted assaults against police officers and their families.

In February police killed a 20-year-old man in Farm district, Clarendon parish. The police claimed that they encountered a group of men, were fired upon, and returned fire. At that point, the man was hit. However, residents said that the police came upon the group, began firing indiscriminately and hit the victim. The incident led to 2 days of violent protests in May Pen, Clarendon's capital, which subsided when the area's parliamentarian visited and appealed for calm. In May the police concluded their investigation and forwarded it to the Public Prosecutor's office for action. In September the authorities brought murder charges against a policewoman involved in the incident; at year's end she awaited trial.

On April 25, television stations broadcast news footage taken by an independent cable operator that showed a group of armed police officers surrounding a house in pursuit of an alleged gang leader, who was shot and killed by a police superintendent a few moments later. The videotape did not show the shooting; however, the footage of a woman crying for help and a violent scuffle in a doorway stirred much controversy and led to a confrontation on April 27 between heavily armed gunmen and the police in a volatile area of Kingston. Two policemen were killed and several injured in a prolonged gun battle; one gunman was also killed. In a press conference immediately after the outbreak of violence, security force leaders criticized Jamaicans for Justice, a nongovernmental organization (NGO) advocating human rights, for politically motivated involvement in the controversy (see Section 4). During the press conference, the Police Commissioner also criticized a journalist for questioning possible political motivation behind the violent events (see Section 2.a.).

The JCF has undertaken an initiative of "community policing" in certain areas to address the problem of longstanding antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. In July the Government established a special police body, the Bureau of Special Investigations, specifically to address police shootings. This group supplements the JCF Office of Professional Responsibility, which investigates police corruption and other misconduct, and the civilian Public Complaints Authority that oversees investigations of the other two bodies and can initiate its own investigations. In April a prominent human rights activist assumed the newly created position of human rights advisor to the Minister of National Security and Justice. She has been engaged in educating JCF trainees as well as junior officers to respect citizens' rights. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Following a police investigation, in September 1999 the Public Prosecutor's office charged a police sergeant with murder for the April 1999 killing of an off-duty JDF soldier during island-wide protests. A preliminary hearing found that there was sufficient evidence to proceed to trial; at year's end, the case was still before the courts.

The authorities also brought murder charges against a police officer for the death of a taxi driver killed when police fired on a taxi carrying passengers in Kitson town in June 1999. The case was still in preliminary hearings at year's end.

On August 21, 1999, nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a road-

block near his home after curfew. Gayle died as the result of a ruptured abdomen; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, in March the Director of Public Prosecutions ruled that there was not sufficient evidence to bring charges against specific individuals for Gayle's death. The police opened a new investigation of this incident, completed it in April, and resubmitted the results to the Public Prosecutor's office. The police investigation did not uncover any new information and recommended that the case be closed.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were 8 known vigilante killings during the year, compared with 9 in 1999 and 16 in 1998. Official investigations into such killings generally do not uncover information, since the persons and the community involved usually band together to intimidate potential witnesses.

*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.

In June police fired on a minibus carrying 16 passengers when the driver failed to stop at a roadblock. The police reported that they had received reports of gunmen on the bus. After the bus sped away, the police pursued and fired on it. One passenger took off his white shirt and waved it out a window, shouting that passengers were on the bus, but had to duck back inside when the police continued shooting. Six persons were injured, including two students. Two policemen involved in the incident were removed from front-line duty and more training was mandated for police in the proper use of firearms. The police concluded an investigation into the incident and sent it to the Public Prosecutor's office for action.

In December 1998, the court of appeal announced that flogging could not be imposed as a punishment because the legislative authority for it had expired. This sentence was used rarely; prior to 1994, no sentence of flogging had been imposed for 25 years.

There were reports that police sexually harassed women (see Section 5).

A Human Rights Watch (HRW) report published in July 1999 detailed frequent and credible allegations of police abuse, specifically in lockups, including severe beatings, mock executions, and rape. The conditions in these lockups are harsh, with severe overcrowding, intermittent meals, and poor lighting, ventilation, and sanitation. HRW noted that the Government must undertake a systematic effort to curb police abuse effectively and bring sanctions against officers who commit abuses. The police have acknowledged the problem and have stated they are trying to address it by establishing a police code of conduct and by increasing human rights training. The police must call a legal aid attorney when they detain a person.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. During the year, the Government secured the services of a dentist for the prisons. The Government also outplaced food services for the prisons.

In May a riot at the St. Catherine's district prison led to reports of beatings by guards and JDF soldiers of 300 inmates. The JDF soldiers had been in charge of prison security at St. Catherine's following a work stoppage by guards in January (see Section 6.a.). Guards and soldiers fired into cells, but caused no injuries. Prisoners alleged that they were upset with being given spoiled food, and that the guards and soldiers retaliated against them when they refused to eat it. Prison officials contended that the disturbance developed during a search of cells for weapons and contraband (including cellular telephones brought in with the acquiescence of certain guards). There were also reports that the prisoners were staging a riot in conjunction with another prison, coordinated by telephone, in order to facilitate a jailbreak. Many prisoners had to wait days for medical attention following these events.

In June the Government convened a one-person Commission of Inquiry into the incident; the JDF initiated its own internal inquiry. A prison doctor testified that he saw 15 guards and soldiers repeatedly club and kick a handcuffed inmate, and that only his presence prevented the inmate from being killed. The doctor has since been reassigned. A sentry from a private security company also testified to witnessing beatings. There were also reports that inmates took a JDF soldier hostage, and the soldiers acted to recover him. In July the Commissioner concluded his work but had not reported his findings by year's end. The authorities did not bring criminal charges against any of the guards or soldiers.

A separate prison for women—the Ft. Augusta Women's Prison—is housed in a 19th century fort. Poor sanitary conditions are the norm, although far less so than

in the men's prisons because there is less overcrowding. Ft. Augusta is also safer and does not have the violence found in the men's prisons.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles are held with adults. The July 1999 HRW report criticized the conditions in which juveniles are held. HRW noted that the Government responded quickly to remove some children from lockups. The report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lockups where they were victimized by adult prisoners.

In July the court of appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the 1951 Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison.

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, and the police continued to arrest and detain citizens arbitrarily. In 1997 the Jamaican Bar Association (JBA) protested that the police unlawfully were detaining and fingerprinting groups of citizens in poor, inner-city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued; however, both the JBA and the Independent Jamaica Council for Human Rights state that the practice continues. In July 1999, police rounded up 52 men from the Grant's Pen area of Kingston after civil unrest erupted there. The men reportedly were fingerprinted, photographed, and then released without being charged. A class action civil suit was brought and was pending at year's end.

In March a three-person Commission of Inquiry was convened to investigate the detention and forced transport in July 1999 of at least 25 persons (many of whom were reportedly mentally ill), who were living on the streets in a Montego Bay business district. In October 1999, the authorities had charged three persons (including a police inspector and two public sector employees) with false imprisonment and assault, but later dropped the charges against the police inspector when he turned State's witness in the inquiry. In September the commission presented its recommendations, among them that the victims be granted \$500 (J\$20,000) per month for life. The Government indicated that it intended to set up a trust for that purpose but had not yet done so by year's end. The police inspector said that he was under orders from his superiors, a claim the commission rejected as perjured. Although it was believed widely that the police were involved and acted at the behest of Montego Bay merchants and with the acquiescence of the local government, the commission exonerated the Montego Bay mayor and parish council. The commission named the police inspector and civil service truck driver as key conspirators and criticized the local head of public works for instituting a coverup. The two public sector employees were awaiting trial at year's end.

The law requires police to present a detainee in court within 48 hours of arrest, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. The Government attributed this circumstance to an overburdened court system that cannot accommodate large numbers of such presentations in a timely manner. Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation. In effect this constitutes an additional prison term for indigent foreigners.

The Constitution prohibits forced exile, and no instances of exile occurred.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, which exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries 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. This appeal process results in frequent delays. The Constitution allows the Court of Appeal and the Parliament to refer

cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. The Government initiated a night court in 1995, which has had some success in reducing the backlog of cases. Donations of computers are also expected to assist the courts in this regard.

The defendant's right to counsel is well established. In February the Government increased salaries for attorneys appointed by the State, and in April it created the position of Public Defender, to bring cases for individuals who have had their constitutional rights violated. The defender's office would contract private attorneys to represent clients. However, as of year's end, no cases had been brought as the defender's office was still securing funds.

In May legal aid was expanded to include prisoners charged with any offenses, except those covered by certain provisions of the Money Laundering Act or possession or trafficking of narcotics under the Dangerous Drugs Act. Although the authorities assert that those who commit such offenses can afford counsel, the Jamaican Bar Association has criticized this as presuming guilt.

During the Commission of Inquiry into the beatings of prisoners at St. Catherine's district prison in June (see Section 1.c.), the judge ruled that a human rights group could not take notes during the proceedings. A Supreme Court judge later overturned this ruling.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary intrusion by the State into the private life of an individual; however, there were allegations of unauthorized wiretapping by the police. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search of a person on board or disembarking a ship or boat without a warrant if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants.

In October the media reported allegations that the police wiretapped the telephones of the Prime Minister, two Cabinet members, and other senior officials. Only the Prime Minister has the authority to order wiretaps, and on October 24, the Prime Minister stated that his last authorization for wiretapping had been in April, for 14 lines associated with 12 different individuals suspected of trafficking in firearms and narcotics. The head of the Special Intelligence Unit, which the press alleged had carried out the wiretaps, denied that his unit placed wiretaps on any telephones. At year's end, it was still unclear whether any wiretaps had been put in place. In December the Government introduced a draft Interception of Communications Act, which would place authorization for wiretapping in the hands of the judiciary.

#### *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 respects these rights in practice.

The four largest newspapers, all privately owned, regularly report on human rights abuses, particularly those involving the JCF. Foreign publications are available widely. The Government privatized the Jamaica Broadcasting Company in 1997, and the television station and two radio stations it operated became privately owned. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and available through satellite antennas.

In an April 27 press conference, the Police Commissioner criticized a journalist who raised a question about political motivation behind a violent confrontation that occurred the previous day (see Section 1.a.). On the following day, the same journalist was confronted by a police officer who pointed his gun inside the journalist's vehicle and asked him what he was doing.

Near year's end, Parliament approved the Corruption Prevention Act, which the Government had reintroduced without clauses that journalists had charged would restrict their ability to report about corruption. The original draft had provided that journalists could be fined up to \$25,000 (J\$1 million) and receive 10 years' imprisonment for publishing information about an ongoing corruption investigation. The new act does not restrict the media from publication.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice.

There were numerous community protests against police actions during the year, such as the 2 days of protests in May Pen over a killing by police (see Section 1.a.). A local human rights group organized various rallies, including reenactments of the August 1999 beating of a man by security forces (see Section 1.a.) and the July 1999 abduction of homeless persons (see Section 1.c.). Security personnel generally acted with restraint during public demonstrations.

The Constitution provides for freedom of association, and the Government respects this right in practice.

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

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. It is alleged that the police force Rastafarian detainees to cut their hair and surreptitiously give them food that they are forbidden to eat. Rastafarians have no right to prison visits by Rastafarian clergy.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

The Government provides asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum; it approved one application during the year. The Government established a committee and formal procedures to review claims to refugee status. This committee has denied all claims to refugee status by Cubans and Haitians who have arrived in the country since 1994.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in 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, face substantial influence and pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote.

During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence, such as the beating of voters, and reducing election malpractice, such as the theft of ballot boxes from polling places.

There were two killings of politically connected persons late in the year that produced allegations of possible political motivation (see Section 1.a.), as well as other acts of alleged intimidation.

There are no legal restrictions on the participation of women in politics; however, they are underrepresented in government and politics. Women hold about 13 percent of all political offices and 30 percent of the senior civil service positions. Two of the 16 cabinet members are women, as is the PNP General Secretary.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights is the country’s only formal organization concerned with all aspects of human rights. Jamaicans for Justice is a human rights group created in August 1999 in response to concerns about police impunity; the NGO focuses on the issues of extrajudicial killing and excessive use of force by the police. Government officials generally are cooperative and responsive to the views of human rights organizations.

However, in an April press conference, senior police officials criticized Jamaicans for Justice on the occasion of an outbreak of severe violence (see Section 1.a.). The organization also reported that it received threatening telephone calls at its office following the killing of two policemen that month. The group noted that the police were cooperative in tracing and stopping threatening calls. In a newspaper article, the Minister of National Security and a member of the clergy questioned the sincerity of those defending human rights, claiming that they cared little for police officers killed in the line of duty. The Police Federation labeled the human rights NGO "suspicious," and stated that it would monitor the group's actions closely. Jamaicans for Justice reported that undercover police regularly attend their meetings.

In August Amnesty International (AI) issued a statement to the Government expressing concern for a human rights attorney's safety. The attorney figured prominently in the inquiry into the abduction of homeless persons from Montego Bay (see Section 1.d.) and represented prisoners at the inquiry into beatings at St. Catherine's district prison (see Section 1.c.). AI contended that the attorney fled the country fearing for her life and that she reported death threats, surveillance, and illegal wiretapping from agents of prison authorities. The Police Commissioner stated that the attorney had not notified police of any such threats. The attorney also is wanted by police in connection with charges of fraud brought by a former client.

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

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government largely enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3). Individuals have committed acts of violence against suspected homosexuals; in April a mob cornered a 25-year-old man in a Kingston church and killed him because they suspected that he was a homosexual.

*Women.*—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. Reported incidents of rape and incest have been on the rise, with a 10 percent increase in rapes during the year. The JCF rape investigative and juvenile unit, which is headed by a female deputy superintendent, handles sex crimes.

The Domestic Violence Act of 1995 provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to \$250 (J\$10,000) and/or 6 months' imprisonment.

There have been some reports of sexual harassment of women by the police.

The Constitution and the 1975 Employment Act accord women full legal equality; however, in practice women suffer from sexual harassment and economic discrimination in the workplace. The Bureau of Women's Affairs in the Ministry of Labor oversees programs to ensure the legal rights of women. These programs have had limited effect but have raised the awareness of problems affecting women. In 1996 the Government established a steering committee, charged with creating a Commission on Gender and Social Equity. The committee forwarded its recommendations to Parliament in 1997, which accepted them; Parliament continued to discuss methods of implementation at year's end.

A number of active women's rights groups exist. They are concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media. Their effectiveness is mixed, but the groups were successful in advocating enactment of the 1995 Domestic Violence Act.

*Children.*—The Government is committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the Government's programs for children.

There is no societal pattern of abuse of children. However, a number of reported cases of sexual abuse and incest may point to a growing trend. There were reports of child prostitution in some resort areas. Inducing prostitution on one's premises of a girl under 12 is a felony punishable by life imprisonment; of a girl between the ages of 12 and 16 is a misdemeanor punishable by 5 years in prison. The encouraging of prostitution of a girl under age 16 by a legal guardian is a misdemeanor punishable by 3 years' imprisonment; procuring a girl under age 18 is also a misdemeanor punishable by 3 years' imprisonment. Child pornography is not prohibited

by statute, but it is a common law offense that can be prosecuted as a form of indecency.

The Juvenile Act of 1951 deals with 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. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section 1.c.).

*People with Disabilities.*—No laws mandate accessibility for the disabled, and disabled citizens have encountered discrimination in employment and denial of access to schools. Several government agencies and NGO's provide services and employment to various groups of disabled citizens. In 1998 the Prime Minister appointed the first blind member of the Senate, an action that despite expectations has not brought tangible benefits to disabled persons, although it helped to increase public awareness related to these issues. In July 1999, an incident in which police rounded up a number of persons (many of whom reportedly were mentally ill) triggered a national debate over police action (see Section 1.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There is a spectrum of national unions, some of which are affiliated with political parties. Approximately 15 percent of the work force is unionized.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Other than in the case of prison guards, there is no evidence of any workers losing their job over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly condemned as overly inclusive.

Beginning December 29, 1999, prison guards conducted an islandwide sick-out to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities put them on forced leave at one-fourth pay beginning in January. In March the Government brought disciplinary charges against the guards and declared the work stoppage illegal. In May court hearings began to examine the charges against the guards on a case-by-case basis; they still were under way at year's end.

On March 30, members of the Junior Doctor Association (JDA) staged an industrial action in which they curtailed their hours in retaliation for nonsettlement of salary negotiations. The Government declared the action illegal and the Supreme Court ordered the doctors back to work. They did not comply but subsequently ended their protest on April 4. The Government brought charges against the doctors who then apologized for their actions. In April the court sentenced the JDA's executive members to 200 hours of community service. The JDA appealed the ruling; in June a higher court overturned the ruling on the grounds that the JDA is not a legal organization and could not be taken to court. In July in response to the ruling, the Government declared that it would no longer conduct negotiations with "nonlegal entities." Unions that represent teachers and government workers feared that this could include them, since they are not officially registered with the Government as trade unions. In protest the three largest registered trade unions boycotted an unrelated meeting with employers and the Government in August. However, there have been no consequences for the unregistered unions following the Government's announcement, reflecting the fact that various other laws and regulations provide for their right to bargain.

Unions maintain a wide variety of regional and international affiliations.

*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 enforce the LRIDA and other labor regulations. All parties are 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 handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.



Collective bargaining is denied in 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 to the union). The ILO's Committee of Experts (COE) considers that where there is no collective agreement and where a trade union does 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.

Domestic labor laws apply equally to the "free zones" (export processing zones). However, there are no unionized companies in any of the 3 zones, which employ 7,703 workers. Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies, but they do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs 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 Compulsory Labor.*—The Constitution does not specifically address the matter of forced or compulsory labor for either adults or children, but there were no reports that this practice exists.

The ILO COE noted that the Jamaica Shipping Act of 1998 did not remove the provision that disciplinary offences of seafarers such as desertion and absence without leave are punishable by imprisonment (involving an obligation to work). The ILO points out that this is incompatible with ILO Convention 105 on the Abolition of Forced Labor and requested that the Government amend the legislation. However, amendments to the law that were enacted in November did not address this criticism.

*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. However, enforcement is uneven. Children under the age of 12 are seen peddling goods and services on city streets. There are also reports that underage children are employed illegally in fishing communities and in prostitution. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. However, due to economic circumstances, thousands of children are kept home to help with housework and avoid school fees. A 1994 UNICEF report stated that 4.6 percent of children below the age of 16 worked to help support their households. In December 1999, the Minister of Labor, Welfare, and Sport gave a speech in which she stated that 23,000 children were engaged in child labor. The Government and UNICEF cooperated on a strategy designed to eliminate child labor, to increase school awareness through poverty alleviation, and on a public awareness campaign intended to combat public complacency. However, these efforts are hampered by economic conditions, lack of resources, and incomplete information on the full extent of the problem.

In September the Government signed a memorandum of understanding with the ILO in preparation to ratify ILO Convention 182 on the prohibition and elimination of the "worst forms" of child labor. The memorandum provides funding and technical assistance to assess the country's child labor situation. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in August 1999, is considered widely to be inadequate to provide a decent standard of living for a worker and family. Most workers are 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 is observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, which are considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service have contributed to the difficulties in enforcing workplace regulations.

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. Industrial accident rates, particularly in the bauxite and alumina industry, remained low.

*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. There were no reports that persons were trafficked to, from, within, or through the country.

---

## MEXICO

Mexico is a federal republic composed of 31 states and a federal district, with an elected president and a bicameral legislature. On July 2, voters elected Vicente Fox Quesada of the opposition Alliance for Change Coalition president in elections that domestic and international observers judged to be generally free and fair, and which ended the Institutional Revolutionary Party's (PRI) 71-year hold on the presidency. Observers described the election as a historic turning point of the most profound significance and made recommendations for further electoral reform. Fox began his 6-year term on December 1, replacing Ernesto Zedillo. Sporadic outbursts of politically motivated violence continued to occur in the southern states of Chiapas, Guerrero, and Oaxaca. The peace process in Chiapas between the Government and the Zapatista National Liberation Army (EZLN) remained stalled throughout most of the year; however, some progress was made in December after President Fox ordered the dismantling of military checkpoints, submitted to Congress a bill to implement the peace accords, and closed two contentious military posts in Chiapas. In addition, during December the state government released 16 EZLN prisoners and the EZLN, through its spokesman, set 3 conditions for the resumption of dialog. The judiciary is generally independent; however, it occasionally has been influenced by the executive branch. In addition, judicial effectiveness is hampered by inefficiency, a high caseload, and limited resources at almost all levels.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and the various police auxiliary forces, have primary responsibility for internal security. However, the military plays a large role in some law enforcement functions, primarily counternarcotics, and also exercises internal security responsibilities. Elected civilian officials control the police and the military; however, corruption is widespread within police ranks and also is a problem for the military. The military maintains a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers continued to commit serious human rights abuses.

The Government continued to deregulate and open the market-based, mixed economy. The gross domestic product (GDP) in 1999 was \$484 billion and the inflation rate was 12.3 percent. Per capita GDP in 1999 was about \$4,974. The economy still is recovering from the 1994 economic crisis, and real wages are less than before the crisis. Leading exports include petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. One-fourth of the population resides in rural areas where subsistence agriculture is common. Income distribution remained skewed; the top 30 percent of the population received about 67 percent of total income, while the bottom 30 percent earned less than 7.4 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remain in several areas and in some states where a poor climate of respect for human rights presents special concern. Federal and state law enforcement officials were accused of committing political and extrajudicial killings. There continued to be credible reports of disappearances. 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. Widespread police corruption and alleged police involvement in narcotics-related crime continued. Prison conditions are poor. The police continued to arrest and detain citizens arbitrarily. Lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. Threats and attacks on journalists—some reportedly by federal, state, or local authorities—hindered press freedom, and there were reports of some self-censorship. Drug-related killings and violence, particularly in the northern states, continued. Violence and discrimination against women, indigenous people, religious minorities, and homosexuals persisted. Child prostitution and abuse continued. There were credible reports of limits on freedom of association and worker rights. Extensive child labor in agriculture and the informal economy and trafficking in persons are problems. There were increased reports of vigilante killings.

The Government's efforts to improve the human rights situation continued to meet with limited success. Although the Government has sanctioned some public officials, police officers, and members of the military, widespread impunity continues to be a serious problem among the security forces. The Zedillo Government continued to support the National Human Rights Commission (CNDH), and in April 1999, Congress amended the Constitution to grant it greater autonomy from the executive branch. However, the CNDH primarily investigates complaints against federal authorities and has no enforcement powers.

Armed civilian groups operating in the state of Chiapas committed human rights abuses. There continued to be a high incidence of narcotics-related violence, particularly in the northern states, and human rights abuses, allegedly with the assistance of members of the security forces. Guerrilla attacks against government property and personnel continued, but at a lesser rate and intensity relative to previous years.

On December 2, the day after his inauguration, President Fox and U.N. High Commissioner for Human Rights (UNCHR) Mary Robinson signed an agreement on technical assistance in human rights matters. Commissioner Robinson also announced the establishment of a human rights U.N. liaison office to work with human rights organizations to help implement the technical assistance program. Robinson stated that the accord was especially significant because the President himself had signed it on his second day in office in the state of Oaxaca, where there are notable human rights problems.

Shortly before assuming office, President Fox announced the appointment of Mariclaire Acosta, former president of the Mexican Commission for the Defense and Promotion of Human Rights, to the new position of Special Ambassador for Human Rights. Her mission is to ensure that the Government complies with its human rights commitments, and that it distributes its human rights resources effectively.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—Federal and state law enforcement officials were accused of committing political and extrajudicial killings. In past years, the military also was accused of such killings; however, there were no reports implicating the military during the year.

There were some apparently politically motivated killings by security force officials. On June 15, Artemio Arturo Perez, a Democratic Revolutionary Party (PRD) supporter arrested for causing a public disturbance during a PRI political rally in Mixistlan de La Reforma, Oaxaca, died in his jail cell. Perez and his family claimed that PRI party members forced persons to attend the rally, and that Perez was arrested for voicing his disapproval. The prison authorities declared suicide to be the official cause of death, but Perez's family and various human rights organizations claim that he died as a result of torture (see Section 1.c.). On June 21, two family members began a hunger strike to demand action against prison employees Alfredo Reyes, Wilfrido Hernandez Solano, and Luis Faustino Gonzalez for abuse of authority, illegal detention, and torture. The case is under investigation by the Oaxaca state attorney general's office and the state's Human Rights Commission.

In March the president of the Jalisco Human Rights Commission cited several cases of possible police involvement in the deaths of prisoners (see Section 1.c.).

The Durango state Human Rights Commission is investigating the presumed suicide of Jose Manuel Urbina, who was found drowned in a state security facility in June. National Action Party (PAN) deputy Victor Hugo Castaneda Soto questioned the manner in which Urbina was arrested and noted that his body was found in a crouched position, a difficult position to maintain by someone attempting to drown himself.

On July 19, five men with known drug connections were found hanged near El Quelite, Sinaloa. On July 16, according to witnesses, armed men in Federal Judicial Police uniforms kidnaped the five—Fausto Andres Arellano Vidales, Anacleto Valle Garcia, Gaston Horacio Lopez Amarillas, Guillermo Gurrola Gutierrez, and Carlos Lopez Torres—from a store in Mazatlan, Sinaloa. State authorities were investigating the case, including a drug trafficking connection, at year's end.

There were numerous reports of executions carried out by rival drug gangs, whose members have 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 continued. For example, 27 murders with presumed or proven drug connections occurred in the Ciudad Juarez, Chihuahua area from January 1 to August 31. The modus operandi of the killings has shifted from the kidnappings and disappearances of the mid-1990's to armed attacks

in public areas throughout the city, in which intended targets and innocent bystanders are victims. The police and military were accused of committing serious human rights violations as they carried out the Government's efforts to combat drug cartels.

Although narcotics-trafficking organizations committed many killings, human rights groups allege that security forces are responsible for some killings generally attributed to narcotics traffickers or other criminals, including some of those whose bodies were discovered in Chihuahua in December 1999 (see Section 1.b.). The Association of Families of Disappeared Persons has alleged that the security forces were behind many of the disappearances and has argued that the cases were not investigated properly for that reason.

In October 1999, a group of men armed with assault weapons attacked Acapulco City councilor-elect Marco Antonio Lopez Garcia and his family while they were en route to a PRD election victory celebration. The councilor's son was killed, and the councilor seriously wounded. State authorities charged a PRD activist with the crime and alleged that he was affiliated with the Popular Revolutionary Insurgency Army (ERPI). The suspect later repudiated a confession that he alleged was coerced by torture and was released in November 1999. PRD officials rejected the results of the state investigation as false and called for federal intervention. Human rights observers charged that state and federal authorities used the investigation into electoral violence to repress opposition parties and peasant organizations by linking the political opposition to insurgent groups. The case is unresolved and still open.

There were no new developments during the year in the Federal Attorney General's office's (PGR) investigation into the March 1999 killing in Guerrero of Aurelio Penaloza Garcia, a former state attorney general and advisor to the PRD's unsuccessful gubernatorial candidate, by men dressed in Federal Judicial Police uniforms and armed with automatic weapons. In April 1999, the authorities had charged Bernardino Alvear Villa and Juan Valdovinos Rodriguez in connection with this murder. They have been arrested and were in jail awaiting trial at year's end. An arrest warrant has been issued for Eulogis Palacios.

On April 29, the Morelos state supreme court upheld the state congress's decision to bar former governor Jorge Carillo Olea from holding state office for the next 12 years because of his administration's connection to a kidnaping ring in the state. In March 1999, a court convicted the former Morelos state attorney general, Carlos Peredo Merlo, of allowing the cover-up of the kidnaping, torture, and murder of Jorge Nava Aviles in 1998. He eventually received a sentence of less than 2 years. The court also convicted Cuernavaca's former deputy prosecutor and the former director of the state judicial police on related charges in the same case and sentenced each of them to 3 years and 3 months. The remaining persons accused in this case still are awaiting trial.

There were no new developments regarding the October 1999 death of Cosem Demian Sanchez Sastre, a member of the Zapatista National Liberation Front (FZLN), the political branch of the EZLN, who was found dead in his cell in a Tijuana detention facility. There also were no new developments regarding either the August 1999 case of the arrest of Tamaulipas PGR officials charged with the murder of fellow PGR official Jaime Rajid Gutierrez Arreola or the May 1999 killing of 1 immigrant when federal fiscal police opened fire on a van containing 23 persons.

There were no new developments in the June 1999 case of Mauricio Martinez Hernandez, a municipal worker killed by a police officer in Naucalpan, in the state of Mexico. There were no new developments in the May 1999 attack on indigenous rights leader Heriberto Pazos Ortiz.

There were no new developments in the case of Gerardo Villarreal Rodriguez, who died in Nuevo Leon in 1998, after being tortured by four state police officers; or in the investigation of the 1998 killing of an alleged migrant smuggler, in which seven members of the Grupo Beta police unit were detained.

On May 18, a Chiapas state court convicted the then director of the auxiliary police, former General Julio Cesar Santiago Diaz, and his two chief lieutenants, Roberto Garcia Rivas and Roberto Martin Mendez, of "homicide by omission" and sentenced them to 8 years in jail in connection with the 1997 Acteal massacre. The men were close enough to hear the shootings, but took no action and reported that all was quiet in their area when questioned by state officials. Of the 102 persons detained, 58 now have been convicted and sentenced, although 24 have had their sentences suspended. There are outstanding warrants for 27 others.

On May 10, 14 former police officers involved in the 1997 killing of 6 youths during a police operation in the Mexico City neighborhood of Buenos Aires were convicted in connection with 3 of those killings. The court sentenced 11 officers to the maximum penalty of 50 years in jail and 2 others to 18-1/2 years. However, in September a judge denied an arrest warrant for Moctezuma Ilhuicamina Zaepeda Rodriguez and Jose Lamberto Ponce Lara, the two former leaders of the police

groups implicated in the murders. The same judge also either acquitted or denied arrest warrants for 15 other police officers in September. Investigations were still underway into the killings of the remaining three youths.

The courts have arrested 44 public officials in connection with the 1995 Aguas Blancas massacre of 17 indigenous farmers. Of the 44, 13 former police officers have been convicted and sentenced to 18 years in prison, 9 other former government officials have been convicted and sentenced, and 3 of the accused are fugitives. Fifteen former police officers have been absolved and freed on appeal, as have 7 other former officials. Despite recommendations by the Inter-American Commission on Human Rights (IACHR), the U.N. Rapporteur on Extrajudicial Executions, and the Supreme Court, then-Governor Ruben Figueroa Alcocer has not been investigated or prosecuted for his alleged involvement in the massacre. The Guerrero state government has indemnified the debts of the victims' families, and both the federal and state governments consider the case resolved.

On June 12, seven Chiapas state policemen were killed and one other policeman and a civilian were wounded in an ambush in Las Limas village, El Bosque municipality, Chiapas. On July 26, the Federal Attorney General's office announced the arrests of PRI supporter Alberto Patishtan Gomez and EZLN supporter Salvador Lopez Gonzalez in connection with the ambush on charges of murder, robbery, and possession of illegal weapons. The Federal Attorney General's office charged that Patishtan and Lopez were part of an armed 10-person group that carried out the attack. However, the Fray Bartolome de Las Casas Human Rights Center maintains Lopez's innocence, claiming there is insufficient proof against him.

On July 30, Juan Lopez and Gabriel Luis Hernandez Gomez were arrested in connection with the June 1999 murder of Jose Hidalgo Perez, a member of a politically active family in San Cristobal de Las Casas, Chiapas. They are awaiting trial.

There were no new developments in the January 1999 killing of villagers in Tzacabel, Chiapas.

On February 27, the authorities arrested two suspects for the January 1999 murder of Jorge Aguirre Meza, cofounder of the Sinaloa Human Rights Defense Commission and a mayoral candidate in the municipality of Navolato. The suspects, who reportedly have ties to narcotrafficking, are currently in jail and on trial in Culiacan, the state capital. Arrest warrants for two other suspects were also issued; however, these suspects are in a Mexicali jail on unrelated crimes.

The number of reports of vigilante killings and violence increased during the year, as compared to 1999. For example, on July 30, approximately 2,000 residents of the community Nueva Palestina, Chiapas, put an indigenous man on trial for a robbery and murder and killed him. The state attorney general's office dispatched a team to investigate and to help resolve tensions in the community.

*b. Disappearance.*—There continued to be credible reports of disappearances. The CNDH is working to establish a nationwide database to assist in the identification of unknown remains, some of which may be those of persons who disappeared. According to press reports, the CNDH during the year received 37 cases of presumed disappearances; 19 of those reported missing later were found alive and well. In December 1999, nine bodies were recovered from graves outside Ciudad Juarez, Chihuahua. Six of the nine bodies were identified positively and the remains released to their families in May. Three of the bodies were identified as persons not previously listed among the 224 persons reported missing in the state since 1994. All of the victims are believed to have had ties to drug trafficking in some way. Federal authorities confiscated the ranch where the bodies were found but the courts subsequently ordered it returned to its owner in July. The Chihuahua-based Committee for the Defense of Human Rights alleges that military and police forces are responsible for some of the disappearances. The Association of Families of the Disappeared Persons also has alleged that the security forces were behind many of the disappearances and has argued that the cases were not investigated properly for that reason.

According to the national public security system, there were 607 kidnappings in 1999, 734 in 1998, and 1,047 in 1997. However, kidnaping is an underreported crime. In Michoacan police have broken 89 kidnaping rings since 1996, resulting in 500 arrests, including 49 during the year. On August 18, Mexico City's Legislative Assembly passed a law to impose mandatory minimum sentences of 15 to 20 years for Mexico City public servants convicted of kidnaping. Although 6 kidnappings were reported in Chihuahua State from January to August, all have been resolved and 11 suspects were arrested and remain in custody. None of the suspects detained are public officials.

According to the Miguel Agustin Pro Juarez Center for Human Rights (PRODH), on March 13, gunmen allegedly under the order of local bosses in Ajuchitlan del Progreso, Guerrero, kidnaped Maximino Marcial Jaimes. He has not been seen since. Marcial was a member of an environmentalist organization. According to

PRODH, the press had reported that Marcial was in Almoloya prison, but the prison officially denied his presence there. His whereabouts were unknown at year's end.

According to the January 1999 Human Rights Watch report, many disappearance cases were in fact cases of prolonged detention by security forces. The report detailed incidents that occurred in previous years, and numerous human rights groups credibly asserted that disappearances continued to occur.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, it continues 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. 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 has also been accused of using torture. According to Amnesty International (AI), many victims do not report, or do not follow through on complaints against the police due to fear of reprisals, thereby hampering prosecution of the perpetrators. To combat torture, the Congress passed laws to prevent and sanction torture in 1991 (amended in 1994), adopted the Law of the Defense Office of Mexico City in 1998 and the Federal Public Defense Law in 1998.

In her 1999 annual address, the then-president of the CNDH acknowledged that torture continued to be a serious human rights problem. She cited the PGR and the Defense Secretariat as the main organizations associated with the use of torture. In a report published in July 1999, the U.N. Human Rights Committee expressed concern that laws aimed to prevent torture were inadequate because of the absence of an independent body to investigate allegations of mistreatment. There are persistent reports by nongovernmental organizations (NGO's) of the widespread use of torture by the police and the security forces. In a June 22 report, AI Mexico claimed to have received numerous complaints that indicate that torture is a habitual practice in many areas of the country especially to extract confessions and information in place of police investigations. In October the same organization reported that the legal system permits torture, that torture is practiced in the country, and that urgent action is needed to eliminate it. AI called for legislative and administrative reforms to enforce the laws against torture and eliminate the judicial prerogative that permits the introduction of confessions extracted under torture. Nigel Rodley, the U.N. Special Rapporteur on Torture, reported in January 1998 that torture continued to occur despite the fact that the country had in place an array of legal safeguards. In March Guadalupe Morfin Otero, president of the Jalisco Human Rights Commission (CEDHJ), attacked the state attorney general's office for continuing the use of torture when interrogating prisoners. She cited several cases of possible police involvement in the death of prisoners (see Section 1.a.).

The authorities punish few officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Poorly trained and inadequately equipped to investigate crimes, police officers often attempt to solve crimes by rounding up likely suspects and then extracting confessions from them by force.

In August the police in Nueva Italia, Michoacan, arrested Ivan Ramirez and Israel Moline and allegedly tortured them into confessing to the murder of their friend. One of the youths charged that he confessed only after at least six state police officers had beaten him, semi-asphyxiated him using plastic bags, and damaged his testicles. The youths told the judge that they had been tortured; however, he admitted their confessions as evidence anyway and consigned them to jail. When the friend returned from an unannounced trip 3 months later, the youths were released. The Michoacan State Human Rights Commission charged state legal authorities with fabricating evidence in the case.

On August 4, CNDH report 8/2000 charged that the military falsified evidence against two environmental activists, Rodolfo Montiel Flores and Teodoro Cabrera Garcia, tortured them, violated their rights to due process, and harassed residents in their home village, Pizotla, Guerrero. The military did not respond publicly to the CNDH report. Montiel and Cabrera had been arrested in May 1999 on charges of illegal drug cultivation and illegal possession of arms, and their colleague Salome Sanchez Ortiz was killed by the military. Montiel and Cabrera stated that military personnel tortured them to extract their confessions. The Government stated that on three separate occasions, Montiel and Cabrera confessed to illegal activities, and that tests had indicated that both men had fired a gun. However, the defense team stated that on each of those occasions Montiel and Cabrera were intimidated by the presence of military personnel. Initial medical examinations performed in 1999 by government and CNDH doctors did not find evidence of torture, but a medical examination by independent doctors on July 29 did find physical evidence consistent with

torture. The CNDH recommended that the army conduct numerous internal investigations of its handling of the arrests and detentions. On August 28, a judge sentenced Cabrera to 10 years' imprisonment for illegal possession of arms reserved for the exclusive use of the military. Montiel was sentenced to 6 years and 8 months on the same charge, as well as for possession of arms without a license, and illegal drug cultivation. Defense lawyers cited many irregularities in the judicial process and are appealing the verdict. On October 19, the press reported that the PGR requested that the sentences of Montiel and Cabrera be increased to the maximum of 20 years; however, on October 27, the appeals judge upheld their original sentences.

On April 1, the former president of the Guerrero state PRD, David Molina Francisco, alleged that he was freed after being held hostage for 40 hours by military personnel. Molina claims that he was tortured physically and psychologically, including being beaten and subjected to electric shocks, and interrogated on activities of insurgent groups. The PRD lodged a formal complaint with the Guerrero state human rights commission.

On August 1, the Mexico City human rights commission recommended that the city's attorney general's office investigate the torture of Jose Luis Mendez Briano and Fernando Martinez Beltran, who were arrested by city police on June 24 while making their getaway from a robbery. One of the men was transferred to the hospital for treatment of various injuries.

On July 30, in Ecatepec, Mexico state, auxiliary police discovered four Central American migrants hiding in a rail car. The police allegedly beat them, stripped them of their clothing, and kept them in a cell for several hours, before finally letting them go. The federal prosecutor's office in Ecatepec opened an inquiry into the alleged violations; the inquiry continued at year's end.

State human rights commissions also received reports of torture allegedly committed by police. The CEDHJ charged in September 1999, that the Jalisco state attorney general, Felix Ledesma Martinez, and the mayor of Guadalajara, Francisco Ramirez Acuna, had impeded an investigation into an alleged case of torture to protect high-ranking members of the Guadalajara municipal police force. On January 13, Jalisco state police arrested former armored car guard Jesus Galvan Ortiz in Guadalajara, Jalisco. Galvan claimed that police took him to a house, tortured him, and demanded that he confess to robbing an armored car. Police released him several hours later and never charged him. The house where Galvan allegedly was taken and tortured was later found to belong to the wife of attorney general Ledesma. On February 8, Ledesma admitted to owning the property but denied any knowledge of the alleged torture. Nonetheless, on February 14, citing personal reasons, he resigned from office. The Jalisco CEDH was investigating Galvan's allegations at year's end.

In September 1999, the president of the Mexico City Human Rights Commission (CDHDF), Luis de la Barreda, announced that during the CDHDF's 6 years of existence, the Mexico City attorney general's office (PDJDF) was the subject of the majority of its recommendations regarding torture. The commission made 14 recommendations involving 18 alleged perpetrators; 7 against the PDJDF, 6 against the Director General of Prisons, 3 against the Secretary of Public Security, and 2 against the Director General of Public Health. In its report, the CDHDF noted that it had investigated 44 security personnel for the use of torture. It had 17 of these cases still under investigation, dismissed 5, and had found 22 public officials culpable. However, the authorities did not arrest 11 of those found culpable.

During the year, the Zacatecas state Human Rights Commission issued several recommendations for punitive action against the state police for their habitual use of torture. On August 8, the Zacatecas state legislature requested that Governor Ricardo Monreal Avila order the state attorney general to designate a special prosecutor to investigate the local police for the alleged torture of four persons accused of stealing farm equipment in 1999. On September 20, state prosecutors issued arrest warrants for two state policemen on charges of torture, illegal arrest, and abuse of authority. The prosecutors also announced that they were investigating five other members of the state police, including the state police chief, for their presumed involvement in torture. However, despite the public urging of Governor Ricardo Monreal, neither arrest order had been executed by year's end.

Members of the security forces were charged with committing rape. For example, on June 10, municipal police in Matias Romero, Oaxaca, arrested Rolando Jesus Vazquez Vargas, a sergeant in the 6th artillery regiment, for the rape and beating of Maria de Carmen Dominguez. Two other men are being sought in connection with the same assault. On July 18, Chihuahua state judicial police arrested three soldiers, Ruben Villanueva Sanchez, Eleazar Jimenez Flores, and Rosendo Juarez Zenil, for raping and beating a tourist. A 1998 report by the IACHR described a

definite pattern of rape and sexual assault against women committed by such officials. The Commission stated that some women had been assaulted sexually by law enforcement officials, particularly those in detention, or had been assaulted by others with the officials' consent.

Official corruption and complicity in crime continues to be a source of human rights violations. For example, on May 25 and 26, the authorities arrested two Mexico City judicial police agents, Ahui Omar Castro Hernandez and Gerardo Bustamante Dominguez, and Rene Rodriguez Monroy, a former employee of the city's public security secretariat, on extortion charges. They allegedly demanded \$16,000 (150,000 pesos) from narcotics trafficker Jose Rigoberto Caballero, in exchange for his freedom from city custody. Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

On July 23, workers at a hospital construction site in Ciudad Juarez rioted in protest over mistreatment by police and poor working conditions (see Section 6.e.). According to the workers, one of the underlying causes of the incident was persistent petty extortion by the police.

On August 8, Juan Ramos Lopez, judicial director of the city's Secretariat for Public Security (SSP), lodged a complaint against the PGJDF with the Mexico City human rights commission. Ramos alleged that the PGJDF had been persecuting him since November 1999 when the SSP approached the PGJDF for information on the diversion of funds in the city's auxiliary police force. A PGJDF investigation into the diversion of funds continues, and 26 auxiliary police commanders have been suspended from duty for their involvement in the scandal.

Police abuse and inefficiency hamper investigations. For example, in April a court overturned on appeal the 30-year sentence of Abdel Latif Sharif, convicted in connection with the string of murders of over 200 women since 1993 in Ciudad Juarez, based on lack of consistency in the autopsy reports. Sharif remains in custody and is to receive a new trial. Since his arrest, eight more young women have been kidnaped, raped, strangled, and their bodies dumped in the same areas of the desert where previous victims were found. Four bus drivers are still in detention for allegedly committing the murders while Sharif was incarcerated. The bus drivers claim that they were tortured into confessing, and their case remained under investigation at year's end (see Section 1.c.).

Several human rights organizations and the U.N. Special Rapporteur on Extrajudicial Executions, Asma Jahangir, who visited the country in 1999, believe that the Government has made only limited progress in solving these murders because most of the victims were poor, young women, few of whom had anyone to press the authorities for intensive investigation. However, police incompetence, prosecutorial ineptitude, and lack of investigative resources also hampered the investigation.

To enhance the investigation into the murders in Ciudad Juarez, the Chihuahua attorney general's office appointed a special prosecutor for crimes against women in 1998. The special prosecutor's office has 65 cases in process, related to 67 of the victims; the remains of 23 of the victims required extensive scientific examination to identify them. In August the court system in Ciudad Juarez had a total of 145 cases in process against 103 persons for murdering women, including for motives of domestic violence, crimes of passion, drug connections, and revenge.

Some law enforcement personnel have been known to have drug trafficking connections. For example, in November 1999, 4 former Tamaulipas state police officers were among a group of 10 men, including narcotics trafficker Osiel Cardenas-Guillen, who confronted 2 international law enforcement officers with automatic rifles on a busy street in Matamoros, Tamaulipas. Carlos-Guillen and his associates went into hiding and are being sought by the authorities.

On June 21, the PGR arrested Jose Ricardo Rodriguez Torres, Ruben Cortes Flores, Miguel Angel Crespo Zoloeta, and Carlos Pineda Bernal, four Tijuana-based agents of the PGR's counternarcotics agency. They were charged with drug trafficking.

On August 8, the newspaper *La Jornada* reported that the internal affairs department of the PGR sanctioned 3,060 public servants between December 1996 and March 2000 for involvement in illegal activities, especially drug trafficking.

Narcotics-trafficking organizations also included corrupt public officials. The former governor of Quintana Roo, Mario Villanueva Madrid, is suspected of having aided narcoticstrafficking organizations. He fled shortly before his term of office expired in 1999 and still was being sought by federal authorities at year's end. Villanueva Madrid claims that he is innocent and the victim of a political frame-up.

Government officials have conceded the country's serious human rights shortcomings. UNHCHR Robinson, who visited the country in November 1999, said that



President Zedillo's admission that serious human rights violations occur in Mexico was a positive sign. In an effort to fight corruption and provide better public security, the Government created the PFP in 1999. The 12,000-person force includes approximately 5,000 transferred military personnel and another 6,000 from the former federal highway police. The inclusion of military personnel, who take a leave of absence from the armed forces while serving in the PFP, led to criticism from some human rights NGO's.

Police extorted money from street children, at times abused homosexuals (see Section 5), and violated the rights of illegal immigrants (see Section 2.d.).

Francisco Hernan Cortes, one of the presumed attackers in the May 1999 attempt on the life of PRD Senator Hector Sanchez Lopez and two companions, remains in jail awaiting trial in Oaxaca.

Prison conditions are poor. Many prisons are staffed by undertrained and corrupt guards, and some lack adequate facilities. Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. The penal system comprises 444 facilities: 5 federal penitentiaries, 8 federal district prisons, 329 state prisons, and 102 municipal and regional jails. Prison overcrowding continued to be a common problem, despite an early release program endorsed by the CNDH, legal reforms that reduced the number of crimes that carry mandatory prison sentences, and the construction of new prisons. Antonio Sanchez Galindo, technical director of the Council for Minors of the Secretariat of Government, estimated that the prison population is 50 percent over capacity. The prisons with the largest overpopulation are: Reclusorio Norte in Mexico City-Capacity 4,506, actual population 7,419; Reclusorio Oriente in Mexico City-Capacity 4,295, actual population 7,441; Reclusorio Sur in Mexico City-Capacity 2,914, actual population 4,485; La Mesa in Tijuana-Capacity 1,716, actual population 5,982; Ciudad Juarez-Capacity 1,310, actual population 2,740. In Ciudad Juarez, Chihuahua, the state prison increased its capacity by 400 beds to 1,240, but the facility still has 2,720 inmates. The authorities in Chihuahua State have approved the construction of a second penitentiary in Ciudad Juarez to ease overcrowding and begun construction on a new juvenile detention facility, which is scheduled to be completed in 2001.

In 1998 Federal District prison director Carlos Tornero Diaz admitted that guards supply 40 percent of the illegal drugs smuggled into the prisons, and that inmates lacked sufficient drinking water. While the authorities investigate some prison officials for abusing prisoners, they more commonly dismiss those who commit abuses or charge them with only minor offenses. Drug and alcohol abuse is a problem in prisons. A Baja California State official estimated that 80 percent of the state's prison population are addicted to drugs. Conflicts between rival prison groups involved in drug trafficking continue to occur. On September 5, Federal Judicial police stormed the Torreon prison to end what they claimed were 20 years of self-government by the prisoners. In the process, the police seized munitions, drugs including cocaine and marijuana, and alcohol. In May doctors at a prison in Nuevo Laredo resigned, citing unhealthy conditions such as inadequate food and water as the reason for their resignations. They stated that conditions such as mange, AIDS, and tuberculosis are known to the authorities, who fail to take any action to treat and segregate sick inmates.

The Oaxaca Human Rights Networks reported that Eugenio Almaraz Garcia, a Zapotec man, died on February 29 from presumed neglect by the director of the Pochutla, Oaxaca prison. According to his family and the Mexican League for the Defense of Human Rights, Almaraz died of septic shock, multiple organ failure, and tuberculosis after being denied medical attention 6 days before his death. The Oaxaca state Human Rights Commission is investigating the case.

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. Corruption and poor conditions led to riots and escapes. On September 30, about 60 detainees at the Juarez Juvenile Detention Center were involved in a clash with authorities. The troubles began when repeat offenders being held in isolation allegedly exposed themselves to guards and refused to return to their cells. Ten ringleaders then incited others to join in the disturbance. Rioters broke lights and tore down power cables before being subdued by police reinforcements using tear gas.

On May 17, the PFP intervened in the Penitentiary Number 1 in Nuevo Laredo, Tamaulipas to regain control of the prison, which had been exercised by a narcotics-trafficker prisoner, Guillermo Martines.

On September 5, close to 1,000 PFP personnel intervened in the state penitentiary in Torreon, Coahuila, to break the control established by prisoner Martin Gallardo.

In August the CNDH issued a recommendation to the governor of Tabasco and requested an immediate investigation into the administrators of the state penitentiary. Prison riots at the state penitentiary on October 22 and November 3, 1999, left 11 prisoners dead. The CNDH report criticized Tabasco prison administrators for their negligence in not caring for the prisoners during severe flooding and for failing to maintain order, impartiality, and the physical integrity of prisoners.

Women are held separately from men and juveniles are held separately from adults.

Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were violated routinely as a result of overcrowding.

There is no specific law or regulation to allow human rights organizations or other NGO's to visit prisons; however, in practice such visits are permitted in certain situations, especially by the CNDH. For example, the International Committee of the Red Cross (ICRC) is able to visit prisoners in Chiapas due to a July 1998 agreement with the Government. For permission to visit prisoners in Oaxaca and Guerrero, the ICRC must apply to the Ministry of Foreign Relations.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily. Arbitrary arrest and detention were 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 1999 Human Rights Watch reported that a great number of disappearances eventually are found to be cases of arbitrary detention (see Section 1.b.).

Reports of arbitrary detention occur with greatest frequency in Tabasco, Guerrero, Chiapas, the Federal District, and Oaxaca. States' attorney general personnel, state police, and the army are the most frequent abusers of detention laws.

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. These periods can be extended if the parties agree. In practice, judicial and police authorities frequently ignored these time limits. Criminal defendants often were held with convicted prisoners. Furthermore, many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges. Those able to pay were released from custody. Corruption is rampant throughout the system. For example, in May two judicial police agents along with a former city government employee were arrested on extortion charges (see Section 1.c.).

Judges often failed to sentence indigenous detainees within legally mandated periods. In 1996 the CNDH reviewed 8,661 files of indigenous persons who were detained and recommended the immediate release of 1,727 persons. Of those states with the largest numbers of indigenous prisoners, the CNDH reviewed 2,222 cases in Oaxaca, and recommended 407 releases, of which 296 had been accomplished by the end of 1998; 1,219 cases in Veracruz, with 331 recommendations for release and 245 releases; and 639 cases in Puebla, with 157 releases recommended, and 61 releases. In November 1999 the CNDH signed an accord with Secretariat of Government, the PGR, the Federal Institute of the Public Defense office, and the National Indigenous Institute (INI), to develop a program for the anticipated liberty of indigenous prisoners in federal prisons. Since that time, the CNDH has developed a database of 2,314 registered cases, and 381 persons were released during the year.

Federal prosecutors continued to adhere to the recommendation by the INI that they drop charges against first-time offenders accused of drug cultivation, as drug traffickers often forced indigenous defendants, who were not made aware of the legal significance of their actions, to grow the crops. The INI also supports programs to provide translators for indigenous defendants and to assist them in obtaining bail bonds.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities are in fact political detainees. The Government asserts 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 is not practiced.

*e. Denial of Fair Public Trial.*—The judiciary is generally independent; however, on occasion it has been influenced by the executive branch, particularly at the state level. Corruption, inefficiency, and disregard of the law are major problems. Corruption and impunity are serious problems and tend to benefit the wealthy and powerful. Lack of training also is a problem. Judicial reforms have begun to address some of these problems, but full resolution of these problems awaits more extensive and systemic judicial reform. In February and March 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. On August 11, the International Jurists Commission reported that judicial authority has been diminished severely by the procedural immunity enjoyed by officials of the State, particularly the military.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Efforts to implement the 1995 judicial reforms continued. During the year, the Federal Judicial Council strengthened administrative control over the judiciary, investigated cases of corruption, and removed some corrupt judges. In addition, in September the Institute for Professional Formation of the Mexico City Attorney General's office initiated new workshops and courses directed at officials who deal with prosecutions, including the prosecutor's office, official secretaries, judicial police, and police group leaders. The course material encompassed case management, scientific investigation techniques, legal framework, and evidence collection. However, in a report released in December, Human Rights Watch asserted that deficiencies in the administration of justice were still a major concern, and repeated its 1999 statement that judicial reforms have done little to improve the problems that plague the justice system. The December report stated that prosecutors not only ignored abuses by police but also fabricated evidence. Judicial oversight was seriously inadequate as the courts accepted evidence obtained through human rights violations, and judges cited legal precedents that weakened human rights protections.

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. 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 victim 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 respects 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.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often do not assure 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 vary by region and agency. Federal prosecutors are usually better paid than state ones.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely furnish 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 INI also has judicial assistance programs for indigenous defendants and provides counsel on their behalf. The INI also distributes legal, educational, and informational material in indigenous languages.

A particularly egregious abuse of due process is the prosecution's ability to use evidence gathered by means of torture. While torture itself is a criminal act, judges routinely allow statements coerced during torture to be used as evidence against the accused (see Section 1.c.). For example, in August a court convicted two environmental activists in Guerrero although they allege that they had been tortured into signing confessions (see Section 1.c.).

The law does not require civil trial of soldiers involved in civil crimes, and the military continues 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 transfer immediately of the case to mili-

tary jurisdiction. Although the military retains jurisdiction over its personnel, it has begun cooperating with the PGR on investigations of counternarcotics cases involving soldiers and sailors. For example, in late August, Generals Quiroz and Acosta were arrested by military police on charges of narcotics trafficking and assisting the Ciudad Juarez-based Amado Carrillo drug cartel. General Acosta also was accused of complicity in the disappearance and torture of several persons in Guerrero during the 1960's and 1970's.

In 1999 the Military Judicial Police had arrested five members of a military dissident group, the Patriotic Command for Raising People's Awareness (CPCP), a group composed of military personnel protesting what they had called an unjust military justice system. The authorities charged the five CPCP members with the crime of sedition and later arrested the leader of the group, Hildegardo Bacilio Gomez. According to the Foreign Ministry (SRE), on April 17, the CNDH concluded that allegations that the military had tortured or violated the human rights of Hildegardo Bacilio Gomez and the other incarcerated members of the CPCP were unfounded. At year's end, the authorities held Bacilio Gomez in jail but had not yet brought him to trial. In December, the 12th circuit court in Mazatlan, Sinaloa, granted injunctions that in essence dismissed the charges of insubordination, sedition, and conspiracy against Juan Francisco Bernal Vasquez, Gerardo Torres Benitez, and Ignacio Manzano Benitez. Although they still face charges of violating "common military duties," they are eligible for release on bail. The appeal filed by Hildegardo Bacilio, leader of the December 1998 protest, is still under consideration.

At times lawyers in human rights cases faced harassment. For example, on January 27, two men physically harassed Juan de Dios Hernandez Monge and issued threats against Pilar Noriega Garcia. Both are attorneys for students at the Autonomous National University in Mexico City (UNAM) detained by the authorities. On March 29, unknown persons broke into the home of Leonel Guadalupe Rivero Rodriguez, another attorney for UNAM students. No valuables were taken but his computer files having to do with the UNAM cases were searched (see Section 2.a.).

The only political prisoner is General Jose Francisco Gallardo who maintains that he was sentenced to 28 years' imprisonment for speaking his mind on the advisability of having a military ombudsman (see Section 4). During the year, he received visits from Amnesty International.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the protection of privacy, family, home, and correspondence, and the law requires search warrants; however, in the past there have been 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.

On September 20, the Mexico City daily newspaper *El Universal* reported that President-elect Fox, his transition team, and the National Executive Committee of Fox's party, PAN, were victims of eavesdropping on their telephone conversations. To substantiate its charge, the newspaper printed the transcript of a phone conversation between Fox and his spokesperson. Fox later verified the authenticity of the transcript. The persons or person responsible for the taping are unknown, but the press speculated that it only could have been the Government's civilian intelligence organization, the Center for Investigation and National Security (CISEN). However, no evidence was provided to support that charge, and CISEN denied responsibility. In December President Fox formed a committee, led by Secretary of Government Santiago Creel, Secretary of Public Security Alejandro Gertz Manero, Attorney General Rafael Macedo de la Concha, and security advisor Aguilar Zinser, to revise the practices and role of CISEN. The President gave the committee 100 days to evaluate CISEN and propose a plan for its reorganization and the enhancement of its transparency.

On July 19, Jose Murat Casab, governor of Oaxaca, announced that a routine check of his office had turned up three listening devices. Murat blamed three officials of the Federal Secretariat of Government—Francisco Eduardo de la Vega y Avila, Jose Trinidad Rodriguez Ballesteros, and Olaf Ivan Corro Labrafor this act. The three officials then lodged a federal complaint against Murat for character defamation. Zacatecas governor Ricardo Monreal Avila instructed state attorney general Gonzalez Navarro to open an investigation into alleged electronic monitoring of state government officials by federal security agents. In addition, state police chief Miguel Angel Hernandez advised state representatives that they all were being monitored electronically, although the factual basis for this advice was unclear.

On November 29, the PGR announced that it would not initiate legal action against Jorge Salomon Azar, former governor of Campeche, nor Antonio Gonzalez Kuir, current governor of Campeche, for their presumed involvement in the 1998

wiretapping of Layda Sansores, a former member of Congress. They later were released. However, on December 18, Sansores petitioned a court to order the PGR to reactivate the investigation against both men and to investigate Valente Quintana, coordinator of the state security and police system; Antonio Ayala; Dante Omana; and Manual Alfaro Isaac, former coordinator of advisors for then-Governor Salomon Azar.

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 1984 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. There were no reports of forced sterilization during the year. In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of coerced sterilization. It said that the number of such complaints had grown, in large part due to women's increased awareness of their rights.

Independent agencies believed that forced sterilization procedures exceeded by several times the number of known cases, but the overall scope of the problem was difficult to quantify. Women may not realize that procedures have been performed until after the fact, and many victims are reluctant to file complaints, although there are mechanisms for filing formal complaints with the National Medical Arbitration Commission and with the national and state human rights commissions. However, the CNDH office in Chiapas reported that in some indigenous communities women choose sterilization, but then due to fear of reprisal from their husbands report that it was forced upon them or that they simply did not understand the nature of the procedure. In 1999 there were reports of possible violations of informed consent standards with contraceptive drug use in the state of Guerrero; however, these charges were not substantiated.

*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. Incidents of conflict in Chiapas between the security forces and EZLN sympathizers and in Guerrero between the army, the Popular Revolutionary Army (EPR), and the Revolutionary Army of the People's Insurgency (ERPI) led to many of these accusations. However, the confused circumstances of these clashes made those allegations difficult to substantiate. UNHCHR Robinson suggested in November 1999 that the Government consider creating a military human rights ombudsman to combat impunity in the armed forces. In an interview with the newspaper *La Jornada* published on July 27, CNDH president Jose Luis Soberanes responded that his agency was capable of dealing with complaints of violations by the military, and he also called for a restructuring of the military. The Secretariat of National Defense (SEDENA) has offices in Chiapas and Guerrero, to deal with citizen complaints of human rights violations. SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with human rights training; however, enlisted troops do not always receive instruction on human rights (see Section 4).

During much of the year, the Government maintained around 20,000 troops in selected areas of Chiapas to contain the EZLN-backed uprising that began in 1994, and about half that number in Guerrero to handle 2 much smaller rebel groups there. The EPR and the EPRI maintain a presence in Guerrero; however, they were less active compared with the previous year.

On December 1, his first day in office, President Fox ordered the dismantling of 53 military checkpoints in Chiapas and military camps in the conflict zone. In less than 10 days, the army withdrew from two contentious military positions. In addition, the Government lifted restrictions on previously expelled foreigners and eased visa requirements for members of human rights organizations. In a December 2 press conference in La Realidad, Chiapas, the EZLN's Subcommander Marcos stated that President Fox's initial steps were encouraging and praised his choice of Luis H. Alvarez as his Chiapas Peace Coordinator. The rebel leader also laid down five conditions for a return to dialogue with the government: passage of the Congressional Chiapas Peace and Reconciliation Commission (COCOPA) bill, liberation of all EZLN prisoners, withdrawal of the army from EZLN territory and repositioning of the army to pre-1994 positions, closure of seven specific military posts in Chiapas, and no substitution of state police for army troops in the newly demilitarized areas. On December 5, Fox sent to Congress the COCOPA bill to implement the 1996 San Andres Accords between the EZLN and the Government. Governor Pablo Salazar Mendiguchia took office on December 8, and declared that he plans to review the cases of all state prisoners charged with links to the EZLN. On December 30, he had 16 Zapatista prisoners released from state custody with a promise that more would follow.

At year's end, an amnesty by the Oaxaca state government led to the release of 32 persons accused of ties to the guerrillas from state detention. Of the 55 persons still in custody, 27 are subject to additional federal charges; and 20 were charged before 1996, the commencement date stipulated in the amnesty law.

NGO's and others have alleged that in the process of dealing with rebels in Chiapas, Guerrero, and Oaxaca, the Government used excessive force. For example, on May 25, state police forces and the army entered San Isidro Miramar in San Agustin Loxicha, Oaxaca, to detain alleged EPR members. Community residents claimed police and military officers harassed, threatened, and beat them during the arrest of Octaviano Hernandez Pacheco and Andres Enrique Hernandez. Since 1996 more than 70 residents of Loxicha have been arrested for alleged involvement with the EPR. As of July, 24 of these were still in prison. In July AI claimed that the prisoners had been subjected to torture and death threats and criticized the absence of due process in the handling of the cases. The NGO the Christian Action for the Abolition of Torture has criticized the use of torture against residents of Loxicha since 1996. However, on December 2, President Fox announced his support for an amnesty for the EPR, the demilitarization of the Los Loxichas area of Oaxaca State, and a review of the arrests of alleged EPR members. On December 8, the Oaxaca State legislature passed an amnesty law for local indigenous persons (Loxichas) accused of having links to the EPR. As of December 16, eight persons had been released from detention as a result of the amnesty; 79 Loxichas were still in custody. Of these, another six persons were acquitted of homicide charges but not released because of other charges pending against them. Although 27 of these remaining prisoners are subject to federal charges, the Oaxaca State government has already petitioned the federal government for an amnesty on their behalf. Ultimately, up to 50 more prisoners could be released and 200 other persons still at liberty could have their arrest warrants cancelled, according to press reports.

In December 1998, the Fray Bartolome de Las Casas center and the PGR published conflicting reports on the Acteal massacre. The Fray Bartolome report blamed the Government for sponsoring armed civilian groups in Chiapas and for failing to protect the victims. The NGO accused the Government of waging "lowintensity warfare" in Chiapas and stated that the Government was responsible for the massacre. The PGR attributed the massacre to a history of local confrontation, the presence of the EZLN, an absence of the rule of law, and the neglect of local enforcement officials. In May a court convicted former General Julio Cesar Santiago Diaz and his two chief lieutenants of "homicide by omission" and sentenced each to 8 years in prison (see Section 1.a.). On October 15, the CNDH issued a report on the June 1998 battle in El Charco, Guerrero between the military and alleged elements of the ERPI that resulted in the killing of 12 persons. The Commission found that the army had violated the human rights of the inhabitants and that various articles of the Constitution, the Federal Criminal Procedure Code, and the Code of Military Justice had been violated. The CNDH recommended that the SEDENA investigate the actions of the military participants in the El Charco events, that the Judge Advocate's office investigate the official in the military prosecutor's office who first received evidence in the case, that the Judge Advocate's office determine if charges should be brought against military personnel, that SEDENA advise all military personnel regarding their role and responsibilities in upholding human rights and due process, and that Sedena issue general instructions limiting the role of military prosecutors in criminal investigations. SEDENA acknowledged receipt of the report, accepted its recommendations, and pledged to study how to implement them. At year's end, there was no information released regarding the results of any military investigations.

The military continues to deny any responsibility for abuses committed during the early stages of the Chiapas rebellion in 1994. The military authorities who have jurisdiction failed to punish any military personnel or government officials for committing abuses, although the CNDH issued an interim report in May 1994 finding that there was reason to believe that the military had injured or killed civilians in aerial attacks and that there were summary executions, illegal detentions, and instances of torture.

There were credible reports of violent incidents and murders committed by armed civilian groups and local political factions in Chiapas. The National Democratic Federation alleges that the group "Peace and Justice", which it described as a paramilitary group, was responsible for the murders of 53 Zapatista sympathizers since 1995. Another group that allegedly has committed human rights abuses in Chiapas is the Revolutionary Indigenous Movement against the Zapatistas. From January 1998 through August 1999, the army confiscated 431 weapons from civilians in the Chiapas zone of conflict. The Chiapas state attorney general's office claimed to have disbanded 39 gangs and confiscated 132 firearms within the same time period. On

August 3, between 30 and 300 members of the Peace and Justice armed civilian group fired their weapons in the air, set off fragmentation grenades, and burned at least 6 houses to evict 90 EZLN sympathizers from Paraiso, Yajalon Municipality, Chiapas. The eviction reportedly was the result of a 1997 land dispute. The 15 displaced families remain in the nearby village of Hidalgo Joshil, and 40 military personnel patrol the area to maintain peace.

Armed civilian groups, controlled or sponsored by local political bosses loosely affiliated with the PRI, were alleged to have committed many human rights violations in Chiapas, including the 1997 Acteal massacre. NGO's such as the PRODH, The Fray Bartolome de las Casas Human Rights Center in Chiapas, and the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) have identified at least 15 such groups; they identified 9 such groups in 1999. Some NGO's and press accounts contended that these groups were not only the private armies of local bosses, but also army surrogates armed by the military and used to attack the EZLN. The Government denied these allegations and likewise rejected the existence of paramilitary groups. On April 18, the Federal Attorney General's office opened a new special unit to investigate possible armed civilian groups in Chiapas. On October 27, the unit arrested 11 alleged members of Peace and Justice on charges of illegal weapons possession, organized crime, and terrorism. Among those arrested were three alleged leaders of the group: Samuel Sanchez, a former PRI state legislator; Marcos Albino Torres Lopez, a former army corporal; and Mario Cruz Perez, who reportedly was the link between the political and military wings of Peace and Justice.

On May 7, four masked men killed three indigenous persons and wounded one more during their return home by truck to Tzanembolom, Chenalho Municipality, Chiapas. The survivor was a reported EZLN sympathizer, while the dead were all members of the same progovernment family. It is unknown whether the attack was politically motivated, the result of a family feud, or a random criminal act. The CNDH opened two investigations that were still in progress at year's end. To maintain public order, the Chiapas state government adopted preventive measures, including police patrols and 24-hour police presence to protect local residents.

In June the municipal authorities of Chenalho, Chiapas, promised to facilitate the return to the area of almost 3,000 displaced members of "the Bees," a pacifist organization that sympathizes with some of the goals of the EZLN. The Bees had been displaced from Chenalho since 1997.

*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 respects these rights in practice. The mass media are not subject to formal censorship by the Government; however, there were reports of some self-censorship. In addition, threats and attacks on journalists—some reportedly by federal, state, or local authorities—hindered press freedom. Nonetheless, the freedom and independence of the media continued to expand. Many observers believe that drug trafficking organizations or corrupt security personnel in their pay carried out most of the attacks on the media.

The traditional cozy relationship between the Government and the media that tilted coverage and editorial opinion in the Government's favor has diminished but not disappeared entirely. The Government no longer controls the import of newsprint but does retain control over broadcast licensing, which critics claim led some broadcast media to practice self-censorship. Accordingly old habits of accommodation lingered, and the editorial line of some key news organizations maintained a bias in favor of the Government. The persistence of official influence—and its greatest concentration—was most apparent in television. Instead of paying a 12.5 percent tax on advertising revenues, television broadcasters provided free broadcast time to the Government, which gave it convenient access to this powerful medium. Official advertising in the media continues, but disguising it as news coverage is more common at the state than at the national level. Cash and noncash payments to journalists persisted but were not as common as they once were; legislation to end this practice was enacted in 1998.

The many attacks on journalists constituted the most serious problem for press freedom. The Committee for the Protection of Journalists and Media Communications reported that in 1999 there was a decline in the number of acts of intimidation, including physical attacks, threats, and detentions, against journalists; from 202 in 1998 to 135 in 1999. A report issued by 4 NGO's in 1999 recorded 240 attacks of various types against journalists during 1998, compared with 187 during 1997. These numbers include all aggressive acts against the media as reported in the media. According to the report, government institutions (including federal, state, or local police) or officials were responsible for 41 percent of the incidents. The

Manuel Buendia Foundation, one of the NGO's, concluded that the vast majority of acts were intended to intimidate. During the first 7 months of 1999, the CNDH program on aggression against journalists investigated 22 complaints of attacks on journalists; most were for assault or intimidation. One, from July in the state of Morelos, was for murder. The CNDH began an investigation of that case.

There were no new developments in the 1999 harassment cases of Sergio Haro Cordero or Jesus Barraza Zavala. There was no information available about the Mexico City attorney general's office's (PGJDF) investigation of the February 1998 killing of Luis Mario Garcia Rodriguez, a reporter for the Mexico City daily newspaper *La Tarde*.

On August 14, the CNDH recommended that the CISEN investigate and sanction agent Abraham Ponce Calvo for violating the privacy rights of Miguel Badillo Cruz, a columnist for the newspaper *El Universal*, and his wife. Badillo complained that on June 13 and 14, Ponce tracked his wife's movements from his car. Ponce denied the allegations, stating that from June 12 to 15 he was in a different location investigating organized crime.

According to PRODH and the newspaper *La Jornada*, on May 14, members of the military harassed journalists at the Las Limas checkpoint in the state of Chiapas. The journalists were prevented from taking photographs and were filmed by the soldiers.

On June 15, men dressed in police uniforms kidnaped Freddy Secundino Sanchez, a writer from the magazine *Epoca*, outside his home in Mexico City. The men drove him around in a taxi while they beat and threatened him at gunpoint before releasing him. On June 7, he received a death threat via telephone. On June 20, Secundino submitted a complaint to the Mexico City Human Rights Commission. The Commission in turn asked the Mexico City Attorney General's office to ensure that no agent under its command threatened or harmed Secundino, and that it provide Secundino and his family with protection and investigate Secundino's complaint. As a result, the Mexico City Attorney General's office assigned agents to protect Secundino and his family. The case was under investigation.

On June 22, unknown men opened fire on Lily Tellez, a highprofile news anchor and reporter for the national network TV *Azteca*, while she was driving in Mexico City. Tellez was uninjured, but her chauffeur and two bodyguards were wounded. The motive for the attack is unknown, but speculation has focused on Tellez's investigative reporting on narcotics and the Francisco Stanley murder case. Francisco "Paco" Stanley was a television talk show host who was murdered while exiting a Mexico City restaurant. In its 2001 report, Human Rights Watch (HRW) reported that in February that the Human Rights Commission of Mexico City alleged that the principal suspect had been framed by prosecutors.

On April 28, the body of Jose Ramirez Puente, the host of a popular radio news program in Ciudad Juarez, was found in his car. He was stabbed to death. State judicial police claimed that they found 17.6 pounds of marijuana in his car hours after the discovery of the body, although local media organizations disputed any connection to drug trafficking. Ramirez covered state and local politics and the police beat; it was not clear whether the killing was related to his work.

On April 9, the body of Pablo Pineda, a reporter and photographer with the newspaper *La Opinion* in Matamoros was discovered in the United States. According to news reports, he had been shot in the back of the head. In December 1999, Pineda survived an attempt on his life near his home.

In May Meliton Garcia, a reporter with the Monterrey-based newspaper *El Norte* was charged with fraudulently obtaining a voter's registration card. The charges against Garcia stem from a two-part series in which he reported on his efforts to obtain voting registration documents using a false birth certificate. In the article, he described how unofficial document expeditors who congregate outside government offices sell false birth certificates.

In September the former police commissioner in Ciudad Juarez filed a criminal defamation suit against Jesus Antonio Pinedo Cornejo and Luis Villagram, editor and reporter for the weekly *Seminario*. An article dated February 28 and entitled "History of Police Officer and Drug Traffickers" linked the police commissioner with the drug trade. On October 2, the commissioner announced that he would drop the suit.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers, which continued to separate government and media interests. 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.

During the course of the year, prior to the July presidential elections, the Federal Electoral Institute (IFE) and the newspaper *Reforma* monitored media access for each of the candidates, especially broadcast media. The resulting published analysis demonstrated that the leading candidates enjoyed equal access to the media. National electronic media covered the candidates far more equitably than in past elections; however, there continued to be large discrepancies in coverage in local and state level electronic media. The overall effect was to give the PRI candidate Francisco Labastida more positive coverage. After the July 2 election, both the national and local media provided more balanced coverage overall.

In the middle of the campaign, the Government attempted to change the procedures for the distribution of government publicity placed in the media, placing control of all government advertising in the hands of the Secretariat of Government, which would then funnel the advertising through the government-owned Notimex news service. Media outlets protested, voicing concern that spending decisions would be based on political considerations. The Government retracted its plan and reverted to the system in which each government entity was responsible for its own paid advertising.

The Constitution recognizes academic freedom in higher education, and the Government respected this provision in practice.

In April 1999, a student strike at the UNAM to protest a proposed tuition increase shut down the university. The strike began when the authorities announced an increase in tuition but quickly evolved from a protest by some students into a more generalized attack on the national political system. The university administration made the tuition hike voluntary but did not meet other striking students' demands. The students at times used violence and intimidation to keep the university closed, and attempts to negotiate an end to the campus occupation failed. On February 6, several thousand PFP, accompanied by CNDH monitors, stormed the main campus, breached barricades, and detained about 600 strikers. Strikers did not resist the police operation, and the CNDH reported no human rights violations. Most of those detained were released within 24 hours, and only 251 were actually arrested and charged with rioting, terrorism, and dispossession. On February 14, classes resumed; however, on March 6, classes were disrupted once again when strikers reoccupied the university administration building and demanded the release from prison of fellow strikers. On April 14, at the request of UNAM rector Juan Ramon De la Fuente, 3,000 PFP personnel armed with batons and riot shields positioned themselves in and around the UNAM campus to forestall a strikers' reoccupation of the university. The PFP later withdrew from the campus. On June 7, the PGR released on bail the last six jailed strike leaders.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly, and the Government respects 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 occur frequently throughout the country.

The police showed restraint and avoided confrontation with UNAM student strikers, who conducted periodic marches through the streets of Mexico City (see Section 2.a.).

According to the NGO General Office of Citizenship Participation and Social Conduct, in the first half of the year, on the national level there were 83 marches with 291,560 participants and 58 blockages with 54,552 participants. In Mexico City there were 43 marches with 13,255 participants and 60 blockages with 10,990 participants.

The Constitution provides for freedom of association, and the Government respects this right in practice. Political parties, opposition, 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 but are not allowed to use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the IFE. The IFE currently recognizes 8 political parties and 31 political groups. Three parties lost their registration as a result of the July election because they obtained less than 2 percent of the vote.

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 Foreign Ministry (SRE), there are as many as 7,500 NGO's active in the country, which are an important and vocal part of civil society.

The Government was accused of harassing NGO's, especially in the state of Chiapas (see Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, there are some restrictions. In November 1998, the Government and representatives of many religious denominations signed a religious code of conduct that reaffirms freedom of religion. The law bars the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the State.

Religious groups cannot operate legally without registering as religious associations with the Under Secretariat of Religious Affairs of the Federal Secretariat of Government. Although the Government does reject a few applications, usually due to incomplete documentation, the registration process is routine.

The authorities in the past have used immigration law to restrict the activities of religious workers, particularly in the state of Chiapas. To visit the country for religious purposes, foreign religious workers must secure government permission. The Government limits the number of visas each religious group is allowed. Some religious groups claim that it is government policy to keep foreign religious practitioners out of Chiapas and Oaxaca, thus making it more difficult for religious workers going to those states to obtain visas. The Government maintains that it does not deny visas based on religion, and does not expel religious workers based on their religious activities. The Government argues that foreign religious workers have been expelled for inappropriate political behavior. There also have been incidents of violence between religious groups in Chiapas (see Section 5).

The Government lifted almost all restrictions on religious groups in 1992. The Catholic Church and other religions maintain their own schools; however, the Catholic Church complains of government restrictions on the running of those schools and the raising and spending of school funds. Although religious associations cannot own or administer broadcast radio or television stations, the Catholic Church owns and operates a national cable television channel. Government permission is required to transmit religious programming on broadcast radio or television, and permission is granted routinely.

Relations were difficult between the Catholic Diocese of San Cristobal de las Casas, Chiapas, and the Government during the tenure of Bishop Samuel Ruiz, which ended in April. The situation in Chiapas is a result of a complex mix of economic, ethnic, political, and religious tensions. The San Cristobal Diocese has complained that its foreign clergy are unable to get their visa status extended or rectified (many enter on tourist visas).

The non-Catholic Christian population continued to grow in Campeche, Chiapas, Yucatan, and along the northern border. There is a long 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 (see Section 5).

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement, and the Government does not restrict the movement of its citizens into, out of, or within the country, except in Chiapas where the Government attempts to keep persons away from EZLN areas.

The army and federal immigration authorities maintain strict checkpoints in parts of Chiapas. The focus of the checkpoints is the verification of tourist activities by persons with tourist visas. They also serve to stem illegal immigration. Church and human rights activists claim that the Government is fostering an antiforeigner climate. In addition, church groups complain about legal requirements that foreign religious workers must secure government permission to visit the country for religious purposes, and that the Government limits the number of visas granted to each religious group.

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; any pending case brought by an illegal immigrant is subject to dismissal because the person is no longer present. In May the CNDH criticized the mistreatment of Central American migrants by the authorities and society. Studies conducted by the College of Mexico indicate that human rights violations against Central American migrants were increasing. On May 2, the newspaper *La Jornada* reported that approximately 2,899 complaints of human rights violations had been filed by Central American migrants in 1999.

There were incidents in which illegal immigrants either were harassed or injured. On April 11, members of the state auxiliary police and federal judicial police ar-

rested seven indigenous residents of Oaxaca State in a bus terminal, mistaking them for illegal Guatemalan migrants. After being interrogated by federal and state authorities, they were released. On April 13, the CNDH opened an inquiry into the victims' claim of cultural discrimination.

On July 30, in Ecatepec, Mexico state, auxiliary police allegedly beat four Central American migrants hiding in a rail car (see Section 1.c.).

There was no new information available about the alleged beating in March 1999 of four intending immigrants near Mexicali, Baja California, by federal fiscal police.

There were also credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

The law provides for the protection of foreigners who might face political persecution if they were to return to their countries of origin. The law includes provisions for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government accepts the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the office of the U.N. High Commissioner for Refugees (UNHCR). In June 1999, UNHCR Sadako Ogata visited the country and signed agreements with the Government to strengthen protection for refugees.

On October 3, immigration authorities arrested Pedro Anibal Riera Escalante, a Cuban national and deported him to Cuba the following day. The Foreign Relations Secretariat subsequently noted that Riera, a former Cuban consul general in Mexico City, had applied for asylum on September 8. There were no other reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. 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, some abuses continue to occur. Prior to the July 2 presidential election, the PRI had dominated politics, controlled the Federal Government, and won every presidential election since its founding in 1929. However, on July 2, voters elected Vicente Fox, a member of the National Action Party and presidential candidate of the Alliance for Change Coalition, president, with 43.3 percent of the vote. Observers, both international and domestic, judged the elections, which ended the PRI's 71-year hold on the presidency, to be generally free and fair. The observers described the election as a historic turning point of the most profound significance and made recommendations for further electoral reform.

The legislature amended the Constitution to allow the eligible 9 million citizens resident overseas to vote in national elections; however, the Senate failed to act on the necessary implementing legislation that would have made voting possible in the 2000 election, due to differences over the costs and requirements for voting.

Presidents are elected every 6 years and cannot be reelected. President Ernesto Zedillo supported legislation making the IFE an independent agency and declined to handpick his party's candidate for the presidential election. Instead, the PRI held a multicandidate primary in 1999 and chose Francisco Labastida as its presidential candidate.

The Federal Electoral Institute (IFE), operating with full autonomy, arranged the July 2 federal elections, which international observers judged to be generally free and fair. They described the elections and the resultant overturning of 71 years of dominance by the PRI as a historic turning point of the most profound significance and made recommendations for further electoral reform. The IFE had implemented the extensive 1996 constitutional and legislative reforms to help prevent electoral fraud and to create more uniform conditions for political party participation by regulating campaign finance, advertising, and other areas. 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 has provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

After the July election, in the Chamber of Deputies, the PRI held 211 seats; the PAN 207; the PRD 50; the Green Ecologist Party (PVEM) 17; the Labor Party (PT) 7; Democracy Convergence (CD) 3; the Nationalist Society Party (PSN) 3; and the Social Alliance Party (PAS) 2. The PRI holds 59 seats in the Senate; the PAN 45; the PRD 17; the PT 1; the PVEM 1; and the CD 1. Legislators can and do change their party affiliation frequently.

On the state level, the PRI governs 19 states, the PAN 8, the PRD 1, PRD-PT coalitions 3, and PAN-PRD-led coalitions 2. On the municipal level, opposition

strength is well established. The PRD governs the Federal District, and the PAN governs 13 of the 20 largest metropolitan areas.

On August 20, Chiapas voters elected the opposition Alliance for Chiapas candidate Pablo Salazar Mendiguchia to serve as governor, in a decisive victory over the PRI's Sami David David. As during the federal elections, the army was confined to its barracks, and the police presence was restrained. Although there were reports of minor, isolated irregularities, voting generally went smoothly. In his victory speech, Salazar supported the demilitarization of Chiapas and the introduction in Congress of the COCOPA legislation based on the 1996 San Andres accords between the EZLN and the federal Government.

On August 25, post-election violence in Chimalhuacan, Mexico state, between local PRI factions left at least 10 persons dead and many more injured. State police later arrested 62 persons, including the supposed ringleader, Guadalupe Buendia Torres.

Despite the IFE's efforts, there were still controversies at the state level over elections. On December 29, in Tabasco, the ultimate court of appeal on election matters (TEPJF) annulled the results of the state's disputed October 15 gubernatorial election and directed the Tabasco state legislature to name an interim governor and prepare for a new election. In its decision, the TEPJF cited inequitable local media coverage, diversion of funds for the election for the PRI candidate, and the blocking or miscounting of opposition votes. The TEPJF was created in 1987 and had never before invalidated an election.

Yucatan state opposition parties accused PRI Governor Victor Cervera Pacheco and the PRI-dominated state legislature of stacking the State Electoral Council to favor the PRI's candidates in the 2001 elections. On December 29, the TEPJF rejected the Council nominated by the state legislature and named a new Council. PRI state legislators questioned the legitimacy of this TEPJF-appointed Council and vowed to fight the "imposition" in the courts.

Although there are no legal impediments to their full participation, women are underrepresented in government and politics. Women hold approximately 16 percent of the seats in the Congress. No women serve as governors or justices on the Supreme Court. A woman, Rosario Robles, served as head of government of the Federal District from September 1999 to December. Under President Zedillo, 2 Cabinet Secretaries out of 20 were women. President Fox appointed 9 women to his 51-member Cabinet. A total of 9 of the 15 members of Mexico City Mayor Manuel Lopez Obrador's cabinet are women, and 13 of the city's 23 key city officials are women.

The Electoral Code provides that no more than 70 percent of candidates can be of the same gender. All political parties are attempting to increase the number of women who run for elected office through formal and informal means. They have utilized quotas requiring that a certain percentage of candidates on a party list be female. However, in practice women more often are put forward as substitute candidates who have little chance of serving unless the titular candidate leaves office. The PRD leadership is 22 percent female, 24 percent of its representatives and 13 percent of its senators are female, and it has a female party president. The PAN has utilized more informal methods to increase female registration. Nonetheless, 23 percent of its leadership is female, and 11 percent of its senators and representatives are female. PRI party rules mandate that a certain number of its candidates be women. Twelve percent of the party leadership, including its president, is female. Fifteen percent of both its representatives and senators are female.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to local office according to "usages and customs," rather than standard electoral law. Only the states of Oaxaca and Quintana Roo have enacted the implementing legislation. These 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. Women were excluded systematically from the political process by "usages and customs" in Oaxaca state and expected to face the same phenomenon in the state of Quintana Roo.

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

A wide variety of human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. Government officials generally have become more cooperative and responsive to NGO views; however, the Government used vigorous enforcement of its constitutional prohibition on foreigners engaging in political activities to hinder the work of foreign human rights monitors, and it restricted the activities of many human rights observers and religious workers in the state of Chiapas.

After the December 1997 Acteal massacre, foreign concern over Chiapas increased significantly, and many foreigners and members of human rights groups traveled to that area, often on tourist visas, to learn firsthand about conditions there, to observe the human rights situation, and donate supplies. However, when individual foreign activists in Chiapas acted in ways that the Government considered political and inconsistent with tourist status, the Government issued them a letter of departure that required them to leave the country upon expiration of their visas.

On July 4, Deputy Secretary of Government Jose Angel Pescador Osuna annulled the 2-year expulsion of Tom Hansen, director of Mexico Solidarity Network, and agreed to reconsider the expulsions of 400 other human rights activists, priests, and foreign development volunteers. On June 30, Hansen was granted a 15-day election observer visa.

In 1998 the National Migration Institute (INM) began to require persons who wished to enter the country to monitor the human rights situation to go through a new application process, which required, among other things, that they apply 30 days in advance. The INM also placed a 10-day limit on visits, set a limit of 10 visitors per NGO, and required that visitors submit a detailed itinerary and agenda. Domestic and foreign NGO's objected to these new visa requirements, and asserted that they actually restrict human rights monitoring and give the Government the right to decide which human rights organizations are legitimate. While government officials promised that the process would improve access for human rights observers, the effect has been the opposite. Immigration officials have used this visa requirement in the past to remove from the country religious workers whom they judge to be engaging in human rights activities. They also used this procedure to restrict the activities of human rights monitors. Human rights observers reported that the process is difficult, complex, rarely results in visa issuance, and interferes significantly with their ability to monitor human rights violations. As of September 15, 155 applications for human rights observer visas were made and 74 visas were issued. Of the 100 applications made in 1999, 95 were issued.

NGO's reported that human rights workers in several states received death threats while working on cases that implicated government officials. On June 13, Arturo Solis, president of the Center of Border Studies and the Promotion of Human Rights, publicly accused federal immigration agents in Tamaulipas of involvement in illegal immigrant trafficking. He has since received numerous death threats. The case is under investigation by the Secretariat of Government, the National Human Rights Commission, the Tamaulipas State Human Rights commission, and a congressional commission.

On August 3, in Oaxaca, Oaxaca, the home of Angelica Ayala Ortiz, vice president of the Mexican League for the Defense of Human Rights (LIMEDDH), was robbed. Missing were Ayala's computer, recording equipment, and the new television and videocassette recorder that replaced similar ones stolen from her home last year. Asserting that the robbery was an act of intimidation, Ayala, who works on indigenous rights issues, lodged a complaint with the state attorney general's office, which is investigating. On February 15, an arrest warrant was issued for Jesus Reynaldo Hernandez Bautista, a bank security guard, for the July 1999 robbery of the LIMEDDH office in Oaxaca. There had been no apparent progress in the investigation into the August 3 robbery of Ayala's home by year's end.

In August elements of the army allegedly began to harass Hilda Navarrete Gorjan, director of the human rights NGO the Voice of Those Without a Voice in Coyuca de Benitez, Guerrero. On August 18, military personnel were parked in vehicles outside Navarrete's office with weapons pointed in the direction of her building. On August 23, unknown persons broke into the office and stole computer and video equipment; however, there was no evidence to suggest that the military was responsible for the break in.

There were no new developments in the investigation into the 1999 threats, harassment, and attacks against the PRODH and human rights lawyer Digna Ochoa. The investigation was still open at year's end. Mexico City judicial police provide protection for Ochoa while she is within the city limits. On May 10, the Inter-American Court of Human Rights stated that the Government was providing the protection for Ochoa ordered by the court, and that it had received no information about new threats or evidence of violence against PRODH. However, Ochoa did receive telephone death threats in June.

The PRODH has criticized the Government's actions to provide safety to human rights workers as inadequate. The PRODH advocates the adoption of measures to promote awareness of the importance of human rights work and to investigate cases of threats, intimidation, and attacks against human rights workers.

The National Human Rights Commission (CNDH), established by the Government in 1990, has improved its credibility steadily. The Senate, instead of the President,

now appoints the commission's president, although some NGO's feared that this would make the CNDH more susceptible to political pressure. In November 1999, the Senate named legal scholar Jose Luis Soberanes to a 5-year term as CNDH president, replacing the sitting president prior to the expiration of her term. Although most NGO's have a favorable opinion of the CNDH, many are critical of its method of presenting information, especially the reporting of compliance with recommendations. NGO's also have criticized the CNDH's reliance on former government security or judicial personnel as investigators of human rights abuse allegations.

General Jose Francisco Gallardo Rodriguez, who was arrested in 1993 on a range of charges, including embezzlement and dishonoring the military, was moved in 1999 from a military to a civilian jail. Gallardo maintained that military authorities were persecuting him because he wrote an academic dissertation calling for the establishment of a human rights ombudsman's office in the military. Since 1996 the IACHR and AI had called for his release. On August 4, Gallardo's lawyer lodged a complaint with the Federal Attorney General's office to demand action against the military tribunal for negligence of administration of justice because it allegedly had issued its resolution against Gallardo 63 days after the legal time limit.

In 1999 U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions Asma Jahangir visited the country at the Government's invitation. Her report stated that the ineffectiveness of the justice system had led to violations of human rights. In addition, civilian courts' lack of jurisdiction over members of the armed forces for violations of human rights committed against civilians erodes the independence of the courts. The IFE implemented Jahangir's suggestion to invite international observers for the presidential elections and accredited 860 persons.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 are not enforced effectively, although the Government continues to make progress in efforts to do so.

Amnesty International has reported that homosexual men and women are likely to be victims of abuse and violence. In its 1999 annual report, the Citizen's Commission Against Homophobic Crimes reported that on average three murders are committed because of sexual orientation per month, and that there have been 190 such killings in the last 5 years, mostly in Mexico City, Mexico State, and Veracruz. The consensus among gay rights groups is that the police fail to investigate these crimes seriously.

*Women.*—The most pervasive violations of women's rights involve domestic and sexual violence, which is both widespread and vastly underreported. A 1997 law on intrafamily violence criminalized intrafamily violence, established protective measures for victims, and provided public education on the domestic violence problem. The law provides for fines equal to 30 to 180 days worth of pay and the detention of violators for up to 36 hours. The law also expanded the definition of rape to include spousal rape, involving married or common-law couples. According to a 1999 survey by the National Institute of Statistics, Geography, and Computation, some form of domestic abuse occurs in one of every three homes. The victim seeks help in only one of every six homes suffering from domestic abuse. More than 65 percent of all women suffer some form of abuse, verbal or otherwise, but only 30 percent lodge formal complaints, according to the Mexican Association Against Violence Toward Women. In 86 percent of abuse cases, it is the father or husband who commits the abuse. The Center for Attention to Intrafamily Violence reports that it receives between 50 to 60 complaints nationwide every day. Women are reluctant to report abuse or file charges, and the police are reluctant to intervene in what society considers a private matter. Many police also are inexperienced in these areas and unfamiliar with appropriate investigative technologies, although some have received training on these issues.

According to the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), over 1 million women each year seek emergency medical treatment for injuries sustained due to domestic violence, which is the fourth highest cause of death for women. Groups such as the NGO Center for Research and Care of Women, are attempting to counter the widespread view of domestic violence as private, normal behavior and to deter future violence. On June 1, Mexico City Mayor Rosario Robles publicized a handbook written by a coalition of feminist NGO's to reduce domestic violence and to help victims of gender discrimination.

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 is invoked rarely.

In the case of the approximately 200 women raped, murdered, and mutilated in the Ciudad Juarez area since 1993 (see Section 1.b.), the CNDH determined in 1998 that the Chihuahua state attorney general's office's inadequate response had violated the human rights of the victims and their families. The CNDH therefore recommended that the state attorney general and the mayor of Ciudad Juarez be investigated for negligence. In the same year, the authorities appointed a special prosecutor and hired foreign experts in serial killings to advise investigators. The murders and rapes continued during the year.

Trafficking in women for the purpose of forced prostitution occurs (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. Sexual harassment in the workplace is widespread.

The CNDH's First Inspector General's office is devoted entirely to protecting the rights of women.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this 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. According to a 1998 academic study, even though girls and boys attend school at similar rates, a woman on average needs to have 4 more years of education to earn the same salary as a man in a comparable position.

Labor law includes extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breast feeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with her 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 deliberately violate these provisions by requiring pregnancy tests in pre-employment 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. In its 2000 and 2001 annual reports, Human Rights Watch indicated that the Government not only was aware of such practices and failed to prevent them or to punish the perpetrators, but also made public excuses for companies that violated the law. The U.S. National Administrative Office (NAO), under terms of the North American Agreement on Labor Cooperation (NAALC), the labor side agreements to the North American Free Trade Agreement, accepted a challenge to these practices in the maquila industry and in January 1998 recommended ministerial consultations. As a result, the U.S. and Mexican Secretaries of Labor participated in a conference in Merida, Yucatan, in March 1999, on gender discrimination in employment. In addition, the U.S., and Mexican NAO's organized cross-border outreach sessions in August 1999 on the rights of women in the workplace in McAllen, Texas and Reynosa, Tamaulipas. The conference and the outreach sessions concluded that discrimination exists, that it is not sanctioned by law, and that the authorities have taken steps to inform female workers of their right to file complaints about such practices, by distributing brochures and opening government offices that work together with NGO's to publicize the problem and available remedies.

To protect the labor rights of women, the Secretariat of Labor made 9,593 safety and hygiene inspections in private factories and public institutions through August and estimated that it would complete 13,790 by the end of the year. The Secretariat made 23,138 inspections in 1996. 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 number of maquila plants (approximately 3,500 operating) far exceeds what the less than 700 (approximately 350 state and 341 federal) inspectors can monitor.

In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of forced sterilization (see Section 1.f.).

The National Women's Program (PRONAM) monitored the situation of women, made recommendations to the Government regarding women's issues, and worked with government agencies, international organizations, and NGO's to support women's causes. PRONAM and the National Statistics Institute compiled gender-specific statistics to ascertain more accurately the status of women. The International Labor Organization (ILO), the Secretariats of Labor and Foreign Relations, and PRONAM also promoted the status of women in the workplace. In addition, PRONAM and UNICEF initiated in 1999 an ongoing advertising campaign attacking social stereotypes and discrimination against women.

*Children.*—Children under the age of 15 make up 35 percent of the population, and the median age of the population is 21. 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. The CNDH receives numerous complaints about the services provided by the Secretary of Health, the Secretary of Education (SEP), and the Institute of Social Security. Nine years of education are compulsory, and the legal minimum age for employment is 14; however, according to SEP and the Sierra Neighborhood Foundation, only 31 percent of youths between 15 and 20 years of age attend school.

The problem of child labor is particularly pronounced 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 portable. The National Public Health Institute's 2000 National Nutrition Survey reported that 3 million children under the age of 5 suffer some form of malnutrition. UNICEF also reported that approximately 5 million children, 2 million of which are under 12 years of age, are working. In 1998 the director of the National Education Council reported that 1.7 million school-age children were not in school because their poverty obligates them to work. About 900,000 children work in agriculture, particularly in the northern states. UNICEF and the National Institute for Integral Development of the Family, in a 1999 study of working children in the 100 largest cities, estimated that 150,000 children work in those cities. (NGO's maintain that the total is higher.) According to a 1999 national nutrition survey, 30 percent of children under 5 years of age, or about 3 million, suffer anemia, while another 2 million children are chronically malnourished.

On January 4, the Congress passed a constitutional amendment to protect the rights of children and teenagers and ensure respect for their dignity. The new law also increased penalties for the sexual abuse or exploitation of children. Child prostitution and pornography are felonies under the law. On May 31, the Congress passed the Protection of the Rights of Children and Adolescents Law. The law provides for the right to life, non-discrimination, healthy living conditions, protection against threats to liberty and physical abuse, a healthy family life, health services, equal treatment for the disabled, education, pursuit of happiness, and freedom of thought and expression. Penalties under the law include fines of 500 to 1,000 times Mexico City's minimum wage and possible administrative jail time.

The CNDH attempted to protect children by educating them on their rights and reviewing legislation to ensure compliance with relevant international conventions. On August 30, the Public Education Secretariat (SEP) announced the publication of four new books geared to teach children about discrimination, violence in the home, and toleration of differing beliefs.

The Mexican Association of Childhood and Youth reported that there is a large population, estimated at 42,000, of vulnerable street children in Mexico City. Street children often become involved with alcohol, drugs, prostitution, petty thievery, and increasingly, violent crimes. Corrupt police officials sometimes exploit these children by pressuring them to commit petty crimes and extorting money from them.

A 1998 report by the NGO Center for Research and Advanced Study in Social Anthropology counted 5,000 minors, 90 percent of them female, working as prostitutes or subjects of pornography. In April the Mexico City attorney general's office and the Mexico City Human Rights Commission reported that nearly 12,000 children in Mexico City are victims of sexual commercialism, including prostitution. The National System for the Integral Development of the Family (DIF) receives an average of about 35,000 complaints per year of physical and mental abuse against children, the majority in Mexico City, Mexico State, and Nuevo Leon.

Trafficking in children for the purpose of sexual exploitation is a problem (see Section 6.f.). On November 22, the Federal Attorney General's office established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children.



The Government and various NGO's have programs directed at children that address human rights issues. Generally, the purpose of these programs is not only to protect the rights of children but also to instill a generational respect for human rights through educational programs. An example of this educational approach is the Tree House (La Casa del Arbol), an interactive learning project sponsored by the human rights commission of Mexico City.

*People with Disabilities.*—Estimates of the number of disabled persons range from 2 to 10 million. In Mexico City alone, 124 NGO's dealt with issues affecting the physically disabled.

Twenty-seven of the 31 states have laws protecting the disabled. Local law requires access for the disabled to public facilities in Mexico City, but not elsewhere in the country. However, in practice most public buildings and facilities in Mexico City do not comply with the law. The Federal District also mandated access for physically disabled children to all public and private schools. The Mexico City secretary of education, health, and social development has maintained that 78 percent of these children received some schooling. On August 2, the President's Office announced that 90,000 disabled children were integrated into a regular education system under the Zedillo Administration.

In December President Fox established the Citizen's Commission Against Discrimination to be headed by former Social Democracy presidential candidate Rincon Gallardo. The Commission's objectives include ensuring equal opportunities and access for the disabled and codifying these rights in a legal framework.

Mental Disability Rights International (MDRI), an NGO, discovered mistreatment and violations of the rights of the mentally disabled persons in government mental health facilities. Abuses uncovered from 1996-99 included inhuman and degrading treatment, misuse of physical restraints, and criminal neglect that in some cases led to deaths of patients. The MDRI further alleged that because the process through which persons are admitted legally to state institutions is conducted without oversight by a judicial or independent body, which can lead to a total loss of independent decision making or consent to treatment by patients. As a result of its 1999 report and an expose in the January 30 issue of the newsmagazine *Proceso*, in February the Secretariat of Health made over \$800,000 (8 million pesos) available to improve conditions in Mexico City's institutions and to provide over \$5,000 (50,000 pesos) for each of the 400 persons living in these institutions to participate in community-based workshops. The Secretariat of Health also made \$1.7 million (17 million pesos) available to improve the Ocaranza, Hildalgo institution as a pilot project.

*Indigenous People.*—The indigenous population, long subject to discrimination, repression, and marginalization, is estimated at 29 million persons of Indian descent, of whom 11 million live in Indian communities and 5 million are native speakers of Indian dialects. An estimated 9 million indigenous persons live in extreme poverty. According to the National Indigenous Plural Assembly for Autonomy (ANIPA), there are 56 distinct indigenous groups, each with its own unique culture and language. Indigenous people are located principally in the central and southern regions and represent a majority in the states of Oaxaca (53 percent) and Yucatan (52 percent). 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 1994 Chiapas uprising focused unprecedented attention on the demands of that state's indigenous population for increased economic and social rights. Among its basic demands, the EZLN called on the Government to enact measures to protect indigenous cultures, provide more opportunity for employment, and invest in schools, clinics, and infrastructure projects. In the 1996 San Andres accords, the Government agreed with the EZLN on the need to expand indigenous rights. However, Congress has not yet approved these accords, and the conflict remains unresolved. The Government maintains a heavy military presence in parts of Chiapas, a presence that NGO's have called threatening and intimidating to the indigenous population (see Section 1.g.).

In its report "The War in Chiapas", issued in April the Fray Bartolome de las Casas Human Rights Center (CDHFBC) reported that the military was the principal aggressor in its 1999 cases. The CDHFBC also concluded that the presence of the military put at risk the human rights of life, physical integrity, liberty, and security of the local inhabitants. In addition other groups expressed concern during the year over growing instability and tension within the Indian communities provoked by the presence of military, police, and paramilitary troops.

In April an ICRC representative stated that thousands of Indians who fled their homes in Chiapas were suffering from food shortages and malnutrition. At year's end, the ICRC was feeding over 9,000 persons at year's end on a continual basis.

There still were cases of malnutrition, and the ICRC addressed those cases with 100 percent complete food supplements.

At year's end, the federal and state government strove to create a positive atmosphere for negotiation in Chiapas through troop withdrawals and the release of Zapatista prisoners (see Section 1.g.).

The Government, through the National Indigenous Institute, the CNDH, and various NGO's, operates programs to educate indigenous groups about their political and human rights. The Government generally professes respect for their desire to retain elements of their traditional culture. The CNDH's office of the Fourth Inspector General reviews and investigates violations of indigenous rights. More than 130 NGO's are dedicated to the promotion and protection of indigenous rights.

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, including allegations of crimes, and to elect 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 (see Section 3).

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. However, these were not sufficient to meet the needs of all indigenous people. Although the national population growth rate has slowed to less than 2 percent annually, the birth rate among marginalized indigenous groups such as those in Chiapas is around 5 percent. The General Education Act provides that teaching shall be promoted in the national language (i.e. Spanish) without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons speak only their native languages. As a result, 1999 ANIPA statistics suggest that indigenous people suffer from a high rate of illiteracy and a low rate of school attendance. Non-Spanish speakers frequently are taken advantage of in commercial transactions involving bilingual middlemen and have difficulty finding employment in Spanish-speaking areas.

*Religious Minorities.*—There is a long 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 bosses of indigenous communities sometimes regard evangelical groups and Catholic lay catechists as unwelcome outside influences and potential economic and political threats. As a result, these bosses 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, beatings, and, occasionally, killings. These problems more frequently arise in "autonomous indigenous areas" under the influence of the EZLN, according to evangelical leaders. The abuse related to these and other incidents, apparently did not occur solely and exclusively on the basis of religion. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were very often the basic cause of the problems.

There were reports of conflict between Catholic/Mayan syncretists and Protestant Evangelicals in Chiapas. For example, on March 5, Catholic/Mayan syncretists evicted at least 70 evangelical families from Plan de Ayala, Chiapas. Later that month, 250 state police escorted the Evangelicals back to Plan de Ayala, where they remained for 2 weeks. However, in early April the Catholic/Mayan syncretists again evicted 20 of the evangelical families from that community. On April 16, the Catholic/Mayan syncretists drove out the 70 police officers stationed there to keep the peace and set up roadblocks around the town. The following day the expelled Evangelicals attempted to return to the community, but were prevented from doing so by the roadblock. Expelled evangelical families reported that the Catholic/Mayan syncretists demanded that they sign a statement renouncing their faith as a prerequisite for their return to the community. Attempting to mediate, Governor Roberto Albores offered social programs to the Catholic/Mayan syncretists if they allowed the Evangelicals access to the town. The Catholics accepted the offer, but denied blocking access to community members, claiming that they only wanted to "prevent strangers from infiltrating the community and causing problems." They removed the roadblock, but tensions remain.

Tension between Catholic/Mayan syncretists and evangelical groups continues to be a problem in the municipality of San Juan Chamula. The Evangelical Commission for the Defense of Human Rights claims that municipal authorities have expelled 30,000 persons in the last 30 years. The children of Evangelicals have been denied access to the local public schools in six communities since 1994.

Adventists in Oaxaca report that families who were members of their denomination were expelled from the community of Santo Tomas Kirri. In Santo Domingo, Mexico state, Adventists reported that they were forced temporarily to close their church. In Chiapas the Adventists viewed the local government as reluctant to intervene in towns governed by traditional "practices and customs."

On May 17, the body of an alleged witch doctor was found in Comitán, Chiapas. The motive for his death is suspected to be the victim's practice of witchcraft, which is common in rural areas of southern Mexico; no suspects were arrested or charged.

Progovernment supporters had in the past accused the Catholic Church in the San Cristobal diocese in Chiapas of supporting the EZLN.

#### *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. About 25 percent of the total work force is unionized, mostly in the formal sector, where about one-half the labor force is employed.

No prior approval is needed to form unions, but they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) in order to function legally. Registration requirements are not onerous. However, the STPS or the JLCA occasionally have withheld or delayed registration of unions hostile to government policies, influential employers, or established unions. The STPS and the JLCA also have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. To remedy this, STPS officials required evidence that unions were genuine and representative before registering them. Genuine unions are those that 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.

Human Rights Watch criticized the Government's system of labor tribunals in a December 1999 report that claimed that the right to freedom of association often was violated even when courts ruled in favor of organizing workers. The report states that in the case of the Democratic Union of Workers of the Ministry of the Environment, Natural Resources, and Fishing the courts allowed workers to organize formally, but Government officials continued to interfere in such a way that the union could not function effectively.

Like the Federal Labor Board (JFCA), the JLCA are tripartite. Although trade union presence on the boards is usually a positive feature, it sometimes led to unfair partiality in representation disputes. For example, the board member from an established union may work to dissuade a JLCA from recognizing a rival organization. Trade union registration was the subject of follow-up activities pursuant to a 1995 agreement reached in ministerial consultations under the NAALC.

Unions form federations and confederations freely without government approval. Most unions belong to such bodies. They 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.

The Federal Employee Union Federation (FSTSE), the Revolutionary Worker and Peasant Confederation, and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) also are allied with the PRI. However, several unions do not ally themselves with the PRI, including the large teachers' union, which severed its PRI ties a decade ago, and freed its minority factions to cooperate openly with other parties, particularly the PRD. Rivalries within and between PRI-allied centrals are strong. There also are a few small labor federations and independent unions outside the CT not allied with the PRI. One is the small, left-of-center Authentic Labor Front (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In November 1997, 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed the National Union of Workers (UNT)—a labor central in competition with the officially recognized CT. In April 1999, the Mexican Electricians Union (SME) announced that it would withdraw from the CT over its failure to give full support to the SME's opposition to the Government's plan to privatize partially the electric power sector. The SME had not withdrawn officially from the CT at year's end; however, it currently maintains no contact with the CT.

PRI-affiliated union officers traditionally helped select, ran as, and campaigned for, PRI candidates in federal and state elections and supported PRI government policies at crucial moments. This gave unions considerable influence on government policies but limited their freedom of action to defend member interests in other ways, particularly when this might harm the government or the PRI. The CT, especially the CTM, was well represented in the PRI senatorial and congressional delegations, although its numbers diminished significantly after the 1997 and the July elections.

The ILO Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE request, violate ILO Convention 87 on freedom of association. These restrictions allow only one union per jurisdiction, forbid union members from quitting the union, and prohibit reelection of union officials. In 1998 the COE and the ILO Committee on Application of Standards reiterated their criticism and asked the Government to amend the law. The Government had not amended the law by year's end; however, a May 1999 Federal Supreme Court decision now permits the formation and recognition of more than one union per federal entity. A 1996 Supreme Court decision invalidated similar restrictions in the laws of two states, but the decision applied only in the specific instances challenged. In May 1999, the Supreme Court extended this interpretation to unions in federal government entities.

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.

During the year, the JFCA reported that 8,282 strike notices were filed and 26 legal strikes occurred in federal jurisdiction. Federal labor authorities did not stretch legal requirements to rule strikes nonexistent or illicit, nor did they use delays to prevent damaging strikes and force settlements. However, in 1998 strikers at the Han Young maquiladora plant in Tijuana filed an "amparo" (a type of injunction) action in a Federal District court challenging the ruling of the JLCA in Tijuana that declared the strike begun on May 22 of that year to be illegal. On May 3, 1999, the court recognized the striking union's right to the collective bargaining contract and declared the 1998 strike to have been legal. Acting quickly on that decision, the union put strike flags at the plant, but the JLCA declared the new strike illegal because the board had not yet been informed officially of the court's ruling nor given time to act on that ruling. Efforts to resolve the conflict through the courts continued throughout the year. The union's leader and lawyer were the subjects of arrest warrants for allegedly detaining the plant manager against his will; however, these individuals had not been taken into custody at year's end.

The dissident leaders of the teachers' union who were charged with forcing entry into the Senate and holding several senators hostage in 1998 were released within 3 months from pretrial detention when charges were reduced substantially. There is no record that they were ever tried on the reduced charges.

During the first major strike in 10 years that occurred at a Ciudad Juarez plant in July, some protesting workers reported that they were harassed by police and representatives of the union holding the contract at the plant. Earlier in the summer, the leader of a group of workers challenging the existing union at a plant in Tamaulipas asserted that he had been kidnaped and held for more than 24 hours by representatives of that union. However, state labor authorities eventually recognized the new union, which allowed it to negotiate with plant management.

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 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.

Employer organizations slowed efforts to push for labor law reform early in 1999 and entered into ongoing discussions with the Government and labor unions about reforming the LFT's rules of procedure. Government, employers, and unions had ne-

gotiated reforms through tripartite national agreements and collective bargaining at the enterprise level. Reforms were effected also through cooperation in programs to increase, and compensate for, productivity. Government, national labor unions, and employer organizations met periodically throughout the year to discuss ways and means of cooperation to boost productivity, wages, and competitiveness. The need to reform the LFT was an issue in the presidential campaign and in the fall session of Congress.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals. Reflecting that change in attitude and relationship, the International Federation of Metalworkers Unions opened an office in Mexico, and U.S., Canadian, and Mexican autoworker union representatives held meetings in the country during the year.

A complaint alleging a refusal on the part of the Government to register the Academic Workers Union of the National College of Technical Occupational Education (SINTACONALEP) as a union is pending before the ILO's Committee on Freedom of Association (CFA). SINTACONALEP's employer, the National College of Technical Occupational Education (CONALEP), requires its teaching staff to sign documents denying the existence of an employment relationship thereby feigning a type of relationship that is covered under the civil code and not the LFT even though the form, terms, and conditions all correspond to an employment relationship. Hence according to STPS, SINTACONALEP members do not meet the definition of workers under the LFT to be registered as a union. In 1999 the CFA issued an interim report requesting that the Government provide a copy of the applicable law that denies trade union status to SINTACONALEP and that the Government investigate the allegations of interference and antiunion discrimination on the part of CONALEP. The ILO had not received a response from the Government by year's end.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union recognition election. LFT prounion 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 are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree.

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 country's record in internal union democracy and transparency was mixed. Some unions were democratic, but corruption and strong-arm tactics were common in others.

A disputed 1997 election for the right to the collective bargaining contract for workers at a Korean-owned maquiladora in Tijuana, Baja California continued to provoke controversy. Although the parties reached a settlement in January 1998, allegations that plant management violated health and safety regulations were considered in a public hearing by the U.S. NAO that year. The dispute over union representation at the plant continued, and in May the U.S. and Mexican Secretaries of Labor signed an agreement on steps to resolve this dispute; pursuant to that agreement the Mexican Labor Secretariat held a public NAFTA conference in Tijuana in June to address the issues raised in the complaint.

In another case involving freedom of association linked to the right to organize unions, in December 1997, 9 unions and 24 human rights NGO's jointly filed a submission with the U.S. NAO alleging that a CTM-affiliated union used strong-arm tactics to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in Mexico state. This submission also alleged violations of health and safety regulations. The Canadian NAO also received a submission on this case in the spring of 1998. The U.S. NAO issued a report in July 1998 that recommended ministerial consultations. At year's end, U.S., Mexican, and Canadian labor authorities continued to discuss the issues raised in both submissions. The May agreement between the U.S. and Mexican Labor Secretaries and adhered to by the Canadian Labor Minister provided that the Mexican Labor Secretariat hold a public NAFTA conference in Mexico City in late fall to address the issues raised in the complaints. However, the conference had not taken place by year's end.

In November 1999, the U.S. Association of Flight Attendants filed a submission with the U.S. NAO alleging violations of worker rights to freedom of association and to bargain collectively; protection of the right to organize; minimum employment standards; and prevention of occupational injuries and illnesses at Executive Air Transport, Inc. (TAESA). The complaint focused on the voting process employed when the Mexican flight attendants union sought the right to represent flight attendants employed by TAESA. The U.S. NAO held a public hearing in Washington in March and issued a report in July recommending ministerial consultations.

The public sector is almost totally organized. Industrial areas are heavily organized. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from antiunion discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector vary by area and sophistication of the manufacturing process. Wages have been lower and job creation has been greater in this sector than in more traditional manufacturing. Wages in the maquiladora sector are still lower than in the traditional manufacturing sector, although they are approaching manufacturing sector level. Some observers allege poor working conditions, inadequate wages, and employer and government efforts to discourage unionization in this sector. There is no evidence that the Federal Government opposes unionization of the plants (the maquiladora sector tends to be under state jurisdiction), but some state and local governments in the west are said to help employers discourage unions, especially independent ones, through the use of protection contracts. 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 Compulsory Labor.*—The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, there were some cases of trafficking in persons for purposes of forced prostitution and forced labor (see Section 6.f.). There also were cases of abuses of refugees and illegal immigrants in Chiapas (see section 2.d.). There were no reports of forced child labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits children under 12 years of age from working. The law sets the minimum legal work age at 14 years. Those between the ages of 14 and 15 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 export industries and those under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, despite continued government efforts.

In 1996 the ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Most child labor is in the informal sector (including myriad underage street vendors), family-owned workshops, or in agriculture and rural areas. Mexico City's central market employs approximately 11,000 minors between the ages of 7 and 18, who work as cartpushers, kitchen help, and vendors. The children do not receive a fixed wage, and most work 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 have 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.

The Federal Government increased the number of obligatory school years from 6 to 9 in 1992 and made parents legally liable for their children's attendance, as part of a reform to upgrade labor force skills and long-term efforts to continue increasing educational opportunities for and participation by youth. Scholarships offered to families of the abject poor under the Government's "Progresas" antipoverty program kept an additional 100,000 children in school in 1999. According to "Progresas," that number increased by 18 percent during the year.

In March the Government ratified ILO Convention 182 on the worst forms of child labor. The government of the Federal District implemented a law adopted in July

1999 that increased limitations on working hours and conditions for children employed as supermarket baggers and automotive attendants.

The law bans child labor, including forced or bonded labor, and there were no reports of its use (see Section 6.c.).

*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 January 1, but any of the three parties can ask that the Commission reconvene during the year to consider a changed situation. In December 1999, the wage commission adopted a 10 percent increase effective January 1, based in part on the Government's projection of a 10 percent annual inflation rate for. For the first time, all labor representatives on the Commission abstained from the vote in protest, and also for the first time, the Government stood firm on its original offer. During the course of the year, wage and benefit adjustments to collective bargaining contracts averaged about 13 to 15 percent, which was several points above the final inflation rate of 8.9 percent for the year.

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 \$3.99 (37.90 pesos). However, employers actually paid \$4.55 because of a supplemental 14 percent subsidy. These income supplements to the minimum wage, agreed to in annual tripartite pacts, are for all incomes less than four times the minimum wage, decreasing as wages and benefits rise. In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage (before the subsidy) was \$3.70 (35.10 pesos). In other areas, it was \$3.44 (32.70 pesos). There are higher minimums for some occupations, such as building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (about 16 percent) earn only the minimum wage. 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 include free social security medical treatment and pensions, individual worker housing and retirement accounts, substantial Christmas bonuses, paid vacations, and profit sharing. Employer costs for these benefits add from about 27 percent of payroll 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 six 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 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) and 4 more state offices of the STPS to make it more convenient for workers to file complaints and bring other actions before the labor court system. In addition, the Labor Secretary has transferred more personnel to the JFCA to reduce backlogs. He also has highlighted as special issues child labor, women in the workplace, and the physically disabled by assigning responsibility for them directly to one of the under secretaries. In February 1999, the Labor Secretariat established a separate office for equality and gender 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 is reasonably good at most large companies. However, because smaller firms are far more numerous and so much more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. Federal inspectors are stretched too thin for effective enforcement if companies do not comply voluntarily and fulfill their legal obligation to train workers in occupational health and safety matters. 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 encour-

age members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

In July a large group of U.S., Canadian, and Mexican labor organizations and NGO's filed a submission with the U.S. NAO alleging the failure of Mexican labor authorities to comply with health and safety regulations resulting in occupational injuries to a number of workers at maquiladora plants belonging to a U.S. company in the border state of Tamaulipas. The U.S. NAO accepted the submission in September for formal review and conducted a public hearing in San Antonio, Texas, on December 12.

On July 23, about 150 workers at a construction site for a hospital in Ciudad Juarez rioted over mistreatment by police and poor working conditions. The workers complained of low pay and extremely poor living conditions at the barracks where they were housed.

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. Allegations have been 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.*—There are no specific laws that prohibit the trafficking of persons; however, immigration laws, the federal organized crime law, and federal and state penal codes contain laws that are used to prosecute traffickers of undocumented migrants, women, and children, and trafficking is a serious problem. The country is a transit country for the trafficking of persons, especially from China, to the United States and Canada. There also are isolated cases of trafficking Mexican nationals for the purpose of forced prostitution or sexual services, domestic servitude, forced or bonded sweatshop labor, or other debt bondage. The Government has strengthened significantly its cooperation with China, the United States, and other countries. There were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (see Section 2.d.).

On July 31, the Honduran Government stated that it was working to repatriate from Mexico approximately 400 Honduran girls, between the ages of 10 and 16 years, who after having tried to enter the United States illegally were forced into prostitution in Mexico.

A study that was jointly funded by UNICEF and DIF and released in June studied the commercial sexual exploitation of children in six cities. Its author estimated that the number of children involved in the sex trade countrywide at 16,000. Most are Mexicans, although there are significant numbers from Central America—principally Guatemala, Honduras, and El Salvador. The Central American children enter the country through Chiapas. In many cases they are brought there by procurers who promise them employment in legitimate occupations. They are thereafter sold to the owners of bars and other establishments and then 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. Oftentimes, the owners will sell or trade the children among themselves. Other children are transported to Mexico City for training. They are then sent to centers of tourism. Some children are trafficked to the United States and Canada. The study concludes that the commercial sexual exploitation of children is a phenomenon that is present today throughout the whole country.

---

## NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. President Arnaldo Aleman was elected in a free and fair election in 1996, defeating his closest competitor, Daniel Ortega of the Sandinista National Liberation Front (FSLN). The Supreme Electoral Council is an independent fourth branch of government. A series of political accords between the governing Liberal Constitutionalist Party (PLC) and the Sandinista National Liberation Front (FSLN), though highly controversial, ceded the FSLN more power in several governmental institutions in exchange for the avoidance of the use of violent protests to achieve political ends. FSLN leaders largely refrained from using or threatening the use of violence. The Constitution provides for an independent judici-



ary; however, the judiciary is at times susceptible to political and financial influence.

The President is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian Defense Ministry upon his inauguration. 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 National Police recently diminished the role of voluntary police, private citizens contracted by the National Police to help fill staffing gaps, in law enforcement. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

Nicaragua is an extremely poor country, with an estimated per capita gross domestic product of less than \$480. The economy is predominantly agricultural; coffee, seafood exports, sugar, beef, and some light manufacturing are the key sectors. The economy grew at 7 percent in real terms in 1999, but the rate declined in 2000. Real GDP growth rate for 2000 is estimated at 5 percent. The estimated annual rate of inflation was 8 percent, marking the second consecutive year of single digit price increases. While the Government estimated that unemployment is less than 11 percent, some nongovernmental organizations (NGO's) calculated the rate of unemployment and underemployment as high as 40 to 50 percent. Private foreign investment continued to increase during the year; however, economic growth is hindered by unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government in the 1980's. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance and remittances from citizens living abroad.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed six reported extrajudicial killings. Police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although they improved somewhat. Security forces arbitrarily arrested and detained citizens at an increased rate. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials remain problems; however, the judiciary has made efforts to reduce the large case backlog. The judiciary also is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. A new Judicial Organic Law, intended to address many of these problems, came into effect in January 1999; however, the weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. The Human Rights Ombudsman made several publicized recommendations during the year that openly challenged the policies of the Aleman Administration. These led to little concrete action. Violence against women, including domestic abuse and rape, remained a problem. Discrimination against women is an ingrained problem. Violence against children is a problem and child prostitution continues. Discrimination against indigenous people is a problem. Child labor also remained a problem. There were reports of trafficking for forced labor and trafficking in women and girls for the purpose of forced prostitution.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "Contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed. Marauding criminal gangs, some of which claimed political agendas, continued to be a problem in the mountainous regions of the north, as well as on the Atlantic Coast.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials; however, the police registered six reports of extrajudicial killings by police.

The Inspector General's office (IG) of the National Police reported 6 instances in which a member of the police killed an alleged criminal and 35 instances in which police seriously wounded criminal suspects while attempting to arrest them. The IG automatically remands to the court system for review cases in which police use deadly force; however, the cases often take considerable time to process. The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the IG's office normally applies a mild punishment, such as suspension or confinement to precinct.

Of the 48 cases the IG remanded to the courts during the year, there were no reports of case adjudication.

On August 19, in Managua, police officers Juan Ramon Velasquez and Leonel Antonio Velasquez shot and killed 20-year-old Javier de Jesus Solorzano Hernandez. Solorzano and his friend Marlon Antonio Obando Madrigal were leaving a neighborhood block party when two unknown thieves reportedly attempted to rob them. When Solorzano and Obando refused to give up their money, the four youths entered into a fight. The thieves had beaten Solorzano to the ground when the Velasquez brothers, who were patrolling the neighborhood, arrived on the scene. The thieves reportedly escaped just before the police arrived, at which time one of the two policemen approached Solorzano, believing that Solorzano and Obando were gang members. The officer hit Solorzano with his police baton until he fell down again. Obando then claimed that one of the two officers, at close range, fired two bullets into Solorzano's chest. Juan Ramon Velasquez claimed that when they arrived on the scene Solorzano was brandishing a gun. The police reported that they shot Solorzano in an act of self-defense. It remained unclear if Solorzano indeed was brandishing a revolver, and the preliminary autopsy report raised questions about the veracity of Velasquez's story. Juan Ramon Velasquez was suspended from his position and was awaiting trial at year's end.

In late October clashes between police and members of the Yatama political party led to one reported death and several injuries (See Section 5).

The police authorities treated another death involving police officers as a justified homicide in self-defense. On April 6, roadblocks on major transit arteries in the Southern Atlantic Autonomous Region (RAAS) by former members of the Nicaraguan Resistance resulted in clashes with police and the death of one of the protesters. The roadblocks were organized allegedly in response to the Government's failure to follow through on accords to settle longstanding claims for land titles and other benefits. According to a police report, the police were in the process of negotiating an end to the roadblock when five of the protesters attacked a policeman, Rafael Urbina Ortega. One of the assailants, Mauricio Mendoza, took the policeman's rifle and started shooting indiscriminately, injuring one policeman and four protesters. Mendoza, whom the police claim was inebriated, then was shot fatally by police. The local court in Rama, RAAS had yet to decide on the culpability of the police in the killing at year's end.

National Police reports indicate that the four policemen involved in the January 1999 killings of Hilario Briones Arostegui and Santos Arostegui Torres were never investigated.

There were no further developments in the May 1999 case of Pedro Gonzalez Talavera who was shot and killed by policemen in Villa Sandino, Chontales. At year's end, the case was still pending in the Appellate Court of Juigalpa.

There were no further developments in the 1997 Wamblan case in which 16-year-old Irma Lopez was killed, after allegedly being raped, by an army patrol.

There were no further developments in the 1997 La Patriota case, in which the army allegedly killed five members of a criminal band as they slept.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former contras, of the "Northern Front 3-80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the proSandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3-80 front and FUAC, engaged in murder, kidnapping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration, and FSLN leaders have made positive reference to the FUAC activities in public statements. However, law enforcement groups, human rights organizations, and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature. The violent criminal activities of the FUAC-related gangs received so much public attention that in June the army launched an intensive military operation to eliminate the gangs in the region (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 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. During the year, the Nicaraguan Association for Human Rights (ANPDH) received 70 complaints of torture or degrading treatment by the authorities. However, according to government figures, the Ombudsman's Office for the Defense of Human Rights (PPDDH) submitted the majority of human rights cases to the police authorities; 39 of the 40 cases received by the police investigative bodies resulted from PPDDH in-

quiries. Police Inspector General Eva Sacasa proved willing to prosecute abusers. During the year, her office recorded 177 complaints of physical abuse by police, including those submitted by the ANPDH and others, and found 50 to have merit. The Inspector General sanctioned 131 officers in these cases.

Between January and November, 27 police officers were discharged dishonorably. The National Police recently diminished the role of voluntary police in law enforcement. Volunteer police are private citizens who are contracted by the National Police 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 from the state although they may be "subcontracted" to provide security to businesses and farms—nor do they receive any professional training. Given the sustained criticism of voluntary police for their involvement in human rights violations, on August 8, Chief of Police Franco Montealegre approved a new police statute terminating the employment of all voluntary police in Managua. Government authorities report that there still are 3,303 voluntary police located throughout the country.

While the Inspector General's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were provided with extensive training during the year, much of it through international assistance programs.

The Office of Civil Inspection for Professional Responsibility is responsible for monitoring allegations of illegal detention and police abuse and forwarding complaints received to the police Inspector General for follow-up action. A small budget and a small staff limited its effectiveness. Police Inspector General Sacasa received a total of 863 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 177 of these cases to have merit. She sanctioned a total of 288 officers for violations of human rights. Of those sanctioned, 69 officers were discharged dishonorably, and 48 were remanded to the courts; the rest received lesser punishments, including demotion, suspension, and loss of pay.

On February 16, voluntary policeman Julio Cesar Montenegro Pacheco accompanied by Lt. Roger Perez entered the house of Jose Francisco Fernandez in Managua, allegedly without authorization, after hearing what sounded like a gunshot. When the police began to beat Fernandez, he ran out of the house and tried to climb over a fence. Montenegro then used Perez's gun to shoot Fernandez twice in the legs. Montenegro later defended his actions, claiming that he only fired in Fernandez's general direction without intending to hit him when Fernandez tried to throw a machete at the police to impede their pursuit. However, the inquiries and site investigation of the Nicaraguan Center for Human Rights (CENIDH) concluded that Montenegro used unnecessary force and faulted Perez for allowing the voluntary policeman to use his gun. The National Police subsequently dismissed Montenegro and subjected Perez to disciplinary action.

On March 2, several members of the National Police stopped Rene de Jesus Membreno Calero, a Nicaraguan citizen who was traveling from Costa Rica to his mother's house in the department of Boaco. Captain Juan Manuel Chavez and other members of the patrol force, for unknown reasons, severely beat Mr. Membreno, causing rib fractures and other lesions. After making an investigation, the National Police concluded that the officers were innocent of all charges and closed the case.

On March 10, several police officers from San Rafael del Norte entered the home of Rafael Ubeda Castro to arrest Roger Antonio and Carmen Rafael Ubeda Castro without showing any type of arrest warrant. Roger Ubeda reported to ANPDH that when the police officers Mario Castillo and Mario Rojas took him and his brother Carmen outside the home of their father, the police officers began to beat them with a wooden stick and the handles of their pistols. The police officers took the victims to the police headquarters in Jinotega to interrogate them about possible involvement in armed gangs. Roger and Carmen remained in a holding cell for 3 days, at which time the police released them for lack of evidence and the receipt of good conduct reports by private citizens who knew the individuals (see Section 1.d.).

On March 11, police allegedly apprehended, handcuffed, and brutally beat Jesus Ramon Olivas Espinoza as he left a bar in Wiwili. The ANPDH reported that police officers Antonio Armador Cicon, Teodoro Vanegas, and several others punched and kicked Olivas several times. The police officers reportedly carried Olivas to a freight container and continued physically abusing him in the presence of six other detainees also held in the container. Olivas claimed that for 3 days the Wiwili police transferred him and the six other detainees to the holding cells at night while during the day they were moved to the container. The container attracted so much heat

from the sun that the detainees were reportedly close to dying from asphyxiation. The police apprehended Olivas because he was suspected of destroying the propaganda of political parties. On March 14, the local judge dismissed the case against Olivas for insufficient evidence. Olivas filed a complaint of mistreatment with police captain Alberto Garcia Pineda, but an investigation remained pending at year's end (see Section 1.d.).

On June 13, CENIDH reported that army soldiers Ricardo Lopez Navarrete and Jose Danilo Hernandez sexually abused Yadira Mendez Chavarria and robbed Ismael Reyes in the city of Rosita, Northern Autonomous Atlantic Region (RAAN). The soldiers were part of a military operation, carried out in June, to combat the illicit and violent activities of gangs in the region. The local judge in Rosita ruled in favor of the soldiers, but the Military Appeals Court found the soldiers guilty and sentenced them to 4 years in prison.

On August 6, police officer Allan Gonzalez and a police cadet repeatedly kicked a minor in Managua when the youth would not abandon the sidewalk in front of a private store. Spectators took photographs of the abuse, and all the major newspapers and human rights organizations criticized the event. Police Chief Franco Montealegre dismissed the officer and the cadet from the police department.

On August 23, four soldiers in civilian clothing, including Eleazar Miguel Romero, robbed a bus full of civilians in Palacaguina, Madriz, and then fired their guns at the passengers. After hijacking the bus, they fired their rifles in the air and began to rob the passengers, including in one instance shooting one, Jose Santos Cordoba Garcia, in both his legs. Once they stole everything, they stepped off the bus and allegedly began to shoot indiscriminately into the side of the bus, injuring a total of nine persons. Erling Suyapa Figueroa, a 15-year-old girl, was wounded in her left hand. The only identified assailant, Eleazar Miguel Romero, said that the soldiers committed the crime to augment their small salaries. While the military investigation remains pending, as of September, the case already was presented before the local judge in the region. In December the court found three of the four soldiers guilty, sentenced them to 16 years in prison, and acquitted the other soldier.

On August 26, Miguel Angel Toruno Orozco accused police officer Lizandro Exiles Moncada of shooting him in the chin at close range on May 22. Toruno claimed that while he and a friend named Francisco Reyes were walking home from a restaurant in the northern city of Esteli, Moncada, who was drunk and in civilian clothing, jumped out of a truck and pointed a pistol at him. Moncada threatened to kill Toruno and then, at close range, shot Toruno in the chin and left him lying in the street. While confined to a hospital bed for 2 months in critical condition, Toruno contacted local human rights organizations and the police to investigate the case. The local police allegedly closed the investigation claiming that Toruno was shot by friend, Francisco Reyes. However, Toruno flatly denied the police claim because he recognized Moncada before the incident, and Reyes does not know how to drive. The police in Esteli advised Toruno to take his case to the Office of Internal Affairs at the National Police headquarters. The office of internal affairs sent the case to a local magistrate. The police forensics team concluded that the bullet used to wound the victim did not come from the gun of the police officer. Based on that evidence, the local judge acquitted police officer Lizandro Exiles Moncada of all charges.

On April 11, three antiriot police were shot and wounded seriously when police attempted to disperse a group of 500 to 600 former members of the Resistance. The former Resistance members had established a roadblock at Boaco, in central Nicaragua. One member of the police, Ernesto Moises Lopez, lost his right eye, while another was shot in the stomach and a third in the back. The CENIDH reported that Jose Jesus Jiron, of the former Resistance, was killed in the incident. An individual riding on a bus also was shot in the leg. Police arrested 12 to 15 former Resistance members. The protesters allegedly were armed with grenades and shotguns at the time of the incident. The police sent three of the protesters to a local court in Boaco and released the others for lack of evidence.

Prison conditions remained harsh, but improved somewhat. The Supreme Court (CSJ), the National Police, the Attorney General, the Department of Prisons, and several human rights organizations worked together during the year to significantly reduce the number of prisoners who spent 6 months or more of incarceration without a trial (see Section 1.d.). The initiative helped to alleviate overcrowded prisons. As of September, only one of the eight correctional facilities maintained prison populations significantly higher than the standards established by U. N. conventions on the treatment of prisoners; the Granada penitentiary exceeded the U.N. standards by 146 prisoners. According to government statistics, the prisons had a total inmate population of 4,903 in September, compared with 5,298 in September 1999.

However, the prison system remains underfunded and medical attention ranges from inadequate to nonexistent. For example, for all 8 penitentiaries and 4,903 pris-

oners, prison authorities only maintained a staff of 22 specialists, which include doctors, psychologists, teachers, and social workers. Prison authorities also reported that 31 percent of prisoners remained without beds, forcing prisoners to sleep on concrete beds or floors. The percentage of prisoners without beds or bed mattresses would likely be higher without the periodic inflow of privately donated mattresses.

On June 6, then-Minister of Government Rene Herrera appointed Rosario Gaitan to replace Carlos Quintana as Director of Prisons. Gaitan previously served as Deputy to Quintana, has maintained a career in the penal system since 1980, and has earned both the respect of the prison personnel and the prisoners.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Medical care available to prisoners fell far short of basic needs. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 102 prisoners.

Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 2.6 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 its proper functioning in such areas as timely release of inmates granted parole.

As of September, 3 percent of the prison population were between the ages of 15 and 18, compared with 4 percent in 1999 and 8.5 percent in 1998. All youths were housed in separate prison wings from adults. During the year the Department of Prisons completed the process of establishing separate facilities for juveniles or converting part of their existing prison space into a separate youth wing for all prisons.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Corn Island jail, six cells each holding six detainees frequently were filled to capacity. The authorities occasionally released detainees when they no longer could feed them. Several churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls. The ANPDH worked with the Director of Prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.). Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention by the police remains a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members within 24 hours of the detainee's whereabouts. Compliance with this law increased significantly in 1999, largely because of pressure applied by the police internal affairs office and support for compliance from Chief of Police Franco Montealegre. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups are critical of the law for providing inadequate judicial oversight of police arrests.

The 1995 constitutional reforms reduced from 72 to 48 hours the time police may hold a suspect legally before they must bring the person before a judge to decide if charges should be brought. The judge must then either order the accused released or transferred to prison. Although cumbersome, this law was observed more closely than in past years, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

An interinstitutional effort comprised of the Supreme Court (CSJ), the National Police, the Department of the Penitentiary System, and several human rights organizations significantly reduced the number of prisoners with 6 months or more of incarceration without a trial. Specifically, on February 4, the Penal Bench of the Supreme Court passed an order to all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. According to government statistics, only 4 percent of the 4,958 prisoners have been in jail for 6 months or longer without a trial; in 1999, 8 percent of the prison population experienced an unusually long delay before their court hearing (see Section 1.c.).

During the year, ANPDH received 155 complaints of illegal arrest and arbitrary detention. Of those cases sent to the police IG's office by ANPDH and other human rights organizations, 28 complaints were found to merit investigation. Of these, 2

were determined to be without merit and 26 remained under investigation at year's end. As in past years, incidents of arbitrary detention were most common in Managua and in the rural northern and north-central regions, where much of the civil war was fought.

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 is susceptible at times to corruption and political influence. The judiciary is hampered by arcane legal codes, prosecutors who play a passive role, an underfunded, and understaffed defender's office, judges and lawyers who often lack sufficient training or education, and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly 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, also 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 investigates crimes committed by and against juveniles. The 1994 Military Code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A Judicial Organic Law, passed by the National Assembly in 1997 to overhaul the archaic structure of the court system, finally was signed by President Aleman in 1998 and took effect in January 1999. The law contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's Judicial Commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention. By year's end, the Assembly had begun the process to approve a new draft Criminal Code. However, the Assembly still must approve each chapter of the draft Criminal Code before it can go into effect. At year's end, a special subcommission of the National Assembly Judicial Commission and the Supreme Court finalized a new draft Criminal Procedures Code. In 1999 the National Assembly approved a reform of the Public Ministry's office that streamlined the judicial process by separating the defense and the prosecution functions. President Aleman vetoed it in May but later rescinded his veto.

In July the Government opened new property tribunals to handle cases concerning seized properties (see Section 1.f.). This ends the nearly 3-year freeze in property-related lawsuits that started when the processing of such cases in district courts was suspended in December 1997.

Although the civil and criminal courts made significant progress in expediting the judicial process for those in prison without a prior court hearing, human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or ruling in favor of the politically connected party remained the most common manifestations of judicial corruption. For example, on May 26, Alejandro Carrion McDonough, the brother of Army Commander General Javier Carrion McDonough, allegedly killed Pablo salon Leal Aguirre, a rural farmer, in Masaya when Leal allegedly refused to provide access to the water pipeline leading to Carrion's farm. The family of Leal took the case to the police and judicial authorities, but in spite of an arrest warrant, the police never apprehended Alejandro Carrion. Several weeks after the incident, including an announcement by Leal's family that the Carrion family attempted to bribe them in exchange for dropping the charges, alternate judge Walter Solis in the Criminal Court of Managua dismissed the charges. Largely due to public pressure, the Supreme Court forced alternate judge Solis, previously suspected of official misuse of authority, to retire from the bench. The Leal family appealed the decision of Solis, but at year's end, the Court of Appeals acquitted Alejandro Carrion. The case then went to the Supreme Court where it was pending at year's end.

In an ongoing campaign to reduce incompetence and corruption in the judiciary, the Supreme Court removed an additional 10 judges during the first half of 1999, bringing the total removed since the campaign began in 1997 to 104—more than one-third of the 300 judges in the system. The Judicial Inspector's office received 238 official complaints against lawyers, judges, and judicial functionaries in the first half of 1999.

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 in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more are needed. The Court has requested funding for 26 additional public defenders to be located outside of Managua. Elsewhere in the country where public defenders have not been available, the system in effect before the passage of the new law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the State, many attorneys have paid a fine of about \$8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the new law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. However, high-ranking officials in the Public Defender's office complained that they continued to encounter blatant judicial corruption and the willingness of several judges to sentence defendants without a public defender present.

Under the Napoleonic legal system, a trial does not consist of a public hearing. Rather, there is a desk review by a magistrate of the file of the accused. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date. The Supreme Court tried to alleviate the problem by issuing instructions to prison authorities to release prisoners immediately upon the return of an innocent verdict. In addition, the ANPDH worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

Despite improvements to the criminal law system, the country still lacks an effective civil law system. As a result, cases more properly handled in a civil proceeding often are transmuted into criminal proceedings. One party then effectively is blackmailed, being jailed due to action by the party wielding greater influence with the judge. In addition, this heavy civil-based criminal caseload claims attention from an overburdened public prosecutor's office and diverts resources 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.

In November 1997, the National Assembly passed a law intended to resolve long-standing property disputes that stemmed from massive confiscations by the Sandinista government in the 1980's. The legislation provided for the establishment of new property tribunals with procedures that include mediation, binding arbitration, and expedited trials. After numerous delays, the new property tribunals finally started accepting cases for filing in July. The tribunals' administrative offices are fully staffed and operational. Any lawyer interested in serving as a judge may submit his or her resume. The Supreme Court then selects judges by lottery, after which the names of the designated judges are published in newspapers for public comment. The Supreme Court can eliminate from consideration those judges about whom they received complaints. The judges for Managua and Leon already have been selected, and the process is continuing for tribunals in other regions. As of December, the tribunals reported that almost 100 cases have been filed. A total of 35 cases were settled through mediated settlement agreements. The unsuccessfully mediated cases passed on to arbitration or expedited trials. By year's end, the tribunals had not yet issued a final determination in any case, and it was too early to judge their fairness and efficiency.

*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 respects 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 can-

not be subject to censorship, there is retroactive liability established by law, defined as a social responsibility, implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media.

The Inter-American Press Association (IAPA) reported that during 1999, members of the pro-Sandinista Nicaraguan Journalists Union and leaders and members of the Nicaraguan Journalists' Association attempted to revive legislation to establish a professional journalists' guild. Although in 1996 the National Assembly passed a bill that would have established such a guild, the bill never was signed into law. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press. The IAPA expressed concern about any attempts to revive this proposal and also about the possible effect on press freedom of a provision in the new draft criminal code approved by the Judicial Commission of the National Assembly (see Section 1.e.) that would increase the possible penalties for libel and slander.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. In April a popular daily newspaper revealed a corruption scandal that received significant attention from the Government and the public. Over a period of several weeks the newspaper provided substantial evidence that the Director of Internal Revenues Collection (DGI) Byron Jerez misused his position and authority. The journal's coverage of the scandal forced the Government to investigate the scandal and take action; in June Byron Jerez was forced to resign from his office.

The IAPA continued to report that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied to a newspaper critical of the government certain tax benefits provided to other media businesses.

Media representatives also charge the Aleman Government with using other means to retaliate against critics. La Prensa, the newspaper most active in unearthing government corruption, has been in a tax dispute with the DGI that the paper claims is based purely on politics. Channel 8 is involved in a dispute over the non-payment of social security fees for its employees, a dispute that the owner of Channel 8 also attributes to political machinations on the part of the administration for his vocal criticism of the President. The administration also proposed a bill that would set minimum wage levels for print, radio, and television journalists. The media claimed that the President had an ulterior motive in proposing the bill that would set unrealistically high minimum salaries and force media outlets to either close or drastically reduce their operations. In February the National Assembly's Commission on Education, Media, Culture, and Sports rejected the proposal.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. There are 117 chartered radio stations in the country; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are seven Managua-based television stations, six of which carry news programming, often with noticeable partisan political content. In addition, there are 60 cable television franchises that offer services in most large and medium-sized cities.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respects 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, but many groups chose not to register because, they claimed, the process was too cumbersome. Throughout the year, several groups threatened to cause civil unrest as a result of the newly instituted constitutional and electoral reforms. In August coffee growers held small demonstrations to protest government policies and a lack of government support.

In late October clashes between police and members of the Yatama political party led to the reported death of one demonstrator and injuries to several others (see Section 5).

The Constitution provides for the right to organize or affiliate with political parties, and the Government respects 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 this authorization from the National Assembly, which it routinely confers.



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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government respects these rights in practice. In December 1998, the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. The right of citizens to return to the country is not established in the Constitution, but in practice the Government has not restricted anyone's return.

In May the Government nullified the citizenship application of former Minister of Defense Jose Antonio Alvarado. This action was portrayed widely in the media as a response by President Aleman to Alvarado's aspirations to the presidency in 2001. Alvarado, a Nicaraguan by birth, relocated abroad during the civil war in the 1980's and acquired foreign citizenship. Alvarado claimed that he returned to Nicaragua in 1990, and reacquired his Nicaraguan citizenship. Minister of Government Rene Herrera nullified Alvarado's application for "repatriation" based on allegations of fraud and other irregularities in the application. This administrative action effectively removed Alvarado's opportunity to qualify for the 2001 national elections. A new constitutional reform stipulates that elected positions can be occupied only by Nicaraguans who have maintained their citizenship for the 4 years immediately prior to the date of the general elections. In August an appeals court ruled in favor of Alvarado, thus suspending Herrera's administrative action. The Supreme Court ultimately is to decide the case.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

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 exercised their right peacefully to change their government in free and fair national elections in 1996 held under the auspices of the Supreme Electoral Council (CSE), an independent branch of government. Over 90 percent of eligible voters registered, and 76 percent of eligible voters voted in 1996. Over 3,000 national and international observers declared the elections free and fair, despite some logistical and organizational problems.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The President heads the executive branch and a cabinet appointed by the President, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office.

A single-chamber National Assembly exercises legislative power. In October 1996, voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are to serve 5-year terms. The ruling PLC holds the highest number of deputy seats with 36; the FSLN has 35; a dissident liberal caucus has 8; the Conservatives have 5; and a conglomeration of minor parties make up the remaining 9 seats.

On January 20, the National Assembly approved a package of proposed constitutional amendments supported by the leadership of both the governing PLC and the opposition FSLN. Key elements of the legislation included a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing President and Vice President; a requirement for a two-thirds majority vote in the Assembly, rather than the previous qualified majority vote, to remove presidential immunity from prosecution; and the replacement of a single Controller General with the current 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by Government officials. The legislation provided for election of the President and the Vice President in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the

vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party will lose its legal status if it obtains less than 4 percent of the vote in a general election. The latter provision is expected greatly to reduce the number of parties eligible to field candidates in general elections; over 20 parties ran candidates in the 1996 elections.

There are no restrictions in law or practice against women, indigenous groups, or other minorities voting or participating in politics; however, they are underrepresented in government and politics. Women served as President and Vice President until January 1997, and a woman served as president of the CSE until January. Additionally, 2 of 16 Supreme Court justices are women; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 10 women to the National Assembly in October 1996. Two members of the National Assembly claim indigenous heritage.

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

With some exceptions, human rights groups operated without government interference. Major organizations included the Permanent Commission for Human Rights (CPDH), the (ANPDH), and the Nicaraguan Center for Human Rights (CENIDH). The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

On March 29, Amnesty International (AI) reported that the Government accused Vilma Nunez de Excorcia, President of CENIDH, of obstructing police. On June 2, AI reported that she had received telephonic threats to her life. Nunez alleges that the death threats are because she spoke out against Government complicity in alleged army-ordered assassinations of FUAC leaders. When she asked the police to investigate, they concluded that her charges were unfounded and closed the case.

The Human Rights Ombudsman's Office (PPDDH), the only autonomous government-financed human rights office, continued to focus on filling staffing gaps and organizing its scope and activities. In 1995 the National Assembly passed a law creating a Human Rights Ombudsman's office, with the Ombudsman to be elected by the Assembly. In June, after a delay of nearly 5 years, the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman and Julian Corrales as Deputy Ombudsman. Perez relied on the participation of most local human rights organizations to select the Special Ombudsmen for Children's Issues and for Women Issues, Carlos Emilio Lopez and Patricia Obregon, respectively. In December he selected the Special Ombudsman for Indigenous Affairs, Rev. Norman Bent. The PPDDH also began to investigate actively human rights violations during the year. Perez began demonstrating the effective independence of his office from the Aleman Administration when he publicly criticized the Government for violating the constitutional rights of former Defense Minister Jose Antonio Alvarado by nullifying his repatriation application (see Section 2.d.). However, he has been reluctant to exercise the full powers of his office.

In July 1997, the Organization of American States' (OAS) Technical Cooperation Mission (TCM), opened at the request of the Government and continues to operate. The TCM is a small successor organization to the OAS International Support and Verification Commission. The TCM focuses on the 13 municipalities that were affected most adversely by the decade-long civil war, where the TCM works on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services help maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a 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 operate in areas that are without any governmental presence, and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

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

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, 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. The National Police reported that of 20,905 reports filed by women between January and August, more than 11,086 concerned physical or sexual abuse.

The Criminal Code provides punishment for sexual abuse, and stipulates that any person convicted of physically abusing or raping another person will face from 9 months to 4 years in prison. The National Police, as well as local human rights groups, have confirmed that while police sometimes intervene to prevent domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in a not guilty verdict due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The 1996 Law against Aggression against Women reformed the Criminal Code to make domestic violence a crime 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 fear for their safety.

According to statistics from the National Police, the police received 1,181 rape complaints during the year. In 1999 there were 1,367 reported instances of rape. Many women are reluctant to report abuse or file charges due to social stigmas attached to victims of rape.

The police manage 18 women's commissariats in 14 cities. Each commissariat is located adjacent to a police station and is 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 to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

In October 1999, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega. Narvaez asserted that Ortega sexually molested and harassed her from the time she was 11 years old until she filed charges against him in 1997. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1998, Narvaez championed an effort to persuade the National Assembly to withdraw Ortega's immunity so that she could bring a lawsuit against him; however, the Assembly did not take up the issue of Ortega's immunity by year's end. In November 1999, the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges. On September 27, the Government responded that the claims made by Narvaez were unfounded and merited no further investigation. The Government argued that the State did not violate her constitutional rights because the legislative and judicial branches gave her case due consideration. The IACHR has not responded to the Government.

Prostitution is common, and there were credible reports that some women were trafficked and forced into prostitution (see Sections 6.c. and 6.f.). In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, 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 their health 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.

Although the Constitution provides for equality between the sexes, reports of discrimination against women are persistent and credible. According to a poll released on April 16, women comprise about 61 percent of the public labor force, a number much larger than that in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men making sometimes twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women do. Women constitute the majority of workers in the traditionally low-paid education

and health service sectors. According to a 1998 report, women have equal or somewhat better access to education than men, especially in urban areas.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the current status of women in the workplace. The Program for Reform and Modernization of the Public Sector, directed by the Vice President, collects statistics on salary differences and hiring techniques in the public sector, thereby publicizing the issue of discrimination. However, it is unclear what measures have been taken to actually counteract such discrimination in practice.

*Children.*—The Government expresses its commitment to children's human rights and welfare publicly, but does not commit adequate funding levels for children's programs or primary education. A constitutional provision known as the "6 Percent Rule" automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 18 years of age and younger made up approximately 53 percent of the population. A 1995 study showed that as many as 40 percent of all children are not registered officially. Education is compulsory through the sixth grade, but this provision is not enforced. The study also indicated that 45 percent of children do not attend school. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children increasingly were involved in crime both as victims and as perpetrators. From 1993 to 1997, offenders under the age of 17 increased from approximately 1.5 percent to approximately 15 percent. From January to August, 29 minors died as a result of violent crime. During the same period, victims of rape included 222 children under the age of 13, and 351 between the ages of 13 and 17. Children, especially boys in street gangs, contributed to an ongoing rise in the crime rate, which resulted in a police crackdown on youth gangs in August that involved over 500 juvenile arrests. During the year, there were about 3,500 reported cases of child abandonment and abuse, 1,506 cases of children who were hospitalized for severe burns, and 105 children who disappeared. It is estimated that about 63 percent of sexual abuse victims are under the age of 18, and that 36 percent are younger than 13. Over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under 5 years, living on the streets, is increasing.

As a result of the Child and Family Law, which took effect in late 1998, juvenile prisoners could no longer be held in adult facilities, or for more than 24 hours without being charged. However, implementation of the new law proved problematic. In August 1999, 17-year-old Modesto Perez ambushed and killed his former employer, National Assembly deputy Jose Cuadra, after Cuadra fired Perez. Public outrage at the inability of the system to punish Perez effectively was directed primarily at the new law, in particular the provision that minors charged with crimes be prosecuted in new juvenile courts, where the possible penalties for serious crimes are less than those imposed on adults. In addition, the juvenile courts were operational only in Managua and Ciudad Dario; consequently, minors charged with crimes elsewhere in the country often avoided prosecution entirely. The National Assembly, the Catholic Church, and other organizations spoke out in favor of reforming the law to allow the prosecution of minors who commit serious crimes as adults. In September a jury found Perez guilty of murder, and he was sentenced to 30 years in prison.

Child labor is a problem (see Section 6.d.).

The First Lady has established several commissions on children's issues. Mrs. Aleman headed the National Council for the Protection of Children and the National Council for the Eradication of Child Labor.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports. According to press reports, UNICEF noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted growth 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. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to consuming drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue.

There were cases of trafficking in children for the purpose of forced prostitution (see Section 6.f.). In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public attention; however, it failed to take any actions during the year.

*People with Disabilities.*—In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom receive 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 NGO's, foreign governments, 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. In the spring, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that shelters about 100 disabled persons, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry agreed to cover a significant percent of the Association's budget, its failure to do so forced the Association's employees to go without pay, and a significant decrease in medicinal, clothing, and food supplies. Many organizations centered on helping the disabled called for the Government to focus more attention on the needs and interests of the disabled.

*Indigenous People.*—Indigenous people constitute about 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (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. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the four major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo. The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils. There is also an armed faction of the same name; the extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups mix banditry with a genuine desire to force the Government to devote more resources to their under-developed region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. The total strength of Yatama armed groups was estimated at 210 men.

In September 1999, President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes about the boundaries of communal Miskito land. However, these provisions had not been implemented at year's end which has caused recent threats of remobilization by the Yatama groups.

The Supreme Electoral Council (CSE) ruled in August that the Yatama political party did not meet the qualifications to participate in the November 5 municipal elections. The party attempted to enter into a political alliance with two other Atlantic-coast parties, but the CSE determined that the alliance failed to meet the electoral eligibility requirements for the municipal elections, thus eliminating Yatama's participation in the November elections. Yatama leader Brooklyn Rivera led protests against the party's exclusion in Puerto Cabezas and other areas of the RAAN. In subsequent clashes between October 26-29 between police and Rivera's followers, several followers were injured and scores were arrested. One person was killed; however, it was unclear whether his death resulted from the disturbance. There were high levels of abstention on election day mainly due to dissatisfaction with the CSE ruling. Consequently, the PLC and the FSLN won all the contested

offices in the RAAN. Since the electoral body ruled late in the year on the eligibility of the alliance, it granted Yatama automatic qualification for the 2001 national elections.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources. Indigenous people claim that the central Government often made decisions without adequate community consultation. 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. Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas have no access to modern health care. Critics of government policy cited extremely high unemployment rates, 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.

*National/Racial/Ethnic Minorities.*—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous groups from both the RAAN and the RAAS sometimes linked the Government's failure to expend resources in support of the Atlantic coast population to the existence of ethnic, racial, and religious (principally members of the Moravian church) minorities that predominate in that region.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to organize voluntarily in unions, and this right was reaffirmed in the new Labor Code that entered into effect in 1996 and replaced the antiquated 1944 code. 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. The new code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Less than half of the formal sector work force, including agricultural workers, is unionized, according to labor leaders. Union membership continued to fall during the year. The unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike. 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 Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. In 1999 the national construction workers' union was about to begin a legal strike after having spent 2 years following all the necessary measures. The Ministry of Labor would have declared the strike legal, but the strike was avoided when the construction branch of the Private Enterprise Council finally agreed to negotiate with the union. Legal strikes are rare, and there was only one during the year. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there has been only one legal strike since the 1996 Labor Code came into effect.

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 individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. This practice is used sometimes by business leaders to stymie unionization attempts.

Unions freely form or join federations or confederations 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 this right was reaffirmed in the 1996 Labor Code. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the reformed Code, companies engaged in disputes with employees must negotiate with the employees'

union if the employees have thus organized themselves. 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.

There are 29 enterprises operating in the government-run free trade zones (FTZ), employing approximately 24,000 workers. In addition, there are 4 authorized private FTZ's; the 9 enterprises in these zones employ some 2,000 workers.

Approximately half the workers in the government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic.

There have been several allegations of violations of the right to organize, primarily at the Las Mercedes FTZ, the largest in Managua, with 15 enterprises and approximately 19,000 workers. The Ministry of Labor has investigated these allegations and has concluded that employers have acted within the law. Notwithstanding the legality of employer actions, the result has been to weaken significantly an important union in the FTZ, the Sandinista Workers Central (CST). The CST has declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers. Consequently, the Ministry of Labor consistently has ruled the strikes illegal. Employers then fire the striking workers based on the Ministry's ruling.

In essence, employers have taken advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules.

In April Chentex, a Taiwanese-owned textile factory, tried and failed to negotiate a new collective bargaining agreement with an independent union, the Nicaraguan Workers Central (CTN), and the CST. Negotiations broke down because the CST demanded an increase in the factory minimum salary from \$62-115 (800 to 1,500 cordobas) per month. Although management considered this an inordinate increase, 1,500 cordobas falls below the Government's estimate of 1,600 cordobas per month for a basic basket of goods. After 50 CST workers participated in a work stoppage, management requested and received permission to fire 11 of the 13 CST board members based on participation in an illegal strike. All dismissed members filed an appeal before the labor court, which subsequently found that the workers had been fired properly. The CST appealed that finding to an appellate court, which had not issued a decision by year's end. In addition, scores of workers were fired while many others resigned to show their support for the fired board members.

Meanwhile the CST organized a series of work stoppages leading to the occupation of the factory on May 2. Chentex then filed criminal charges against the 9 board members for damaging property, kidnapping management personnel, and injuring security persons during the takeover. Chentex also later filed a petition to have the CST's legal status dropped because after the firings and resignations, they failed to meet the legal minimum of members. There are ongoing negotiations between the union and Chentex to resolve these issues; however, these negotiations were stalled at year's end.

On January 6, Mil Colores, a textile factory, asked the Ministry of Labor for permission to fire 50 workers as a money-saving measure, included were 26 of the 34 workers who petitioned, on January 11, to recertify the CST union. Another union—the Mil Colores Workers Union (MCWU)—had been certified earlier in the month. The Ministry denied the CST's request because it claimed that CST failed to meet the 20-member minimum requirement for certification. The CST alleged collusion between the Ministry and the company, specifically that the Mil Colores request to the fire workers was backdated to precede the attempt to form a union. On January 27, during a CST-organized protest protesters broke through the factory doors, leading to the hospitalization of over 30 persons and the arrest of another 5. Shortly thereafter the company filed criminal charges against 68 workers for involvement in the incident. The president of Mil Colores subsequently dropped all charges and came to an agreement with the CST to rehire dismissed workers on a case by case basis.

In October 1999, JEM III, an American-owned company, laid off over 100 workers, reportedly because of the seasonal nature of their product—flannel shirts. The company began negotiations with the CST over these and future layoffs. In December 1999, after failure to reach an agreement, the CST workers went on strike. The company immediately petitioned the Ministry of Labor to declare the strike illegal, which would allow the company eventually to fire the strikers. However, the Ministry declared the strike legal, and the workers went back to work after obtaining minimum concessions. The JEM III strike is the only strike at the FTZ ever to be found legal by the Ministry of Labor. However, in January, another 70 workers were

fired, including most CST board members. Because of various internal problems, the CST did not grieve the firings and the Ministry had no further involvement. However, the net effect was that the CST disappeared from JEMIII.

In response to longstanding complaints by union representatives that the Ministry of Labor did a poor job of enforcing the Labor Code in the FTZ's, 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 1980's, 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, three times the minimum wage.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There have been reports this year of trafficking in persons for forced labor or of trafficking in women and girls for the purpose of forced prostitution (see Section 6.f.).

In July the Labor Ministry investigated charges of forced labor at a textile factory located outside the FTZ, but which operates under the same rules and enjoys the same tax incentives as FTZ companies. The inspector verified that some 34 workers had begun work at 7:00 a.m. the previous day and were still working at 10:00 a.m. the next day when the inspector arrived—a total of 27 hours. The company produced signed documents from the workers stating that they had agreed voluntarily to work extra hours. Privately, the workers stated that they had signed the document for fear that they would be fired if they refused. Moreover, they understood that they would work only 2 extra hours. Although there is no evidence that the company made any threats, the fact that all 34 workers who were requested to work overtime agreed to do so indicates that the workers believed they would be fired if they refused. The workers were only provided a piece of bread and a bottle of soda during the night that they spent at the factory. The human resources manager who allowed the inspector into the factory subsequently was fired. The Ministry of Labor issued the company a warning and threatened heavy fines and possible closure if the problem reoccurred.

*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. The country has comprehensive labor legislation to protect children up to age 18. The Constitution also provides protection from any type of economic or social exploitation. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 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. 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.

In mid-September, the Government ratified ILO Convention 182 regarding the worst forms of child labor; most of its provisions already were incorporated in the Labor Code.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The latest official figures estimate that approximately 161,000 children between 10 and 19 are employed while CENIDH estimates that there are approximately 322,000 working children.

Over 140,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging.

According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A study published in 1996 by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age work, including approximately 109,000 employed in rural areas such as coffee, tobacco, rice, and banana plantations. The study found that 6,219 children work in urban areas as beggars, or selfemployed car washers or parking attendants. Comprehensive labor legislation, intended to protect children up to 18, prohibits child labor in areas such as mines and garbage dumps, and imposes heavy fines for illegal employment. 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 free trade zones. However, there have been some exceptions due to most families' need of extra income. The 1996 Labor Code authorizes children to work under certain circumstances, provided they are no younger than 14 years of age and have parental permission.

Child prostitution is a serious problem. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua.

The Ministry of Labor has begun to take steps to combat child labor (See Section 5). It has signed agreements with nightclubs and restaurant owners whereby these establishments pledged to comply with child labor laws. In 1999 it issued a resolution specifically prohibiting the employment of minors in the FTZ's.

The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program to keep 647 children off city intersections where they wash windshields. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts.

Despite comprehensive legislation prohibiting child labor, structural economic problems have prevented its eradication. The Government has been able to make progress in combating child labor in the "formal sector"; i.e., that sector of the economy which is regulated by the Government, such as factories, construction, restaurants, and nightclubs. Most of the problems exist in the "informal sector," which is not regulated by the Government. Workers in this sector, which is characterized by a lack of an obvious employer, include street vendors, windshield washers, parking lot attendants, garbage dump scavengers, beggars, prostitutes, and agricultural workers.

*e. Acceptable Conditions of Work.*—The minimum wage is set through tripartite (business, government, and labor) negotiations, and must be approved by the Legislative Assembly. A new minimum wage scale took effect in August 1999 and, although by law it was to be revisited 6 months later, has not been adjusted since. In November the Ministry of Labor called for new negotiations on the minimum wage. The various groups met sporadically, but no new minimum wage had been set by the year's end. Minimum wages vary by sector; monthly rates are as follows: Agriculture, \$36 (450 cordobas plus food); fisheries, \$56 (700 cordobas); mining, \$68 (850 cordobas); industrial manufacture, \$48 (600 cordobas); electric, gas, and water utilities, \$72 (900 cordobas); construction, \$96 (1,200 cordobas); restaurants and hotels, \$72 (900 cordobas); transportation, \$72 (900 cordobas); banking, \$80 (1,000 cordobas); community and social services, \$56 (700 cordobas); central and municipal government (includes health and education employees), \$44 (550 cordobas); and FTZ \$64 (800 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. It falls below the Government estimate of what an urban family must spend each month for a basic basket of goods (\$128, or 1,600 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 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. The Code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, the Government does not enforce the law adequately. There are reports that the country was a source for the trafficking in women and children for purposes of prostitution in Mexico. According to the reports, procurers from Mexico induce young people to travel there on the promise of legitimate employment. Upon their arrival, they are sold to the owners of brothels and then forced to work as prostitutes to repay their

debts. Children are trafficked in Guatemala by organized crime rings for the purposes of prostitution. In July 1999, the media reported that Nicaraguan girls had been lured to Guatemalan clubs to work as dancers and waitresses but upon arrival were forced into prostitution.

---

## 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 September 1999, President Mireya Moscoso replaced former President Ernesto Perez Balladares. The Constitution provides for an independent judiciary; however, the judicial system is subject to corruption and political manipulation.

Panama has had no military forces since 1989. In 1990 the Government created the Panamanian Public Forces, which consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). In 1994 a constitutional amendment formally prohibited 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 Judicial Technical Police (PTJ), a semiautonomous body with leadership appointed by the Supreme Court, is a separate branch of law enforcement under the Attorney General's Office, and performs criminal investigations in support of public prosecutors. The Ministry of Government and Justice oversees the PNP, the SMN, and SAN; the Ministry of the Presidency supervises the SPI and the PTJ. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The service-oriented economy uses the U.S. dollar as currency, calling it the Balboa. Gross domestic product grew by 3.2 percent in 1999, but growth estimates for 2000 range from 2.3 to 2.8 percent. While economists predicted higher growth during the year due to the transfer of the Panama Canal and related property, economic benefits were not yet evident at year's end. Poverty persists and income distribution remains extremely skewed with large disparities between rich and poor. Unemployment is estimated at 13.3 percent; however, private economists believe that it may be higher.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Abuse by prison guards, both PNP and civilian, is a recurrent problem of the prison system; however, there were reports that incidents of abuse decreased during the year in one prison. Overall prison conditions remained harsh, with occasional outbreaks of internal prison violence. Arbitrary detention and prolonged pretrial detention are problems. The judiciary is subject to political manipulation, and the criminal justice system is inefficient and often corrupt. There were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches. Police conduct towards public protesters improved. The media is subject to political pressure, libel suits, and punitive action by the Government. Violence against women remains a serious problem. Women hold some high positions in Government, including the presidency; however, discrimination against women persisted. Discrimination against indigenous people, blacks, and ethnic minorities continues to be a problem. Worker rights were limited in export processing zones. Urban and rural child labor are also problems. Trafficking in persons, particularly Asian and South American immigrants, is a continuing problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

There was little progress on past cases. Four PNP guards at the Tinajitas prison were on administrative duty and awaiting trial in the March 1997 beating death of detainee Jose Luis Alvarado at year's end.

In January 1999, the Supreme Court dismissed the case against the PNP personnel responsible for the June 1997 shooting death of Ngobe-Bugle tribe member Juan Santos Chobra in the community of Puente Blanco. The Court ruled that the shooting was accidental after reviewing videotaped evidence of the shooting.

In September 1999, President Moscoso cancelled the pardons granted by former President Perez Balladares to 33 former civilian and military collaborators of former ruler General Manuel Noriega. One such official reportedly was involved in the execution of 11 persons following a failed coup attempt against Noriega in 1989. In this specific case, a Superior Court confirmed Moscoso's order to cancel the pardon granted by former President Perez Balladares. It was unknown whether similar cases were pending at year's end.

In September 1999, the authorities discovered an unmarked grave containing two bodies on the grounds of a former military base near Panama City. On August 23, Public Ministry authorities stated that one set of these remains belonged to leftist leader Heliodoro Portugal. Portugal had been reported missing since May 1970, during the early stages of the military regime. The identity of the second body remains unknown. Long-standing rumors that there are other gravesites scattered around the country dating from this period continued to circulate during the year. In December the authorities resumed their search for remains. At that time, human remains of five individuals were excavated from a former military garrison site. The investigation continued at year's end. Also in December, President Moscoso announced plans to create a "Truth Commission" to follow up on such cases.

On October 15, approximately 60 unknown assailants, widely believed to be members of a Colombian armed group, attacked the village of Nazaret, near the border with Colombia. One 11-year-old girl was killed, and approximately 12 persons were wounded, including 3 members of the PNP. The Government had not established firmly responsibility for the attack at year's end; however, some observers believe that members of the guerrilla group the Revolutionary Armed Forces of Colombia (FARC) were responsible. Following the attack, two police officers in Darien reportedly tortured an Embera Indian suspected of aiding Colombian rebel groups (see Section 1.c.).

There were some unconfirmed killings of homosexual men.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Hector Gallego Committee for Disappeared Relatives maintains a list of 120 persons who disappeared during the military dictatorships of 1968-89 and are still unaccounted for.

FARC guerrillas reportedly kidnaped persons in the Darien region along the border with Colombia. In 1999 three individuals were abducted and held for ransom; only one had been released by year's end. There were reports that the FARC harassed and even killed Darien residents. One girl was killed by an armed group in October (see Section 1.a.). There were unconfirmed reports that Colombian citizens have been kidnaped and then retained in Panamanian territory.

*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 were reports of excessive use of force and inhuman punishment against prison inmates. There also were reports that police used physical violence and psychological threats to control detainees during the initial arrest, interrogation, and holding phases.

In December Indian community leader Francisco Olivo complained that two police officers in Darien tortured an Embera Indian after he was arrested and accused of aiding Colombian rebel groups. The torture incident reportedly occurred soon after an October attack on Nazaret (see Section 1.a.). Police Director Carlos Bares responded by saying that he would order an investigation and would punish anyone found responsible. An investigation continued at year's end.

The 1997 legislation providing the legal basis for the PNP includes specific guidelines for 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. However, there is no follow-on training in the use of force provided to the PNP.

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 secretary general address human rights problems that arise in the police force. The offices of professional responsibility are well known in the community, and the rate of complaints has remained roughly constant in both offices.

The PNP Office of Professional Responsibility receives on average six complaints per week, of which 30 to 35 percent result in some type of punitive action. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution. By

November the authorities had dismissed 16 officers for corruption, burglary, and/or bribery. A total of 206 other cases were under investigation as of November; 108 cases were dismissed; 82 cases were still under investigation.

The PTJ receives complaints from the public, and officers can make anonymous complaints of corruption and other problems. By October the PTJ Office of Professional Responsibility had conducted 179 investigations, which resulted in the dismissal of 52 agents. The majority of the cases were for mishandling official property such as misplacing guns or radios (22 cases), and personal conduct or improper behavior when off duty (30 cases).

In May the PNP disciplinary committee exonerated a sergeant and three officers for the March 1999 shooting in Pueblo Nuevo, and concluded that they acted in self-defense, and that the victim was not a minor as originally reported. According to residents of the neighborhood, the victim was lying on the ground in handcuffs at the time of the shooting.

Corruption among police officers also remains a problem. By October the PTJ Office of Professional Responsibility had dismissed 20 agents for corruption. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers with proven involvement in illicit activities; however, both organizations only react to egregious abuses, due to a lack of staff, independence, and institutional priority.

During the year, police generally exercised restraint in their treatment of street protesters, despite an increase in the frequency of street demonstrations. However, police commonly used tear gas against protesters.

Police arrested and detained children for minor infractions during neighborhood sweeps (see Section 5).

The FARC guerrillas and the paramilitary forces of the United Self-Defense Forces of Colombia (AUC) share a long history of spillover of violence from Colombia into the border area on the Darien peninsula, including killings, kidnaping, robbery, and various forms of harassment of innocent bystanders (see Sections 1.a. and 1.b.).

Despite some technical improvements and some training of prison guards during the year, overall prison conditions remained harsh and in some cases, threatening to prisoners' health and safety, due largely to budget constraints. The current prison system has over 9,018 prisoners but an allotted capacity of only 6,893 persons. Most prisons are dilapidated and overcrowded. Many of the problems within the prisons stem not only from the obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Medical care is inadequate and sometimes withheld from inmates. Tuberculosis, AIDS, and other communicable diseases are common among the prison population. The Corrections Department does not have an ambulance to take prisoners to hospitals in case of emergencies. Over the last 4 years, 10 inmates have been killed and 25 injured due to gang violence. In June gang members at La Joya prison stole keys and entered the cell block of a rival gang armed with knives, murdering two prisoners and wounding another five.

Abuse by prison guards, both PNP and civilian, is a recurrent problem of the prison system. At year's end, there were 8 cases open with the Public Ministry regarding human rights abuses in the prisons, involving 25 civilian custodians and 6 members of the PNP. Pending cases include three custodians awaiting trial for abuses committed in La Joya prison in 1996 against prisoner Jorge Reyes Alvarez, and PNP guards awaiting trial for the beating death of prisoner Jorge Alvarado at Tinajitas prison (see Section 1.a.). In another high profile case, 10 members of the PNP are expected to be tried for beating naked prisoners with baseball bats in the (now closed) Modelo prison in 1998. The special prosecutor in charge of the 8 cases has handled 13 others since 1996. In 1999 six custodians from La Joya each were sentenced to 40 months in prison for having abused La Joya prisoner Carlos Cisneros Naranjo.

The main prisons in Panama City include La Joya (a maximum-security facility), Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. Two additional facilities, La Joyita and El Renacer, hold inmates generally accused of less serious crimes. In July foreign experts found that conditions at El Renacer have improved substantially and that the new prison director is attempting to make many needed reforms. Conditions at La Joyita remain problematic. The notorious island prison colony of Coiba is still in operation. There are also prisons of significant size in David and Santiago, and a large facility is planned for construction in Divisa in 2001. Small jails attached to local police stations around the country sometimes house prisoners for the entire length of their sentence. The authorities frequently do not address cases of abuse and neglect in these provincial jails due to their low profile in the prison system. Prison authorities hope eventually to close down these provincial jails and house all prisoners in the central jails.

The General Penitentiary Directorate (DGSP) largely depends on PNP officers to supply both internal and perimeter security at all prisons. Ideally, civilian corrections officers (or "custodians") with specialized training are supposed to handle inmates in all prisons, but funding constraints have prevented reform. Newly appointed DGSP Director Concepcion Corro wants to replace PNP guards with civilians, but has been granted only enough funding to train and fill 237 of 2,500 potential civilian positions. Custodians do handle inmates within La Joya, El Renacer, and the central women's prison, which uses only female guards. Because prison security rests almost entirely with the PNP, tensions arise between PNP officers and their civilian directors. In addition, PNP officers are untrained for prison duty and generally find the assignment distasteful, contributing to tension and abuses within the prison system. The DGSP does not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board can sanction a PNP agent or a custodian.

Prison conditions on the island penal colony of Coiba remained harsh and dangerous. In January 1998, a prison gang reportedly beheaded four prison escapees who belonged to a rival gang. The authorities concluded a lengthy investigation, and the case is expected to go to trial in 2001. Some of the accused prisoners are detained in the Panama City jail, and others are held in a jail in Santiago. The authorities have not yet brought anyone to trial in the case of eight murders that were discovered in 1998 in which both guards and prisoners have been implicated. In June the remains of three individuals were found on the nearby island of Jicarita. At year's end, the authorities had not yet determined the identity of the remains nor the circumstances of their deaths.

National prison authorities occasionally have discussed plans to close Coiba, but at year's end there were no definite plans for a shutdown. Although the facility no longer holds the most dangerous criminals, it continues to relieve overcrowding elsewhere in the prison system. The prison population at the island prison colony was reduced to 130 inmates, compared with 361 in 1999; none are pretrial detainees.

Geographic isolation and lack of communications on Coiba separate detainees from their attorneys and cause many to miss trials. Prisoners suffer from malnutrition and shortages of potable water. Medical care is practically nonexistent; prisoners with AIDS told reporters that they are isolated in small cells and that medical attention is provided once a year. Escapes from Coiba reportedly are common.

La Joya is the primary maximum security facility and houses most prisoners accused of serious crimes. La Joya has a planned capacity of 1,250, but houses over 2,000 inmates. Gang violence is a problem. In June in La Joya, 22 inmates with AIDS went on a hunger strike to protest their lack of access to medical treatment and their need for special permits to receive medicine.

Prison conditions in Colon province also are harsh. The Human Rights Commission of the Legislative Assembly described the Public Prison of Colon as a "time bomb," which fails to provide the most basic health needs. The prison frequently has no running water or functioning sewage system. The Commission also reported that prisoners at the Women's Prison of Colon suffer from overcrowding, semidarkness day and night, constantly wet floors, and virtually no health care. Colon's main prison, Nueva Esperanza, is under construction and is expected to absorb inmates from Colon's women's prison and the dilapidated public prison, both of which are scheduled to shut down. The new inmates are to be housed in separate sections of Nueva Esperanza, where construction was quite advanced at year's end, with some of the new cells already outfitted with bunks and toilets. However, inmates from the rapidly deteriorating Public Prison reportedly were apprehensive about being moved to Nueva Esperanza, where their access to the outdoors is expected to be limited. At year's end, male prisoners were housed at Nueva Esperanza; approximately 60 female prisoners are scheduled to be transferred there once construction is complete.

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. Juvenile detention centers throughout the country suffer from inadequate resources to provide for education or adequate supervision of children, many of whom spend the majority of their time in a bare cell.

The law and the Criminal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence, but this provision has not been implemented consistently in practice. A conditional release program was part of the organizational reforms that authorities introduced in July 1998. During the year, the DGSP provided information in a more timely manner to the President for her signature to allow such conditional releases.

The Government released some 800 inmates by year's end. The release program helped to relieve pressure on the overcrowded prisons.

Accusations by the media of corruption within the DGSP and its parent organization, the Ministry of Government and Justice, declined during the year. A criminal complaint filed in June 1999 by former National Penitentiary Director Enriqueta Davis against then-Minister of Government and Justice Mariela Sagel never was submitted to court.

The Government generally allows prison visits by independent human rights monitors. However, the authorities arrange appointments ahead of time, and monitors generally speak to prisoners in the presence of guards or administrators. Prisoners may not feel comfortable speaking freely under such conditions, and they have expressed fear of retaliation if they complain. Contrary to the previous year, there were no reports that officials from the Ombudsman's office had trouble gaining access to prisons. Justicia y Paz, the Catholic Church's human rights watchdog group, brings 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. Previously, the authorities often violated the provision that suspects are to be brought promptly before a judge; however, this provision was enforced more strictly during the year. Exceptions are permitted when an officer apprehends a person during the commission of a crime, or when disrespect by an individual towards an officer prevents the officer from carrying out his duty. 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.).

The Constitution also 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. Contrary to previous years, the authorities did not violate often the 24-hour time limit by several days. Under law the preliminary investigation phase may last 8 days to 2 months, and the followon investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently grant extensions of these limits, leaving the accused in detention for a long period 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, the number of pretrial detainees increased slightly to 4,851, or about 58 percent of the prison population. This proportion is roughly the same as 1999, when 59 percent of prisoners were still awaiting trial. The average period of pretrial custody was 16 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common. For example, a man recently released from La Joyita Prison had spent 4 years in jail for a crime with a maximum sentence of 6 months. A legal mechanism exists to hold the Government financially accountable in cases where a detainee spends more than 1 year in jail but subsequently has all charges dismissed at a preliminary hearing. The dismissal must be either because the act of which the detainee was accused is not ruled a crime or because there is no evidence to link the suspect to the crime. Although this redress procedure is not complicated, few former detainees have employed it.

Legal alternatives to prison exist but are not implemented widely. Options such as house arrest have been used in some cases involving the elderly or minors, but require that the defendants have access to and understanding of their legal options.

The Constitution prohibits exile; there were no reports of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is 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. In July 1999, the Assembly passed a law that created an additional chamber to the Supreme Court, allowing then-President Perez Balladares to appoint three additional Supreme Court Justices before leaving office. However, in October 1999, the Assembly approved a proposal by the new Moscoso Administration to repeal the law.

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 lends itself to political tinkering and undue

interference by higher-level judges in lower-level cases in which they often have no jurisdiction.

The Attorney General appoints the superior and circuit level prosecutors. Previously, the Attorney General also appointed the Director and Sub-Director of the PTJ, but a 1998 law transferred this power to the Supreme Court, and requires Supreme Court approval of their removal from office. The same law also gave these two officials the power to name other PTJ officials without consulting the Attorney General. Opposition and media critics charged that this law increased the influence of the Supreme Court over criminal investigators, removed the generally positive oversight of the Attorney General, and made cooperation between prosecutors and the police much more difficult. On April 24, the Supreme Court approved Attorney General Jose Antonio Sossa's request to dismiss Director Alejandro Moncada of the PTJ, and Sossa did so the following day. Tensions between the Attorney General and the PTJ under its new director did not completely abate, although they appeared to have lessened by year's end.

At the local level, mayors appoint administrative judges, or "corregidores," who exercise jurisdiction over minor civil and criminal cases and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. This system has serious shortcomings: Defendants lack adequate procedural safeguards; administrative judges outside of Panama City are usually not attorneys; many have not completed secondary education; and some engage in corrupt practices. In practice, appeal procedures are nonexistent. Affluent defendants tend to pay fines while poorer defendants go to jail, which contributes to prison overcrowding.

In 1998 the Inter-American Development Bank (IDB) loaned the Government \$18.9 million to reform the judicial system; the Government contributed another \$8.1 million to the program. The loan is being used at national and local levels to improve conditions in the court system, including better information management, revision of judicial procedures, and training of personnel. The loan also includes the construction of two "model courts" in San Miguelito and David, which are to hold offices for judges, prosecutors, and the PTJ in one building. The IDB's database linking prison population data with prosecutors and the courts, which is intended to facilitate the systematic release of prisoners who have served time beyond their potential maximum sentence but still are awaiting trial, was completed by year's end. Coordination between the IDB and the Government has improved with the 1999 appointment of Supreme Court Chief Justice Mirtza Franceschi de Aguilera. The Ministry of Economy and Finance has approved a second phase of the project and listed funding for the project in its budget request.

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 can order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials are 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 are appointed late in the investigation, and the prosecutor may have already evaluated the bulk of the evidence and made a decision to recommend trial or the dismissal of the charges. Public defenders' case-loads remained extremely high, averaging some 600 cases per attorney per year, compared with 550 cases in 1999. Only 3 new public defenders have been hired since 1992, making a total of 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.

In July 1999, the Supreme Court upheld a law popularly known as the "Faundes Law," which requires judges and other public officials to retire at age 75.

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 police failed to follow legal requirements and conducted unauthorized searches. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes. These may include 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 maintains that wiretapping with judicial approval is legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. Under the guidelines established by 1994 antinarcotics legislation, the Public Ministry may engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." The Supreme Court has not issued a final ruling on whether wiretapping is constitutional, but it remains 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, and the Government generally respects these rights in practice; however, the media is subject to political pressure, and the Government used libel laws to pressure journalists.

There is an active and often adversarial press and a broad range of print and electronic media outlets, including foreign newspapers, radio and television broadcasts, and cable stations. Six national daily newspapers, 4 commercial television stations, 2 educational television stations, and approximately 100 radio stations provide a broad choice of informational sources; all are privately or institutionally owned. A June 1999 law prohibits newspapers from holding radio and television concessions, and vice versa. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There is a noticeable concentration of control of television outlets in the hands of close relatives and associates of former President Perez Balladares, who is a member of the largest opposition party.

Panamanian and foreign journalists worked and traveled freely throughout the country. A 1978 law requires directors and deputy directors of media outlets to be citizens.

Under "gag laws" dating from the military dictatorship, the Government had legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority had discretionary powers to administer the libel laws, which provided for fines and up to 2 years in prison. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are exempted specifically from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials. In December 1999, President Moscoso ratified the Legislative Assembly's decision to eliminate these gag laws, improving the legal status of the media. However, legal actions against many journalists remained pending, and vestiges of the former gag laws still provide a means for penalizing journalists. Ombudsman Italo Antinori stated that there were at least 40 cases of journalists who had been accused of defamation.

Attorney General Jose Antonio Sossa ordered the arrest of *El Siglo* newspaper editor Carlos Singares on two occasions during the year for libel. Frontpage articles in *El Siglo* had accused Sossa of illicit activities, but the newspaper presented little proof to back up its allegations. President Moscoso defused the first arrest attempt, but upon the second arrest order Singares was jailed for 8 days. During his detention, he was held with approximately 50 common prisoners. While Singares was in jail, a court sentenced him to 20 months in prison for criminal libel against former President Perez Balladares. Singares appealed the conviction, and the appeal was pending at year's end.

In August police surrounded the homes of three journalists from *La Prensa* in an attempt to force them to testify in a criminal libel case filed against them by Attorney General Sossa; the police left after the journalists agreed to testify.

On July 14, a court sentenced Jean Marcel Chery, a reporter for the daily newspaper *Panama America*, to 18 months in jail or a fine of \$1,800 for criminal libel; Chery had reported a woman's allegations that police robbed her of \$33,000 during a search of her apartment. Chery appealed, and her appeal was pending at year's end.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against law professor and former Moscoso adviser Miguel Bernal for statements that criticized the PNP for allowing the decapitations of prisoners on Coiba Island (see Section 1.c.). In November 1999, there was a preliminary hearing on Sosa's charges, but no trial date was set by year's end. Bernal requested that the judge accept 37 witnesses; however, the judge rejected 34 of them. Bernal appealed this decision, which was pending at year's end.



Libel charges against La Prensa journalist Herasto Reyes filed by then-President Perez Balladares, after Reyes published a story in August 1998 accusing the administration of trying to cover up a government embezzlement scandal, still were pending at year's end.

In another 1998 case, a prosecutor acting on behalf of Attorney General Sossa used the libel laws to charge La Prensa journalists Gustavo Gorriti and Rolando Rodriguez with a "crime against the honor of the authorities" for a story accusing the Attorney General of accepting dubious checks in his unsuccessful 1994 campaign for a seat in the Legislative Assembly. Subsequent press reports suggested that the story was erroneous. The charges remained pending at year's end. Gorriti is facing six criminal libel cases.

In October a superior court magistrate sentenced former President Guillermo Endara to 18 months in jail for libel and slander against Minister of Canal Affairs Ricardo Martinelli, the former Director General of the Social Security Institution. The magistrate suspended the sentence on the condition that former President Endara not commit any other crime. Endara had not appealed the ruling at year's end.

On July 31, the Legislative Assembly passed legislation that limits access by citizens to specific information about international agreement negotiations and national security, to administrative files within the Solicitor General's office, and to information about such matters as private citizens' health, political leanings, marital status, police or prison records, and bank accounts. The measure took effect on August 2. The Solicitor General's office indicated that these restrictions already existed in practice, but were codified by the new law. Nevertheless, some legal experts challenged this interpretation and the media harshly criticized the measure. A Special Rapporteur from the Organization of American States also criticized the law during a September visit to the country. In November the Legislative Assembly amended Article 70 of the Solicitor General's Organic Law that regulated press access to files. The amendment states that the confidential classification of a given piece of information must be established objectively and pursuant to the conditions contained in the current laws, in order to prevent public officials from denying the release of information under the excuse of limited access. President Moscoso had not signed the amendment at year's end.

The Electoral Tribunal must approve election polling results before publication. During the year, the Government alleged that the newspaper El Panama America commissioned Gallup polls that were rigged to portray the Government negatively. In April 1999, the Tribunal had fined the El Panama America \$10,000 for failing to follow the approval procedure before printing Gallup poll results.

The press laws provide for the establishment of a censorship board. The board monitors radio transmissions and has the authority to fine stations that violate norms regarding vulgar and profane language.

In July Bishop Romulo Emiliani left the Darien region following anonymous death threats; he had criticized publicly Colombian paramilitaries, guerrillas, and drug traffickers.

The law provides for academic freedom, which generally was respected in both public and private universities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers. While police commonly used tear gas against protesters, unlike the previous year, police generally did not break up public demonstrations with birdshot, rubber bullets, beatings, or other abusive treatment. However, in June and July, students and workers protested government policy by blocking traffic for several hours on a major thoroughfare and by throwing rocks at the police; on those occasions, the police responded with tear gas, rubber bullets, and water hoses laced with chemical irritants. Injuries and arrests at other demonstrations were minimal but protesters nevertheless complained about abuse at the hands of the police.

The Constitution provides for the right of association, and the Government generally respects this right in practice. Citizens have the right to form associations and professional or civic groups. New political parties must meet strict membership and organizational standards in order to gain official recognition and participate in national campaigns. In February the Government refused to recognize a homosexual rights organization as a nongovernmental organization (see Section 4).

*c. Freedom of Religion.*—The Constitution, although recognizing Catholicism as "the religion of the majority of Panamanians," provides for free exercise of all reli-

gious beliefs, provided that "Christian morality and public order" are respected. The Government generally respects religious freedom in practice, and there is a broad diversity of religions. The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. The Constitution dictates that Catholicism be taught in public schools, although parents have the right to exempt their children from religious instruction.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remains in effect although enforcement generally is poor.

The law provides for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In 1998 President Perez Balladares signed a decree granting 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 of temporary protection to displaced persons in the case of a large influx; the U.N. High Commissioner for Refugees (UNHCR) has criticized this provision, on the grounds that it puts persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. However, in practice this has not occurred. For example, the Government has not forcibly repatriated displaced Colombians, and many Colombians have lived in the country for years without formal refugee status. A small number of Colombians were granted asylum during the year. The Government generally cooperates with the office of the UNHCR and other humanitarian organizations in assisting refugees. However, the Government generally is reluctant to classify displaced Colombians as refugees, and therefore has opposed a permanent UNHCR presence in the country, although the UNHCR regularly visited border areas to aid displaced Colombians.

Large groups of displaced persons periodically flee violence in Colombia by crossing the border into Panama. In December 1999, some 800 Colombians fled violence in the Colombian town of Jurado and settled in the Darien town of Jaque. Since their arrival, the Government has cooperated with the Catholic Church and the U.N. High Commission for Human Rights to provide these displaced persons with humanitarian assistance. By the end of the year, some 200 Colombians remained in Jaque, while others returned to Colombia voluntarily or migrated elsewhere in Panama. In January President Moscoso granted provisional refuge to nearly 400 Colombian peasants who had fled fighting between guerrillas and the Colombian Navy.

The Government has 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 worked with the UNHCR and the Catholic Church to provide 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 along the remote Darien border area were beyond the reach of organized assistance from the Government, the UNHCR, or the Church.

There were reports early in the year that the police set up a small number of improvised explosive devices in close proximity to their stations to use against possible attacks by armed Colombian groups; however, there were no subsequent reports of the devices or of their use.

Aside from large groups of displaced persons, aliens are also picked up in the Darien in small groups. These immigrants are usually Colombian, but many Ecuadorians, Peruvians, and even Asians and Africans have been detained. All but 15 of a group of some 150 aliens detained in the Darien town of La Palma were deported or returned voluntarily to Colombia, despite protests by the Catholic Church that some of the Colombians in the group should be afforded refugee status.

Colombian migration, whether political or economic, has drastically increased pressures on local populations in the Darien and caused the displacement of Panamanian citizens. In addition, the Government suspects that Colombian migration conceals or attracts the presence of armed Colombian groups in the Darien Region. The effects of Colombian migration are also evident in Panama City and Colon, where large populations of Colombians have settled.

There were no other reports of the forced return of persons to a country where they feared persecution; however, throughout the year, there were unconfirmed reports that the police along the border, on an ad hoc basis, required Colombians to return to Colombia.

*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, 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. The independent Electoral Tribunal arranges and supervises elections. While the Constitution provides for independent legislative and judicial branches, the executive dominates 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. The PRD won 34 seats in the Legislative Assembly; the Arnulfistas, 18; Solidarity, 4; the National Liberal Party, 3; MOLIRENA, 3; Democratic Change, 2; MORENA, 1; the Christian Democratic Party, 5; and the Civic Renewal Party, 1. During President Moscoso's first year in office, she maintained a one-vote majority in the Legislative Assembly through her Arnulfista Party members' coalition with other parties. However, on September 1, the coalition realigned, and the President's party no longer controls the legislature.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they generally are underrepresented in government and politics. However, women's participation has increased in recent years. Mireya Moscoso is the country's first female president. Women hold 7 of 71 Legislative Assembly seats; a woman served as the Assembly's first vice president in 1999–2000, and another woman holds this position for the 2000–2001 legislative season. Three women hold cabinet positions, and a woman is the director of the Public Registry. Two female judges sit on the Supreme Court, one of whom was elected Chief Justice in October 1999. In May 1999, an indigenous person served as President of the Legislative Assembly from September 1999 until August.

The Government provides semi-autonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Embera Wounaan, Kuna de Madugandi, and Wargandi reserves. There are two Kuna legislators in the Legislative Assembly, one Ngobe, one part-Ngobe, and one Embera. Locally, tribal chiefs govern each reserve; they meet in a general congress at regular intervals. Neither the Madugandi nor the Embera-Wounaan reserve has its own dedicated legislators, but each has a separate governor. The Government continued the process of demarcating electoral districts within a new reserve created for the NgobeBugle. May 1999 elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

The law prohibits discrimination against any social, religious, or cultural group; however, naturalized citizens may not hold certain categories of elective office.

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

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations.

The office of Human Rights Ombudsman was created in 1996 and began to handle cases in 1998. The office receives 15 to 20 complaints daily, but does not have authority to investigate violations involving the administration of justice. Human Rights Ombudsman Italo Antinori, the first person to fill the position, sparred with the Perez Balladares Government constantly but reduced his public profile after the 1999 election of President Moscoso. Antinori's term runs until June 2004.

On December 27, President Moscoso announced her intention to create a commission to investigate crimes committed during the 1968–89 dictatorship.

In February Minister of Government and Justice Winston Spadafora denied a petition by the Association of New Men and Women, an informal gay rights organization, to register as a nongovernmental organization. Human Rights Ombudsman Antinori publicly supported Spadafora's decision.

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

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, religion, or political views. However, societal prejudices persist. Cases of discrimination are difficult to prove, and legal remedies for victims are complicated, time-consuming, and costly. There were some unconfirmed killings of homosexual men.

*Women.*—Domestic violence against women continued to be a serious problem. The 1995 Family Code criminalized family violence (including psychological, physical, or sexual abuse) but convictions are rare unless a death occurs. The PTJ registered 610 cases of domestic violence through September, compared with 451 through June 1999. The PTJ also registered 408 cases of rape and 102 cases of attempted rape through September, compared with 514 cases of rape and 135 cases of attempted rape in 1999. The Center for the Development of the Woman estimated that victims report as few as 20 percent of sexual assaults to judicial or law enforcement authorities. A widely acknowledged characteristic of rape is that it frequently occurs in the home. 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 for forced labor and forced prostitution is a problem (see Sections 6.c. and 6.f.).

Sexual harassment also is a threat to the equal status of women in society. According to a report by the Latin American Committee for the Defense of Women, in 1995, the latest year statistics were available, about 70 percent of female government employees reported having endured sexual harassment in the workplace—42 percent by their immediate supervisors and 18 percent by more senior supervisors. Anecdotal evidence suggests that many women are propositioned for sexual favors at the time of their initial job interview. A bill to criminalize sexual harassment failed to pass the legislature in 1995, and further legislation has not been introduced.

The 1995 Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively. According to Supreme Court Justice Mirtza de Aguilera, there should be 80 family judges; however, only 20 have been appointed due to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are on average 20 percent lower and increase at a slower rate. There are credible reports of irregular hiring practices based upon age and "appearance." A 1998 law reiterates protections laid out in the Constitution and prohibits discrimination on the basis of sex.

In 1998 the Government created the Ministry of Youth, Women, Children, and Family Affairs. The Ministry is largely a consolidation of departments previously operating in other government ministries, and its activities have not attracted a great deal of public attention. A number of private women's rights groups concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

*Children.*—Minors (under 18 years of age) represent 48 percent of the population. Education is compulsory through the equivalent of 9th grade, but children do not always attend school due to traditional attitudes, the lack of transportation, and insufficient government resources to enforce the requirement. The problem is most extreme in the Darien province and among indigenous groups. The Government furnishes basic health care for children through local clinics run by the Ministry of Health. A central children's hospital in Panama City operates on government funds as well as private donations.

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 Youth, Women, Children, and Family Affairs acts much like an ombudsman, and the office proposes and reviews laws and monitors government performance. Through September the PTJ registered 130 cases of child abuse, compared with 171 in all of 1999. Neglect of children is a problem. Malnutrition and inadequate medical care are generalized problems that are most severe among rural indigenous groups. Rural and urban child labor are problems (see Section 6.d.).

Juvenile courts continue to report a high incidence of juvenile delinquency in major urban areas. The authorities report a continued increase in such crimes as drug trafficking, armed robberies, kidnappings, car thefts, and murders that are attributed to juveniles. Youth participation in criminal gangs is an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

*People with Disabilities.*—The Ministry of Education is responsible for educating and training disabled minors, while the Ministry of Youth, Women, Children, and Family Affairs protects the rights of disabled adults. Disabled children traditionally have been separated out from the general population; however, on February 4, the Legislative Assembly passed a law that requires schools to integrate children with special needs into the student body.

The Department of Labor is responsible for placing workers with disabilities in suitable jobs. Placement remains difficult despite a 1993 executive order granting tax incentives to firms that hire disabled employees. Disabled persons also tend to make only the minimum salary, notably less than employees without disabilities.

The 1998 municipal building code for Panama City requires that all new construction projects include handicapped accessible features, with fines from \$100 to \$500 for noncompliance. In 1999 a national law was passed with similar requirements for new construction projects, but it is not yet clear whether the law is to be enforced. Awareness of handicapped issues has increased over the past 5 years, and commercial establishments increasingly provide and enforce handicapped parking spaces. However, basic services such as sidewalks and handicapped accessible bathrooms are largely unavailable.

*Indigenous People.*—The Constitution protects the ethnic identity and native languages of indigenous people, requiring 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 number approximately 194,000 persons (8 percent of the population) and have the same political and legal rights as other citizens. The Government has passed legislation over the years setting aside indigenous reserves for the country's native groups, including the Embera-Wounan, Ngobe-Bugle, and Kuna. The Ministry of Government and Justice in Panama City maintains the low-profile Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups are allowed a great deal of local autonomy. For example, the Government recognizes traditional indigenous marriage rites as the equivalent of a civil ceremony. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination against indigenous people, although generally not overt, is widespread.

The Indigenous Affairs Commission of the Legislative Assembly, which was created in 1995, sponsored bills during the year to protect intellectual property rights, set up regulations for artisan fairs, and construct a health center. The Commission also sponsored a law that created the new 190-acre Kuna Wargandi reserve.

Though their population suffers from poverty and malnutrition, Kuna leaders have had the most success enforcing their territorial boundaries and maintaining their cultural integrity. There are two Kuna legislators, (one was President of the 1999–2000 Legislative Assembly); and they have more financial resources than the other groups. Other indigenous groups have not succeeded in using their autonomy to preserve their culture or develop economic independence. Most live in extreme poverty and isolation. Illiteracy among indigenous groups is at almost 50 percent, while the figure is only 10 percent among the population as a whole.

Since indigenous populations infrequently master Spanish and are unfamiliar with the country's legal system, they often misunderstand their rights and fail to employ legal channels when threatened. The problem is exacerbated by government inattention to indigenous issues. For example, the EmberaWounan in the Darien have been moved out of their reserves in increasing numbers due to encroachment by settlers, loggers, and Colombian immigrants. The Ngobe also are under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. Indigenous workers consistently do not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Even when working in close proximity of each other, indigenous laborers in the country's sugar, coffee, and banana plantations work under poorer conditions than their nonindigenous counterparts. Indigenous migrant workers are unlikely to be provided with housing or food, and their children are much more likely to work long hours of heavy farm labor than non-indigenous children.

*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, often is overt. The ethnic Chinese community is estimated to be about 120,000 persons. Cultural differences and language difficulties hinder and may prevent many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resent Chinese immigrants for their perceived indifference towards the culture of their adopted country and their perceived clannish behavior.

Racial slurs directed at Asians are used openly among the general population, and substantial numbers of Panamanian-resident Chinese frequently are treated as secondclass citizens. On the other hand, second and third generation Chinese are seen as distinct from recent immigrants, and generally are accepted in society. These established Chinese generally do not want to be associated with the recent arrivals from China.

In addition to Chinese immigrants, Middle Eastern and Indian residents also suffer from racially motivated discriminatory treatment. All three groups operate much of the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, are accorded fewer legal protections than are citizens for their trade activities. A constitutional provision reserving retail trade to Panamanian citizens is not enforced in practice; however, immigrants legally cannot own their businesses, and sometimes encounter bureaucratic difficulties in practicing their professions.

Racism against blacks occurs, although it generally is expressed in more subtle terms. Blacks are conspicuously absent from positions of political and economic power. The country's white elite successfully marginalizes citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Antillean blacks, often identifiable by dress and speech pattern, are a particular target for racial slurs and poor treatment by citizens and by Spanish-speaking blacks. Their geographic clustering in the economically depressed province of Colon and poorer neighborhoods of Panama City heightens their isolation from mainstream society. Black Canal workers traditionally commanded significantly higher financial resources compared with blacks elsewhere in society, but many have retired or emigrated and there is some anecdotal evidence that the rest are being replaced by white personnel. Mainstream political elites generally are unconcerned by the economic issues of black populations and a concomitant rise in drug use, crime, and gang violence. Colon, the country's second largest city, suffers from a conspicuous lack of government services. Indifference among the general population is a major impediment to change.

Although such practices are illegal, clubs and restaurants often discriminate against black and indigenous individuals by denying them admission. In 1999 students protesting in front of Panama City's most popular nightclubs brought public attention to the issue. A draft bill to expand and support the Constitution by penalizing cases of discrimination for reasons of race, birth, social class, gender, and ideology failed midway through the year, but another bill was being prepared to penalize establishments that deny entry based on race.

Racial discrimination against all ethnic groups is evident in the workplace, where light-skinned persons are represented disproportionately in management positions and jobs that require dealing with the public (such as bank tellers and receptionists).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Private sector workers have the right to form and join unions of their choice, subject to the union's registration by the Government. A 1995 labor code reform package significantly increased workers' ability to establish unions. It streamlined the accreditation and registration process for unions, and established the minimum size at 40 workers. If the Government does not respond to an application within 15 days, the union automatically gains recognition and is accorded all rights and privileges under the law. The package also addressed a longstanding concern of the International Labor Organization (ILO) by allowing labor leaders to keep their union positions if fired from their jobs.

Approximately 10 percent of the total employed labor force is organized. There are over 250 active unions, grouped under 48 federations and 7 confederations representing approximately 80,000 members in the private sector. Neither the Government nor political parties outwardly control or finance unions; however, the Government and political parties do exercise political, ideological, or financial influence over some unions. The labor sector traditionally supports the Democratic Revolutionary Party.

The 1994 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. It also provides a small core of civil servants with the right to strike, bargain collectively, and evade summary dismissal, except for those in areas vital to public welfare and security, such as the police and health workers. However, the law has proven insufficient to protect the country's 150,000 public workers, because only a small percentage are members of the civil service and therefore enjoy job security. Public workers are not allowed to

form unions. 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, but no changes have been made.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 10,000 employees, but does allow unions to organize and to bargain collectively.

In October the authorities detained, then immediately released, union leaders following protests by the SUNTRACS union.

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 exercise it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor has mechanisms to resolve complaints against antiunion employers. The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike; however, 130,000 public sector workers do not have the right to bargain collectively or to strike. While the right to strike applies to some 10,000 civil servants, it does not apply to the approximately 140,000 other government workers. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration. In March 1999, the Supreme Court ruled that an article of the Labor Code that obligated private sector strikers to submit to binding arbitration after a given period was unconstitutional.

Employers commonly hire temporary workers to circumvent onerous labor code requirements for permanent workers. Temporary workers are excluded from social security benefits, job security, and vacation time. 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 have proven ineffective in practice. The practice of blank contracts is, according to union sources, becoming more widespread.

Over the past 5 years, the Government has issued cabinet decrees restricting labor activity in export processing zones (EPZ's). Current EPZ legislation provides for collective bargaining with "representatives of employees" but makes no specific mention of trade unions. It 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 may be considered legal only after 36 workdays of conciliation are exhausted; if this requirement is not met, striking workers may be fined or fired. A 1998 ILO ruling noted that this regulation does not mention arbitration or specify procedures to resolve disputes in the courts, and that the Government should amend the EPZ labor regulations to conform with international norms; however, the Government has not made any changes in response to the ruling. Minimum wage provisions do not apply in the EPZ's.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor by adults and children, and it generally does not occur; however, trafficking in women for forced labor and forced prostitution is a problem (see Section 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 Government report estimates that 27,000 children between the ages of 12 and 14 work. 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. The Labor Code provides that children between the ages of 14 and 16 may work 6-hour a day shifts that do not exceed 36 hours a week. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. The Government acknowledges that it is unable to enforce some child labor provisions in rural areas, due to insufficient staff. In May the Government ratified ILO Conventions 138 and 182 establishing the minimum age to work and prohibiting the worst forms of child labor.

The Permanent Committee Against Child Labor asserts that 11 percent of all children between the ages of 10 and 17 are working or actively are seeking employment. Most of these children, both rural and urban, are believed to be working at their parent's insistence. Some of these children may be providing a substantial part of their family income.

Child labor violations occur most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, and tomatoes. Farm owners usually pay 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 participates in a harvest, and parents are not willing to leave their children behind unattended. Many children also are involved extensively in subsistence agriculture producing coffee and sugar; they work with their families or are employed by independent plantations.

The problem of child labor in agricultural areas appears to fall most heavily on indigenous families, who often are forced to migrate out of their isolated reserves in search of income-generating activities. These frequent migrations not only interrupt schooling, but also leave the family vulnerable to sometimes unscrupulous contractors. The Government claims that it is unable to enforce child labor provisions in rural areas due to insufficient staff, such as in the coffee and banana plantations near the border with Costa Rica, where government resources are especially scarce. However, the lack of enforcement also can be attributed to widely held beliefs that indigenous persons are accustomed to poverty and hard work. In April the Minister of Labor suggested that child labor in the sugar cane fields was a "cultural tradition among the indigenous" and that children cutting sugar cane received more food during harvest time; these comments led to a series of critical newspaper editorials. A series of press reports during the year that exposed primarily indigenous child labor in sugar cane fields led to a series of letters to the editor from the public. Children in banana plantations also face difficult conditions (see Section 6.e.).

Urban supermarkets employ an estimated 1,500 children who bag groceries for tips. Despite the requirements of the Labor Code, some of the children are as young as age 9, and many of them work late hours. Some supermarket managers claim that the children actually are not employed by their firm, despite the fact that "baggers" conform to schedules, wear uniforms, and must comply with company codes of conduct. Urban child labor also includes domestic workers, street vendors, and car washers. The Government has demonstrated little interest in reducing the general problem of urban child labor, and has been unwilling to challenge the larger supermarket chains, where large numbers of children work. Urban child labor problems also include children working as street vendors or performers, washing cars, and running errands for businesses or local criminal groups.

The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranges from \$0.80 per hour to \$1.50 per hour, depending on the region and sector. This wage is not sufficient to provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earn the minimum wage or above. However, because unemployment is relatively high at 11 to 13 percent, an estimated 39 percent of the population work in the large informal sector and earns far below the minimum wage. This is particularly the case in most rural areas, where unskilled laborers earn \$3 to \$6 per day, without benefits; the Government does not enforce labor laws in most rural areas. In December 1999, a commission composed of representatives from government, the private sector, and labor convened to negotiate an increase in the minimum wage. The commission failed to reach consensus by the mandated date, and accordingly, in July responsibility for setting the new minimum wage was passed to the President, who issued a decree that raised the minimum wage by 13 percent, effective August 1. Public sector workers do not fall under the Labor Code and do not always receive the minimum wage.

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

As is general practice in the country's public offices after elections, newly elected politicians and appointees began dismissing public workers immediately upon taking office to free up positions for loyal followers. The numbers of those dismissed were impossible to confirm. Despite ILO protest, public workers do not benefit from union protection or Labor Code standards. They were excluded from the most recent increase in the minimum wage. The Government has indicated that it would consider increasing their wages in 2001, if feasible.

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly broad and generally emphasize safety over long-term health hazards, according to organized labor sources. Inspectors from both the Labor Ministry and the occupational health section in the Social Security Administration conduct periodic inspections of hazardous employment sites and respond to complaints. Both agencies suffer from budget constraints and experience difficulty attracting qualified personnel and resources. Construction workers and



their employers are notoriously lax about conforming to basic safety measures, usually resulting in several deaths a year. In rural areas, the most severe oversight in basic safety measures occurs in the banana industry, where poisoning by chemical agents is a recurrent issue. Workers have complained of sterility and more recently of adverse skin conditions as a result of exposure to the chemicals. In several plantations, indigenous workers are 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 are not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

*f. Trafficking in Persons.*—The Penal Code prohibits trafficking in women and children; however, trafficking remains a problem. The Code provides for prison sentences of 2 to 4 years for the promotion or facilitation of the entry to or exit from the country of a person for the purposes of prostitution. In some circumstances, the penalty is increased to 6 years. The country is a transit point for aliens seeking to reach the United States, some of whom are trafficked into indentured servitude. There were reports of women being trafficked to Israel for purposes of prostitution. Prosecutions are rare. The authorities held several persons in custody for trafficking; they remained in prison awaiting trial at year's end. Corruption, legal technicalities, and lack of resources contribute to the Government's inability to combat the problem fully. Traffickers frequently bribe or evade local law enforcement officials.

Trafficking in women for sexual purposes occurs in the country, but the extent of the practice is unknown. Public prosecutors are investigating a case of Panamanian women smuggled into Israel in 1999 to work in brothels. Smugglers deprived the women of their money and their passports. Some of the women apparently were aware that they were traveling to work in the sex industry, others were not. The case was before a criminal court at year's end; one hearing was held during the year.

An estimated 30,000 aliens transit the country annually, generally posing as tourists. The majority of aliens transiting Panama originate in Ecuador and Peru, but a significant and increasing number come from India and China. Their travel is facilitated by a network of alien smugglers, travel agents, hotels, and safehouses. Anecdotal evidence indicates that illegal aliens transiting through the country are subject to frequent hardship. They commonly are deprived of adequate food and shelter. Chinese aliens are particularly vulnerable to poor treatment, and ultimately those trafficked for the purpose of forced labor are coerced into working off their debt, which may be as high as \$30,000, as indentured servants. The Government does not conduct educational campaigns to warn of the dangers of trafficking, and there are no programs to aid victims.

---

## PARAGUAY

Paraguay is a constitutional republic with an executive branch and a bicameral legislature. The President is the Head of Government and cannot succeed himself. The bicameral Congress is made up of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party has a small majority in both houses of Congress; however, factional differences within the party result in shifting alliances depending upon the issue. President Luis Gonzalez Macchi's "National Unity Government" was weakened in February when the Liberal Party withdrew from the Government, claiming that the President's Colorado Party refused to share power with its coalition partners. On May 18, members of two army units and a group of National Police officers loyal to former General Lino Oviedo attempted to overthrow President Gonzalez Macchi. The coup attempt lasted less than 1 day, and the majority of the military remained loyal to the Government. President Gonzalez Macchi declared and Congress ratified a controversial and unpopular state of exception on May 19, in response to the coup attempt; he lifted it on May 31. The Government used the state of exception to imprison those it suspected of involvement in the coup attempt and to limit public meetings and demonstrations. Although the Constitution provides for an independent judiciary, and the Supreme Court continued a reform process, the courts continued to be subject to pressure from politicians and others.

In general the military no longer plays an overt role in politics; the attempted coup was an exception to this practice. However, many citizens remained concerned about possible erosion of the military's apolitical status. Nonetheless, during the attempted coup in May, all but two groups within the armed forces remained loyal to the constitutional order. The national police force has responsibility for maintaining internal security and public order; while it is nominally under the authority of the presidency, in practice it reports to the Ministry of the Interior. The civilian authorities generally maintain effective control of the security forces. Members of the security forces committed serious human rights abuses.

Paraguay has a market economy with a large informal sector. The formal economy is oriented toward services, with less than half of the \$7.8 billion gross domestic product resulting from agriculture and industry. Over 40 percent of the population are engaged in agricultural activity, and approximately 10 percent of all families depend on cotton farming. Wealth continues to be concentrated, with both urban and rural areas supporting a large subsistence sector. Hydroelectric power and agricultural commodities (soybeans, cotton, lumber, and cattle) were the most important export items. The economy grew by approximately 0.5 percent in 1999 but experienced zero real growth during the year. Annual per capita income was approximately \$1,700.

The Government's human rights record remained generally poor, and there continued to be serious problems. The principal human rights problems included extrajudicial killings; torture and abuse of criminal suspects, prisoners, and military recruits; and extremely poor prison conditions. Arbitrary arrest and detention, lengthy pretrial detention, a general weakness within the judiciary, and infringements on citizen's privacy rights also were problems. The Government at times restricted freedom of the press. Following the May coup attempt, the Government arrested journalists and destroyed two radio stations; several journalists were threatened. The Government restricted freedom of assembly, and police used force to disperse protesters on several occasions, sometimes severely injuring citizens. Violence and discrimination against women, abuse of children, discrimination against the disabled and indigenous people, and incomplete protection of worker rights also were problems. There were instances of forced labor. Child labor and trafficking in women and girls also are problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—The police and military were responsible for some extrajudicial killings.

On January 8, police killed 3 persons while attempting to evict 400 landless peasants from a ranch that they had taken over. Nine policemen were injured during the incident.

In December in Itakyry, police shot and killed 10 men suspected of robbing an armored vehicle. One of the suspects, slightly wounded but alive when the police transported him to a local medical center, was dead upon arrival, with eight bullet holes in his body. At year's end the police were conducting an investigation.

No further information was available regarding the disposition of extrajudicial killings from previous years, including the following cases: Jose "Coco" Villar, whom police killed in June 1999; Guillermo Jara Ramirez, whom antinarcotics police killed in July 1999; and Fernando Aristides Gutierrez and Marcial Torres, recruits killed during their military service.

At least eight recruits died in questionable circumstances during the year, including 14-year-old Pedro Centurion, whom the military allegedly conscripted into service with false documents at 13 years of age against his wishes. In September he was shot and killed; the military claimed that he shot himself by accident. It was discovered later that Centurion was in fact an Argentine citizen. Human rights monitors, including a support group for families of military recruits, report that 104 recruits, most of whom were underage, were killed or died in accidents since 1989 while fulfilling their mandatory military service. Although military law requires that recruits be at least 18 years of age to serve in the armed forces (or 17 in the year of their 18th birthday), only an estimated 20 percent of those serving during the year met that requirement, and over 30 percent were 15 or younger.

In November the Government proposed an agreement to the Inter-American Commission on Human Rights (IACHR) regarding the deaths of 14-year-old military recruits Cristian Nunez and Marcelino Gomez. Military officers abandoned the two boys in the inhospitable Chaco region during a training exercise in 1998. According to the agreement, the Government accepted responsibility for the deaths of the boys.

The March 1999 assassination of Vice President Luis Maria Argana, which has been attributed widely to allies of then-president Raul Cubas Grau, led to political protests in which the police and civilian supporters of President Cubas fired on student demonstrators, killing 7 and injuring over 100. The Gonzalez Macchi Government made little progress in bringing those responsible to justice. Three suspects were convicted in the assassination; others remained at large. The authorities charged and imprisoned a number of suspects for the shootings of demonstrators in the plaza following the assassination, but the courts have not convicted any of them, and few have been released from confinement. As a result, many of those charged remain in legal limbo, with their political rights limited, although their involvement with the crimes never has been confirmed.

Former army commander Lino Oviedo, who played a prominent role in the downfall of the Cubas Government in 1999, and whose whereabouts were unknown after he fled Argentina (where he had received asylum) in December 1999, was arrested in Brazil in June and remains in prison in Brasilia. Several extradition requests for Oviedo are at various stages in the Brazilian justice system. He faces charges stemming from his alleged involvement in the March 1999 killing of Vice President Argana and seven antigovernment protesters. Two individuals with long criminal records, suspected of having participated in the Argana assassination and who were imprisoned in a federal police facility in downtown Buenos Aires, escaped from the jail in September. In November the authorities captured one of them in Ciudad del Este; at year's end he awaited trial in Asuncion. The other was thought to be hiding in Brazil.

Authoritarian regimes ruled the country until 1989, when dictator Alfredo Stroessner was overthrown by General Andres Rodriguez, who was elected President later that year. In 1996 an appellate court affirmed the convictions for human rights abuses of five Stroessner-era officials (former police Investigations Director Pastor Coronel and police officers Lucilo Benitez Santacruz, Agustin Belotto Youga, Camilo Almada Morel, and Juan Aniceto Martinez). Pastor Coronel died in detention in September.

The 1998 arrest of former Chilean dictator General Augusto Pinochet in the United Kingdom and his subsequent return to Chile drew renewed attention to extrajudicial killings and other abuses that occurred in Paraguay under the Stroessner regime. There were renewed allegations that Stroessner cooperated in Operation Condor, a regional plan to eliminate leftists. One human rights activist who was a political prisoner during that time has filed cases with Spanish judge Baltasar Garzon, who was preparing the case against Pinochet, and has provided him with documents from Paraguayan archives that he claims implicate General Stroessner in Operation Condor. There was no progress during the year on Operation Condor cases.

*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 as well as cruel, inhuman or degrading punishment or treatment; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. A human rights nongovernmental organization (NGO), the Committee of Churches, 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 Committee of Churches compiled numerous examples of police abuse.

In May during the state of exception several of the persons arrested reported that they were tortured during their detention. Some of these persons reported that former Interior Minister Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. Bower was not charged with any crime related to these accusations; however, he was removed from his position in October. Press reports also tied him to the torture of eight peasants in Concepcion in March; police reportedly beat them in Bower's presence after they were arrested for illegally chopping down trees.

Police used force to disperse protesters on several occasions, sometimes seriously injuring civilians (see Section 2.b.). Police also beat at least one person, a labor union leader, during a strike in June (see Section 6.a.).

Violence erupted several times during the year when police removed squatters from lands they occupied. For example, on May 10 and 11, over 400 police officers tried to remove squatters from a ranch in Caazapa using tear gas. Some shots were fired, and peasants were armed with Molotov cocktails, machetes, and scythes.

In addition there were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers. Recruits commonly charged that the military does not give them enough to eat and forces them to hunt wild animals

or steal cattle to kill for food. In one case, a 15-year-old recruit, Cesar Francisco Pereira, reported that he was forced to fight another recruit by two sergeants who wagered a can of beer on the outcome. When Pereira lost, he was pistol-whipped by Julio Cesar Alarcon, the sergeant who lost the bet, and spent a month in a clinic recovering. Many recruits have claimed that they were tortured or beaten while fulfilling their mandatory service obligations.

Prison conditions are extremely poor. Mistreatment of prisoners is a serious problem. Overcrowding and unsanitary living conditions were the most serious problems affecting all prisoners. Tacumbu prison, the largest in Asuncion, was built to hold 800 inmates but houses over 1,500. Other regional prisons generally hold about three times more inmates than originally planned.

Security is another problem in the prison system. There are approximately 120 guards for over 1,500 prisoners at Tacumbu prison, and 3 inmates were killed during the year by other inmates. At the Asuncion women's prison, Buen Pastor, there have been several reported rapes of prisoners by their guards, although laws governing prisons forbid male guards in the women's prisons. Conditions in the women's prison are better than at Tacumbu, with less overcrowding and a generally safer environment. There is a separate prison for juveniles.

The Congressional Human Rights Commission has criticized the prisons for their poor nutritional standards. Prisons generally serve one meal a day, and prisoners seldom get vegetables, fruit, or a meat protein source, unless they have individual means to purchase them. Prisons have separate accommodations for well-to-do prisoners, which ensures that those with sufficient means receive far better treatment than other prisoners. Pretrial detainees are not held separately from convicted prisoners.

The Government permits independent monitoring of prison conditions by human rights organizations. Members of the International Committee of the Red Cross had access to the detained supporters of Oviedo who were arrested in March 1999 and to those arrested in May.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are persistent problems. 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. The police can arrest persons without a warrant if they catch them in the act of committing a crime but must bring them before a judge within 24 hours. However, the authorities often violated these provisions, and the recent introduction of new penal and criminal procedure codes, which are not yet well understood by prosecutors and police, has exacerbated the problem.

Following the May 18–19 coup attempt, police detained journalists (see Section 2.a.).

Following the assassination of Vice President Argana and the killing of student protesters in March 1999, authorities arrested over 45 persons in connection with these cases. Many of those arrested were well-known political figures, including legislators allied with the former Government. There was little evidence presented to support the charges against most of them, and most of the accused were held without bail, leading some observers to question whether due process had been observed. At year's end, many of those detained still remained in jail, and at least 10 prominent suspects who had been remanded to house arrest had not yet been cleared of the charges against them and therefore remained in an uncertain legal status.

Pretrial detention remains a serious problem; 91 percent of persons in prison were held pending trial, many for months or years after their arrest. 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 occurs in practice. A bail system exists for most crimes, and judges have discretion over it. Judges frequently set relatively high bail, and many accused persons are unable to post bond. In March the Supreme Court, the Public Ministry, and a judicial working group took steps to reduce the large number of pretrial detainees but achieved only modest results. The Supreme Court and many criminal court judges also make quarterly visits to the prisons to identify and release improperly detained individuals.

The Constitution expressly prohibits exile, and the Government does not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, judges often are pressured by politicians and other persons whose interests are at stake. There were allegations that members of the judiciary who issued arrest warrants against the Oviedistas following the events of March 1999 were pressured to do so by politicians who opposed Oviedo. While there are credible reports of political pressure affecting judicial decisions, the judiciary is 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 disputes, 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 judicial system remains relatively inefficient; however, the 1999 enactment of new penal and criminal procedure codes is expected to improve the judicial system's efficiency over time. The judiciary continues to suffer from insufficient resources. There is also a large backlog of cases. The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary, but this right often is not respected in practice. Many destitute suspects receive little legal assistance, and few have access to an attorney sufficiently in advance of the trial to prepare a defense. In Asuncion for example, there are only 26 public defenders available to assist the indigent, and only 102 nationwide, although 25 new positions are planned. In practice, public defenders lack the resources to perform their jobs adequately.

The new Penal and Criminal Procedures Code entered fully into force in March and replaced the antiquated 1914 code. It provides the legal basis for the protection of fundamental human rights. The new code includes procedures for an oral and accusatorial system, as well as a faster and more transparent criminal trial process. If implemented effectively, these reforms could improve the credibility of the judicial system and reduce the number of persons in pretrial detention.

Enactment of the new Penal and Criminal Procedures Code has introduced gradually oral proceedings. A prosecutor is responsible for bringing charges against accused persons within 180 days. Defendants and the prosecutor can present written testimony of witnesses as well as other evidence. All interested parties have access to all documents reviewed by the judge, and defendants can rebut witnesses. Defendants enjoy a presumption of innocence. The judge alone determines guilt or innocence and decides punishment. During the pretrial phase, the judge receives and may request investigative reports. The accused often appears before the court only twice: to plead and to be sentenced. Defendants have the right to appeal. If the sentence is appealed, an appeals court reviews the verdict. The law provides for appeals to the Supreme Court if constitutional questions arise.

There were no reports of political prisoners. More than 45 supporters of former General Lino Oviedo were arrested after the killings of Vice President Argana and the student protesters in March 1999, and many remained in jail at year's end. They assert that they are being detained because of their political opposition to President Gonzalez Macchi (see Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—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 abuse their authority by entering homes or businesses without warrants and harassing private citizens. The Constitution provides that the police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant. There were allegations that the Government occasionally spied on individuals and monitored communications for political and security reasons. There were allegations of the forced conscription of underage youth (see Section 5).

*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 during most of the year; however, there were several exceptions during the state of exception in May and following the vice presidential election in August.

The print and electronic media are independently owned; however, some newspapers, radio and television stations are closely tied to political parties, factions of those parties, or business interests. The media commonly criticized the Government and freely discussed opposition viewpoints.

Following the coup attempt of May 18-19, the Government arrested journalists, and police destroyed two radio stations. During the coup attempt, Radio Asuncion, whose owners, Miguel and Adriana Fernandez, had been linked to Oviedo, broadcast appeals to the public to support the uprising. Early in the afternoon of May 20, as many as a dozen uniformed officers of the Paraguayan National Police entered Radio Asuncion's studios, where they destroyed some broadcast equipment and stole other items, effectively dismantling the station, and detained both the owners. Radio Asuncion was unable to resume operations and was off the air at year's end. The

Government also detained Juan Carlos Bernabe of Radio Nanawa. On June 2, the authorities released Bernabe and the Fernandezes.

Radio 970 in Asuncion, which the Government similarly accused of supporting the coup attempt while it was in progress, reported being threatened with closure in the days following the uprising. Senator Francisco Jose de Vargas said during a public session of the Senate that he had requested that President Gonzalez Macchi send a helicopter to bomb the transmission tower of the station during the May 18–19 incidents because it was “abetting the insurrection.”

Also after the coup attempt, under the decree implementing the state of exception, President Gonzalez Macchi ordered the detention of Hugo Ruiz Olazar, editor of the Asuncion daily newspaper ABC Color and local correspondent for Agence France Presse and El Clarin of Buenos Aires, on suspicion of having participated in planning the coup attempt. Police maintained surveillance outside the newspaper, monitoring movements to and from the building in an evident attempt to capture Ruiz. He was never arrested and returned to his position at ABC after the state of exception was lifted.

In addition several journalists were threatened around the time of the vice presidential election on August 13. On the evening of August 15, a reportedly drunken mob of several dozen Colorado Party supporters surrounded the studios of the country’s leading station Radio Nanduti, threw stones and bottles, and threatened to storm the building. During the election campaign, Radio Nanduti’s owner and leading commentator, Humberto Rubin, had been mildly critical of the Colorado Party and a prominent Colorado political family. Although the station called the police and also broadcast appeals for assistance, the police took more than an hour to arrive and disperse the crowd. Some windows were broken, but no one was reported injured. Then-Interior Minister Walter Bower later telephoned station owner Rubin on the air to offer apologies for the slow response.

On December 19, Brazilian journalist Mauri Konig of the O Estado do Parana newspaper was beaten with chains and severely injured after photographing a police station in Alto Parana department, near the border with Brazil. Konig reported that at least one of the three men who beat him was wearing a police uniform, and a pickup truck reportedly used by his assailants was linked to several police officials. At year’s end, the authorities had made no arrests in the case.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of all citizens to peaceful assembly, and the Government generally respected this right in practice during most of the year; however, before and during the state of exception in May the Government restricted this right. Police used gunfire to disperse protesters on several occasions, sometimes severely wounding civilians.

In 1997 the Government amended a law regulating demonstrations in Asuncion to further restrict areas where demonstrations may take place but expanded slightly the hours in which they may be held. Union groups were the most vocal opponents of the modifications. The law requires that organizers notify the Asuncion police 24 hours before any rally in the downtown area. The police may ban a protest but must provide written notification of such a 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. In addition the law prohibits public meetings or demonstrations in front of the presidential palace and outside military or police barracks. This law does not apply to religious processions.

In March in San Pedro police removed a roadblock erected by peasants. During the altercation six persons were shot. However, police deny that they shot the peasants, claiming that they had only rubber bullets. Police also beat at least one person, a labor union leader, during a strike in June (see Section 6.a.).

On April 3, dozens of police in riot gear prevented members of the UNACE faction of the Colorado Party from holding a meeting to discuss what position their party should take in the upcoming internal party elections. Police allegedly violently forced members to leave the area of the UNACE office and stopped members in cars from completing their trip. Party leader Luis Villamayor complained that the action violated the Constitution.

The Government restricted freedom of assembly during the state of exception imposed in late May after the coup attempt. The Government prohibited public gatherings of UNACE followers during the state of exception and required other groups holding meetings or demonstrations first to receive authorization from the police. The police retained the right to forbid any meeting and to demand identification from anyone participating in a meeting or demonstration.

Other political demonstrations and rallies occurred during the year, generally without major incidents. Labor unions continued to demonstrate for better working

conditions, and peasant organizations closed roads on several occasions to bring attention to the needs of the rural population.

The Constitution provides for the right of all citizens to free association, and the Government respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government requires that all religious groups be registered with the Ministry of Education and Culture, but imposes no controls on these groups, and many informal churches exist.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All citizens may travel within the country with virtually no restrictions, and there are no restrictions on foreign travel or emigration. There were no travel restrictions during the state of exception. The alleged coup plotters are not allowed to leave the country and must sign in with the Justice Ministry once a month.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for the granting of asylum; however, there are no established provisions to grant asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and Interior and the nongovernmental Committee of Churches. The issue of the provision of first asylum has never arisen.

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

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

Citizens have the right and ability to change their government through democratic means. Multiple parties and candidates contest the country's leadership positions. Three parties are represented in the Congress. The Constitution and the Electoral Code mandate general elections every 5 years, voting by secret ballot, and universal suffrage. Debate in Congress is free and frank. The Congress often rejects the executive branch's proposals.

Three major parties and several smaller political parties are active. Competing factions within the parties are distinguished by the personal ambitions of their leaders, not by policy differences. The opposition's power increased as a result of the changes brought about by the 1992 Constitution and the subsequent election of a civilian president and an opposition-controlled congress. President Gonzalez Macchi's "National Unity Government" was weakened in February when the Liberal Party withdrew from the Government, claiming that the Colorado Party refused to share power with its coalition partners. The president of the Liberal Party was elected Vice President in August and took office in September. International observers from the Organization of American States characterized the election as free and fair. This was the first national election won by the opposition in almost 90 years. Interim gubernatorial elections that were scheduled for June were delayed because of a court challenge by the Colorado Party and were rescheduled for March 2001.

On May 18, members of two groups of the armed forces and some National Police officers loyal to former General Lino Oviedo attempted to overthrow President Gonzalez Macchi. Two cavalry units led by some former military officers and politicians took over the major cavalry bases in and around Asuncion and threatened to overthrow the Government. The coup attempt lasted less than 1 day, and the majority of the military remained loyal to the Government. However, following the coup attempt President Gonzalez Macchi declared and the Congress ratified a controversial and unpopular state of exception on May 19 and lifted it on May 31.

There are no legal impediments to women's participation in government and politics; however, in practice they are underrepresented. There are 9 women in Congress (7 of 45 senators and 2 of 80 national deputies), and there is 1 woman in the Cabinet. The new Electoral Code requires that, in their internal primaries, 20 percent of each party's candidates for elective office be women. Although women are represented in the judicial system as judges and prosecutors, there are no women on the Supreme Court.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right has grown significantly in recent years; however, members of indigenous groups are underrepresented in government and politics. The inhabitants of some indigenous communities report being threatened and prohibited from fully exercising their political rights.

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

Several human rights groups operate, including the Committee of Churches (an interdenominational group that monitors human rights, investigates refugee claims, and provides legal assistance), Tekojoja (a group dedicated to the protection of children's rights), and SERPAJ (a group that defends conscientious objectors and provides legal assistance to those with grievances arising from military service). In 1999 32 NGO's, civil organizations, and trade unions officially formed the Paraguay Human Rights Coordinator (CODEHUPY). The Government did not restrict the activities of any human rights group or advocates; however, it has a mixed record in cooperating with or responding to recommendations from such groups.

The 1992 Constitution mandates that Congress name a human rights ombudsman through whom citizens could press claims against the state; however, the Congress has yet to do so. The Director General of Human Rights, located in the Ministry of Justice and Labor, chairs the National Commission on Human Rights. The Commission sponsors 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 may forward information concerning human rights abuses to the Attorney General for action. It also serves as a clearinghouse for information on human rights and has trained thousands of educators in human rights law.

The office of the Attorney General's Special Adviser on Human Rights has been extremely active in pursuing justice against human rights abusers from the Stroessner regime. Although the position has little real authority, the Adviser is a strong spokesman for the human rights community and the rights of the disenfranchised and uses his position to identify and publicize human rights abuses by the Government. During the year, the Special Adviser heard complaints from many citizens regarding alleged human rights violations and sponsored several conferences on different human rights themes.

On October 23, Minister of Foreign Affairs Juan Esteban Aguirre and Inter-American Institute of Human Rights representative Roberto Cuellar signed a cooperative agreement between the Government and the San Jose-based Institute. Under the terms of the agreement, the Inter-American Institute is to provide assistance in the fields of human rights education, political participation, and access to justice.

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

Although the Constitution and other laws prohibit discrimination, 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 is both widespread and vastly underreported. Spousal abuse is common. Although the new Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women are treated annually for injuries sustained in violent domestic altercations. Between January and September, the Secretariat of Women's Affairs registered 426 cases of violence against women. According to press reports published between January and August, nearly 60 percent of the cases of violence against women were rape cases. The authorities were able to detain the alleged attacker in less than 10 percent of those cases.

According to a 1995–96 national poll on reproductive health, 14 percent of women reported that they were abused physically at some point in their lives. Most observers believe that this number understates the reality. According to women's rights activists, official complaints rarely are filed or when filed soon are withdrawn due to spousal reconciliation or family pressure. The Secretariat of Women's Affairs chairs a national committee, made up of other government agencies and NGO's, which developed a national plan to prevent and punish violence against women. Under the plan, an 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 NGO's. However, in practice, these services are available only in Asuncion, and women living elsewhere in the country rarely benefit from them. The Secretariat also conducts training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operates a reception center where female victims of violence can receive legal, psychological, and educational assistance. No shelters for battered and abused women are available outside the capital of Asuncion.

In July 1999, an IACHR report stated that in 1998 one case of rape was reported to the press every 3 days. During the first 4 months of that year, there was one



case of rape reported each day. There are no specialized police units to handle complaints involving rape.

Most women imprisoned reportedly were detained for assault, including murder, that they committed following domestic violence.

The law prohibits the sexual exploitation of women, but the authorities do not enforce the prohibitions effectively, and trafficking in women is a problem. Prostitution by adults is not illegal, and exploitation of women, especially teenage prostitutes, remains a serious problem. Law enforcement officials periodically stage raids on houses of prostitution, and raids on two brothels in June confirmed that teenage prostitutes were working in both locations. A ring of traffickers sending women and teenage girls to Buenos Aires under the guise of working as domestic servants was uncovered during the year (see Section 6.f.).

Recognizing that a majority of women in the workplace face sexual harassment, several unions have sponsored an ongoing campaign against it. Sex-related job discrimination continues to be common and widely tolerated. The Secretariat of Women's Affairs occasionally sponsors programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

Women have much higher illiteracy rates than men, with an estimated 16 percent of rural women illiterate compared with about 10 percent of rural men. In addition, maternal mortality rates are high, and as many as 65 percent of such deaths are related to poor medical care. Several groups work to improve conditions for women, including Women for Democracy, which is active in civic and electoral education. Other groups include SUMANDO, an NGO that promotes educational reform and voter participation in elections; and SEFEM, which focuses on women and 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 is very young, with 41 percent under the age of 15, and 60 percent under the age of 20. Boys and girls are entitled to equal treatment in education and health care. However, female access to education is lower, particularly in rural areas. The educational system does not provide adequately for the educational needs of the population. However, in 1998 the educational system was changed to make elementary school education compulsory through the eighth grade, with plans to extend it through grade nine, although the Government lacks the money to implement the changes. Families pay a fee to cover each school's administrative expenses and must purchase books, uniforms, and other supplies for their children's use.

Abuse and neglect of children is a problem. Children 14 and older are treated as adults for purposes of arrest and sentencing. According to UNICEF, 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe labor conditions (see Section 6.d.). According to a study by a local NGO, many of the children who work on the streets suffer from malnutrition, lack of access to education, and disease. Some employers of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them.

Sexual exploitation of children also is a problem. According to the Attorney General's office, there are approximately 200 complaints per month regarding the mistreatment and sexual abuse of minors. In the city of Encarnacion, the authorities arrested a man for selling pornographic images of young girls over the Internet.

Trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.f.).

The Government has ordered that all military officers responsible for recruiting ensure that all conscripts meet the legally minimum mandated requirement age of 18 for military service. However, there were many reported violations, including allegations of military recruiters forcing underage youths to join units and providing them with false birth certificates and other documentation to show them to be of age. The military took no significant disciplinary action against those responsible for underage recruits. Poor families often knowingly send underage children to the armed forces for economic reasons.

*People 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 disabled persons. However, the Congress never has enacted legislation to establish such programs or provide funding for them. Many persons with disabilities face significant discrimination in employment; others are unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the disabled, and the vast majority of the country's buildings, both public and private, are inaccessible.

*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, estimated at 75,000 to 100,000, is unassimilated and neglected. Low wage levels, long work hours, infrequent payment (or non-payment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination are common. Weak organization and lack of financial resources limit access by indigenous people to the political and economic system. Indigenous groups relied primarily upon parliamentary commissions to promote their particular interests. The Constitution also protects the property interests of indigenous people, but these rights still are 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 also hinders the ability of indigenous groups to progress economically and maintain their cultural identity. This is made worse by insufficient police and judicial protection from persons encroaching on their lands.

The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal homelands. However, there have been significant allegations of wrongdoing within INDI, and in June a former INDI director was sentenced to 9 years' imprisonment for embezzlement. Furthermore, many indigenous people find it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership. In August a group of indigenous people who had established a squatters' settlement on the edge of a highway were attacked by hooded men presumed to be ranch hands from a nearby property, in an attempt to dislodge them.

Significant problems facing the indigenous population also include lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention resulted in little progress in dealing with these problems. However, there were individual small successes that benefited indigenous people, including the successful pursuit in the courts in February and in July by members of the Enxet group of compensation for the forced labor and unlawful firing of some of its members (see Section 6.c.).

#### *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. The Constitution contains several provisions that protect fundamental worker rights, including an antidiscrimination 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 are organized in approximately 1,600 unions.

In general unions are independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), traditionally was aligned closely with the ruling Colorado Party, but these ties appear to be loosening.

All unions must be registered with the Ministry of Justice and Labor. The registration process is cumbersome and can take several months. Employers who wish to oppose the formation of a union can delay union recognition further by filing a writ opposing it. However, virtually all unions that request recognition eventually receive it. 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 still is employed rarely. Senior Labor Ministry officials are available to mediate disputes.

The International Labor Organization (ILO) Committee of Experts has noted deficiencies in the application of certain conventions ratified by the Government. These include 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 regulations requiring a minimum of 300 workers to form a union as inconsistent with international norms regarding the freedom of association.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of these 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. A general strike called for 2 days in late

June only lasted 1 day, and was observed rigorously only by bus drivers, after several had their buses burned or their windshields smashed for initially defying the strike. Some violence also occurred during the month-long strike by Sitrande, the national electric utility workers' union, including reported acts of sabotage by union members. The workers went on strike to protest the privatization of the utility company.

There were unconfirmed allegations of several cases of intimidation and violence against union members during the year. In one case during a June transportation strike, union members and police clashed violently and one union leader was seriously injured.

Unions are free to form and join federations or confederations and during the year 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 is respected in practice. The number of negotiated collective contracts continued to grow, surpassing 100 contracts by the end of the year. However, they were still the exception rather than the norm in labor-management relations and typically reaffirmed minimum standards established by law. When wages are not set in free negotiations between unions and employers, they are made a condition of individual offers of employment.

The Constitution prohibits antiunion discrimination; however, the firing and harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes are jailed for their role in leading demonstrations. Fired union leaders can seek redress in the courts, but the labor tribunals have been slow to respond to complaints and typically favored business in disputes. The courts are not required to order the reinstatement of workers fired for union activities. As in previous years, in some cases where judges ordered the reinstatement of discharged workers, the employers disregarded the court order with impunity. There are a number of cases in which trade union leaders, fired as long as 6 years earlier, have not yet received a decision from the courts.

The failure of employers to meet salary payments also frequently precipitated labor disputes. Principal problems included bottlenecks in the judicial system and the inability or unwillingness of the Government to enforce labor laws. There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. There were several cases of workers who chose not to protest because of fear of reprisal or anticipation of government inaction.

The union representing workers in Antelco, the state-run telephone provider, asserts that a new privatization law violates the conditions of a collective agreement between the Government and the bargaining unit by reducing the amount paid to workers who would be fired after the company is sold. The workers organized a strike in response to the privatization law.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including that performed by children; however, cases of abuse of national service obligations occurred (see Section 6.d.). There were reports of conscripts forced to work as servants or construction workers for military officers in their residences or privately owned businesses. There also were allegations of forced conscription of underage youths (see Section 5). Apart from the abuse of national service obligations, the authorities appear to enforce the law effectively; however, trafficking in women and girls also is a problem (see Section 6.f.).

It is a common practice for families who cannot afford to raise a child, most often a daughter, to send her to relatives or colleagues, where she may be expected to work in exchange for room, board, and access to education. Sometimes these girls, who can be as young as 5 years old, are abused by those charged with providing for them.

In February and July, courts ordered ranch owners to pay compensation to members of the Enxet indigenous group for forced labor and unlawful firing of some members (see Section 5).

*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. Minors between 15 and 18 years of age may be employed only with parental authorization and cannot be employed in dangerous or unhealthy conditions. Children between 12 and 15 years of age may be employed only in family enterprises, apprenticeships, or in agriculture. The Labor Code prohibits work by children under 12 years of age, and all children are required to attend elementary school through the eighth grade.

In general the Government does not have the resources to enforce minimum working age regulations. According to UNICEF, 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe conditions. Recent studies indicate that

42 percent of these children began working by the age of 8, and some 37 percent do not attend school. According to a study by a local NGO, some 6,000 children and adolescents work in the streets of Asuncion, of whom a third are under 10 years of age. Thousands of children in urban areas, many of them younger than 12 years of age, are engaged in informal employment such as selling newspapers and sundries, and cleaning car windows. Many of the children who work on the streets suffer from malnutrition, lack of access to education, and disease. Some employers of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them. Employers sometimes file false charges of robbery against those who seek to leave domestic jobs and turn them over to the police. In rural areas, it is not unusual for children as young as 10 years of age to work beside their parents in the field. Local human rights groups do not regard families harvesting crops together as an abuse of child labor.

The law prohibits forced or bonded labor by children, and generally it is enforced effectively; however, there were allegations of forced conscription of underage youths and trafficking in girls for forced prostitution (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. The minimum salary is adjusted whenever annual inflation exceeds 10 percent and was approximately \$195 (680,162 guaranías) per month at year's end. However, the Ministry is unable to enforce the minimum wage, and most analysts agree that 50 to 70 percent of workers earn less than the decreed minimum. 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 violate these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely stage 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 Ministry of Justice and Labor and the Ministry of Health did not effectively enforce these provisions, due in part to a lack of inspectors and other resources.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their continued employment, but they may not do so until such conditions are recognized formally by the Ministries of Justice and Labor and Health. 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.*—There is no specific legislation to prevent trafficking in persons, and there were sporadic reports of trafficking of women and girls for sexual purposes. In August the press reported that a trafficking ring had been uncovered that sent women and young girls to Buenos Aires, Argentina, under the guise of working as domestic servants, and then forced them into prostitution. In one prominent case, two girls escaped from an Argentine brothel in April and returned to their homes. The authorities brought charges against a number of Paraguayans under laws criminalizing the forced prostitution of a minor, but at year's end, none had been convicted. An Argentine television station also conducted an investigation of prostitutes working in greater Buenos Aires and discovered a number of undocumented Paraguayan women and girls working there as virtual slaves, held as prisoners offering their services as prostitutes in exchange for their clothing, room, and board.

---

## PERU

Peru is a multiparty republic with a dominant executive branch that for most of the year used its control of the legislature and the judiciary to the detriment of the democratic process. In May President Alberto Fujimori won a third 5-year term in elections that international and domestic observers judged to be significantly flawed; however, in November the Fujimori administration collapsed, leading to a significant opening in the area of political rights. In June the Secretary General of the Organization of American States (OAS) and a high level delegation visited the country to discuss the strengthening of democratic institutions. The visit resulted in

talks sponsored by the OAS, which began in August and included members of civil society, the Government, and the political opposition. In August President Fujimori's Peru 2000 alliance gained a majority in Congress after more than a dozen elected legislators changed their affiliation from opposition parties to Peru 2000. Charges of corruption against presidential advisor and de facto head of the intelligence service Vladimiro Montesinos led President Fujimori to announce on September 16 that he intended to hold new national elections in April 2001, in which he would not be a candidate. On November 22, President Fujimori sent his resignation to Congress from Japan, where he remained at year's end. Congress refused to accept his resignation and instead voted to remove him from office for "moral incapacity." The President of Congress Valentin Paniagua of the Popular Action Party succeeded to the presidency on November 22. He announced that he would uphold legislation allowing for new presidential and congressional elections in April 2001, and he accelerated the implementation of democratic reforms initiated in the OAS-sponsored talks. In November the Congress restored three judges to the Constitutional Tribunal, and it resumed its work. The Tribunal had ceased to function in 1997, when Congress removed three of its judges for opposing President Fujimori's intent to seek reelection. The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and was for most of the year easily controlled by the executive branch. By year's end, the Government had taken steps to implement important judicial reform measures.

The police and military share responsibility for internal security. In October Congress passed legislation, based on agreements made in the OAS talks, to dismantle the National Intelligence Service (SIN), and the Government took action to do so in that same month. The capture or death of several remaining terrorist leaders marked continuing progress in eliminating the still lethal threat posed by the terrorist group Sendero Luminoso (Shining Path). In February the Government eliminated the last remaining emergency zones that covered over 5 percent of the country's territory and restored constitutional protections, including freedom of movement and of assembly, throughout the country where they previously had been suspended. Civilian authorities generally maintain effective control of the security forces; however, there were allegations that some members of the security forces who were loyal to Montesinos, were undermining civilian control of the military. In November President Paniagua appointed a new Defense Minister who retired dozens of officers, many of whom allegedly were tied to Montesinos. Members of the security forces committed serious human rights abuses.

The Government has implemented major economic reforms, transforming a heavily regulated economy into a market-oriented one. The Government continued to privatize state enterprises but did not meet its target of selling those remaining by the end of the year. Inflation remained in the single digits, and economic growth reached 3.6 percent. Per capita gross domestic product is estimated at \$2,060. Major exports include copper and other minerals, fishmeal, and textiles. The unemployment rate is estimated at 9.5 percent; underemployment remains around 45 percent. More than one-half of the economically active population work in the informal sector. The poor constituted approximately 54 percent of the population; about 15 percent of the population live in extreme poverty.

The Government's human rights record was poor in several areas, and serious problems remain; however, following the change of administration in November, the Paniagua administration took steps to implement important democratic reforms, including some which improved the exercise of civil and political rights, and to address allegations of corruption surrounding the former intelligence services and other government officials. Members of the security forces committed extrajudicial killings and tortured, beat, and otherwise abused persons. Impunity remained a problem. Lack of accountability within the armed forces, particularly regarding counter-terrorist operations, continued to be a problem. Overall prison conditions remained poor and were extremely harsh in maximum security facilities. Arbitrary arrest and detention, prolonged pretrial detention, lack of due process, and lengthy trial delays continued to be problems. Despite extensive changes to reduce the executive dominance over the judiciary, at year's end problems persisted, including the general inefficiency of the system. At year's end, the Government was preparing to return to the contentious jurisdiction of the Inter-American Court of Human Rights, from which it had withdrawn in 1999. The Government inhibited freedom of speech and of the press, and journalists faced harassment and intimidation and practiced self-censorship; however, nongovernmental organizations (NGO's) noted significant improvements after President Fujimori announced the disbanding of the intelligence forces. There were some limits on freedom of assembly, although political rallies occurred frequently and most were not impeded. The authorities at times sought to hinder the operations of human rights monitors. Violence and discrimination

against women were widespread. Violence against children and discrimination against the disabled, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict collective bargaining rights and the freedom of association. Child labor remained a problem.

The Human Rights Ombudsman expanded its operations to 15 offices throughout the country. The ad hoc Pardons Commission completed its work after having reviewed over 3,000 cases of alleged wrongful conviction by military courts, and recommended and obtained pardons in 481 cases. During the year, the Justice Ministry's Human Rights Commission approved an additional 32 pardons recommended previously by the ad hoc Commission. After taking office, the Paniagua administration reconstituted the ad hoc Commission, which at year's end had recommended 33 new pardons and was preparing to review additional cases left over from the previous administration. The Terrorism Division of the superior court traveled to remote areas outside Lima and dismissed 300 longstanding arrest warrants on terrorism charges.

Sendero Luminoso terrorists were responsible for killings, torture, and numerous other abuses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings; however, security forces committed several extrajudicial killings.

On March 1, police from the Northern Special Services Division reportedly detained Alejandro Damian Trujillo Llontop in Lima. Trujillo's father filed a complaint through the National Police inspector's office and then with the prosecutor. Police denied making any arrests on March 1. On May 8, officials informed the family that an unidentified body of a 25-year-old man had been found on March 2 on the beach in Callao, and delivered to a morgue in Ica. Medical tests showed that the man had been beaten before dying on or about March 1; he subsequently was identified as Damian Trujillo. In April the victim's family filed a case against the National Police, including charges of crimes against humanity and forced abduction. In August the prosecutors charged the 10 officers who arrested Llontop with his death, and in September the judge overseeing the case ordered their arrest. The trial was underway at year's end.

On May 12, police in Tacna arrested Nelson Diaz Marcos for public intoxication. Diaz's wife, who was with him at the time of the arrest, arrived later at the police station to pick up her husband; the police told her that he was resting. Around 11 p.m., the police informed the wife that Diaz had died, and that his corpse was in the local hospital. The prosecutor in Tacna opened a murder investigation, and in June the provincial attorney filed charges of torture against policemen Victor Pachas Mamani and Carlos Laqui (see Section 1.c.). The policemen filed a motion to transfer the case to the military courts, but the Supreme Court assigned jurisdiction to a civilian court in October. The case was pending at year's end. According to reports from Amnesty International (AI), the director of a Tacna human rights organization representing the interests of the victim and his family received death threats (see Section 4). Human rights groups continue to represent the Diaz family.

On November 27, police stopped taxi driver Carlos Lopez Flores in Ayacucho and accused him of involvement in narcotics trafficking. Eyewitnesses reported that they saw three ununiformed policemen beat and shoot Lopez. Lopez died 3 days later. The Public Minister's office was investigating the case in December, after a complaint was filed against the three police officers for torture and murder. NGO's reported that the officers had not been arrested by year's end.

Although military service is no longer mandatory, mistreatment of military recruits continued to be a problem and resulted in four reported deaths (see Section 1.c.).

In June 18-year-old Jose Luis Poma Payano voluntarily joined the Air Force and began service in Lima. He returned home in November and told his parents that members of the Air Force had abused him physically. On November 10, Poma's parents requested that military officials investigate. The military responded that they would investigate, and that Poma would not be harmed further. However, Poma was shot and killed upon his return to the base that day. The Air Force indicated that his death was a suicide. Poma's parents requested a full investigation, including an exhumation of his body for further examination. At year's end, prosecutors were investigating the case.

In July military officials accused recruit Ronald Enrique Pena Garcia of stealing radio equipment and placed him in solitary confinement. Pena told his parents that military personnel tortured him during his detention, including submerging his

head in water and burning him with cigarettes. Pena died on August 11 from a bullet wound. His father filed a complaint with the Human Rights Ombudsman, and the investigation was pending at year's end.

On September 9, army recruit Lenin Castro Mendoza returned to the army base in Cerro de Pasco. To punish him for being intoxicated, an officer beat him and kicked him in the throat while he was laying in his bunk. Castro was taken to a nearby emergency room, where officials pronounced him dead on arrival. Police investigated the incident and concluded that the officer inflicted the injuries that led to Castro's death. In September police sent the case to the military court in Huancayo.

In December Mario Fernandez Sanchez died at a hospital in Lima due to injuries which were allegedly the result of torture by military officials. Prior to this incident of alleged torture, military officials reportedly tortured Fernandez both physically and emotionally, which drove him to desert his military base. He was brought before a military court in Concepcion to stand trial for desertion, where officers reportedly beat and tortured him again. His family filed a complaint with the Public Ministry and accused the military of torture. A prosecutor in Huancavelica had begun an investigation at year's end.

There were no developments in the 1999 case of Carlos Yauri, who died under suspicious circumstances 5 months into his military service. With the support of a local NGO, the Huaraz province prosecutor investigated and requested the military prosecutor expedite an investigation into the case.

No new information was available on several cases of recruits who died during their military service in recent years, including the cases of Juan Salazar Cayetano and Juan Espinoza Rodriguez.

At least two prisoners died during unrest in prisons during the year. Celso Ponce Torres died in a riot at Yanamayo prison in February. A fellow inmate reportedly struck him in the head during the violence. One prisoner died in violent riots at Lima's San Juan de Lurigancho prison in the same month (see Section 1.c.).

In February five peasants died after armed confrontations with landowners on land they occupied in Villa El Salvador.

In July six bank security guards died in a fire that erupted during confrontations between police and protesters in Lima (see Section 2.b.).

In June the press reported that peasants had discovered a mass grave no older than 10 years containing the remains of 8 to 12 bodies in the area of Colcabamba, Huacavelica. According to NGO's, the grave site is located along a trail used frequently by army patrols and terrorist columns in the 1980s and early 1990s. An investigation headed by the provincial prosecutor was underway at year's end. Representatives from the Human Rights Ombudsman's office observed that a series of irregularities in handling of evidence had compromised the forensic integrity of the investigation.

The case of Pablo Pascual Espinoza Lome, a jailed inmate killed in January 1999 by prison guards, remained pending. The courts had not reached a verdict because the Supreme Court had not ruled on a motion by prison guard Marcial Pirez, who originally had been acquitted of violating the 1998 antitorture law, which requested that the Court nullify a lower court's decision to sentence him to 4 years in prison.

Charges against four prison officials for aggravated abuse of authority and crimes against humanity in the November 1999 death of Esteban Minan Castro remained pending at year's end. Minan Castro died after Tambo de Mora penitentiary guards reportedly used tear gas to subdue him and put him into solitary confinement after he had allegedly violated prison rules.

There were no developments in the cases of Tito Mariluz Dolores, Ronny Machaca Flores, and Jose Antonio Palacios Garcia, all of whom died in police detention in 1999.

The Chinchá criminal court brought charges of torture against policemen Edwin Alfredo Saravia Torres, Marco Antonio Carrasco, and Julian de la Cruz Huyarote for the June 1999 death of Mario Clemente Guillen Mendez, who allegedly hanged himself after being detained by police. The case was pending at year's end.

In the case of Carlos Arrellano Mallqui, who died in police custody in 1998 in Ancash, the Supreme Court assigned jurisdiction to a military court. The military court did not render a decision by year's end.

There was no progress made in the investigation of the four soldiers suspected of robbing and killing Genaro Julca Bula and Alberto Aponte in 1998.

There was no progress in the case of Mariel Barreto, a military intelligence (SIE) agent whose dismembered and decapitated body was found in 1997. The Government had promised an exhaustive investigation into her death in 1998.

Sendero Luminoso terrorists killed 17 persons during the year in the course of over 100 acts of violence.

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

In the case of Walter Munarriz Escoba, who disappeared in March 1999 after being taken into police custody in Huancavelica, the provisional prosecutor brought formal charges against and ordered the detention of National Police captain Roberto Gastiaburu Nakada, Ensin Claudio Gutierrez Valasquez, and Adolfo Angeles Ramos. The prosecutor subsequently charged policemen Gunter Cuaresma Ramos and Percy Salvatierra Laura with torture and requested a 15-year sentence. The case still was pending at year's end.

No information was available regarding the status of Ernesto Rafael Castillo Paez, who disappeared in 1990. In 1997 the Inter-American Court of Human Rights ordered the Government to compensate his family and to punish the police officers responsible for his death.

In November the office of the Human Rights Ombudsman released an official report on approximately 4,000 persons who have disappeared since 1980 in the war against terrorism. The Ombudsman's report noted that the Sendero Luminoso or Tupac Amaru (MRTA) rebels abducted a majority of victims, who were mainly indigenous peasants. In 1995 Congress passed a law granting amnesty to members of the security forces responsible for abuses committed in the war against terrorism. To date few members of the security forces have been held accountable for their role in disappearances. A report released in June by the Inter-American Commission on Human Rights (IACHR) repeated the IACHR's previous calls for the amnesty law to be repealed. By year's end, the Government had not acted on this recommendation. In December President Paniagua directed the Justice Ministry to create a working group that would include members of NGO's, religious leaders, and government officials to make recommendations on the establishment of a truth commission that would hear evidence on disappearances.

*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 torture and brutal treatment by the security forces continued to occur, and the Human Rights Ombudsman and NGO's contend that it continued to be widespread. Torture most often takes place during the period immediately following arrest. The incidence of torture is high during police detention in part because families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.).

Such abuse is particularly common in police cells operated by the National Counterterrorism Directorate (DINCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally are held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons.

The Human Rights Ombudsman and NGO's reported 35 cases of aggravated torture by security forces. The majority of cases involved incidents of police brutality and beatings during detention.

On May 12, police in Tacna arrested Nelson Diaz Marcos for public intoxication and allegedly tortured him before killing him (see Section 1.a.). A prosecutor filed charges against the arresting officers and the case was pending at year's end.

In August three police officers in Chinga, Ica, detained Luis Enrique Rojas Vasques on suspicion of his involvement in a robbery. They handcuffed, beat, and threatened him with torture if he did not confess to the robbery. They also threatened him with death if he filed a complaint against them. The police also allegedly discovered drugs on the victim, but NGO lawyers claim that the drugs were planted. Rojas filed a complaint against the three officers for torture and abuse of authority. In October the local prosecutor dropped the charges of torture. The charges of abuse of authority still were pending at year's end.

In December AI released a report reviewing the facts and status of 21 cases of alleged torture in the past 2 years. Supported by a large number of NGO's, AI called on the Government to stop impunity in cases of torture; to try all such cases in civilian, rather than military, courts; and to apply the 1998 legislation against torture to all security force members implicated in cases of torture. AI called for more aggressive prosecution of torture cases, noting that since the 1998 legislation passed, only two perpetrators have been sentenced using the instruments provided in that law. Twenty persons have been charged under this law, including several cases of police brutality. However, after initial investigations in four cases, prosecutors either decided not to charge the alleged perpetrators with torture or dropped all pending charges. In several other cases, prosecutors filed charges on lesser offenses and sought milder sentences than required under the antitorture law. In a number of cases in the AI study, appeals or other legal action still were pending. A few of the cases were under review by the Supreme Court, which would rule on military or



civilian jurisdiction. In three cases the accused perpetrators had been arrested and were awaiting trial.

In April military officials allegedly arrested Amador Carmen Canchapan on charges of working with the armed opposition and took him to a military base in Huanuco department. There members of the army reportedly tortured him by submerging his head in water, beating him, and applying electrical shocks in order to force him to confess. The officials then threatened Canchapan with death if he brought charges against them. On May 2, authorities charged officials at Yanag military base with torture and abuse of authority. The prosecutor opened a preliminary investigation into the alleged abuses. The victim remained in custody at year's end, and was being investigated for committing or conspiring to commit terrorist acts.

On May 25, journalist Fabian Salazar alleged that SIN officers broke into his office the previous evening, bound him, confiscated video tapes of government officials that implicated them in corruption, and sawed his arm to the bone. The Government appointed an ad hoc prosecutor to investigate Salazar's claims. Salazar fled the country in June before he was able to provide his testimony, and the investigation was suspended. Salazar subsequently petitioned the IACHR to investigate. The Government offered to investigate the case again, but Salazar refused, claiming that the Government was biased. While there were a number of inconsistencies in Salazar's account, and even critics of the Government and journalists suspect that he may have exaggerated his claims, a full investigation never was conducted.

There continued to be a public perception that the armed forces operate with impunity in the war against terrorism; however, President Paniagua made changes in the military command that human rights activists noted as a sign of increased civilian control over the military. Prior to these changes, the Fujimori administration had asserted greater control over the military leadership in order to reduce the military's loyalty to former de facto SIN director Vladimiro Montesinos. The new attorney general began conducting investigations into corruption by former military officers.

Human Rights groups criticized the manner in which police controlled protests on July 28, noting that they purposely fired tear gas into crowds at close range, seriously injuring some protesters who were hit by the cartridges. There were also reports that police used undue force in arresting protesters and that they beat protesters while in detention (see Section 2.b.).

In the case of Huber Mendez Barzola, whom police detained in March 1999 on suspicion of terrorism and allegedly stripped naked, beat, and sodomized with a metal chain weapon in police custody, the Supreme Court upheld the sentence of policemen Oscar Italo Flores Montanez, Carlos Palacios Soto, and William Saenz. In November 1999, a court had found Palacios Soto and Flores Montanez guilty of torture, sentenced them each to 6 years in prison, and fined them about \$650 (2,000 soles). The court reduced Saenz's sentence to 3 years in jail and a fine of about \$150 (500 soles).

In the 1998 case of Pedro Tinta Vera, whom police arrested in Lima on charges of aggravated terrorism, allegedly tortured, and to whom they neglected to provide medical treatment, prosecutors filed charges in October 1998 against police officers Domingo Arnaldo Gil, Guillermo Osorio, and Ricardo Loli for the crime of torture, and a judge ordered their arrest. In June a superior court judge suspended the arrest warrant against the officers but issued an order to appear at the Court. By year's end, the trial had not begun.

In the case of Antero Espinoza Alzamora, whom police detained and allegedly beat in April 1999, the prosecutor in Piura had opened an investigation but did not file charges. In the 1999 case of Catalino Daga Ruiz and Bernardo Daga Ruiz, whom police arrested on suspicion of robbery, then allegedly beat, took to a cemetery, and buried up to their necks, the victims filed torture and illegal entry charges, and the prosecutor began an investigation.

There were no updated reports on investigations and judicial proceedings on charges of torture or abuse of authority against members of the National Police in several cases brought to the public's attention in 1999: Jesus Natividad Roman Portocarrero, arrested in Piura in March; Mario Jimenez Roque, arrested in Pasco in April; Julio Armando Uribe, arrested in Moquergua in July; Moises Paco Mayhua, arrested in Puno in August; and Victor Valle Cabello, detained in Pasco in September.

In 1999 a special prosecutor charged several naval officers under the antitorture law for allegedly torturing Raul Teobaldo in 1998. Personnel from the Aguaytia Naval Base detained and allegedly tortured Andahua by beating him, applying electric shocks, and sodomizing him, in order to force him to sign a confession indicating that he was a terrorist. However, the court issued an arrest warrant in 1999 against

Julio Spencer Guido Davalos, on a much lesser charge of committing bodily harm. In January the Supreme Court ruled that the civilian courts had jurisdiction over the case. In September the prosecutor concluded that Andahua was the victim of torture and filed charges of torture against the implicated military officers. The trial had not begun as of year's end.

No progress was made in the case of the 1998 beating and torture of Pablo Waldir by policeman Elmer Perez Arna.

In October 1999, an Ayacucho court acquitted a policeman in the 1998 case of torture that led to the death of Lucas Huaman Cruz. In November 1999, the Supreme Court prosecutor filed a motion to nullify the Ayacucho court's decision. The Supreme Court had decided to hear arguments on the case, but still had not taken action on the case by year's end.

In the 1997 case of Leonor La Rosa, a military intelligence (SIE) officer who was beaten and tortured by four of her colleagues (and who now resides in Sweden), the Supreme Council of Military Justice awarded La Rosa approximately \$1,500 (5,250 soles) as an indemnity in 1999. La Rosa's attorney considered the amount seriously inadequate, since she is a paraplegic as a result of the torture. The IACHR continued to facilitate a settlement between La Rosa and the Government.

In addition to beatings, common methods of torture and other inhuman or degrading treatment included electric shock, water torture, asphyxiation, and the hanging of victims by a rope attached to hands tied behind the back, and, in the case of female detainees, rape. Common forms of psychological torture included sleep deprivation and death threats against both detainees and their families. Interrogators frequently blindfolded their victims during torture to prevent them from identifying their abusers. In some cases, the Government took action to investigate and prosecute security force personnel charged with torture, but impunity persisted. Crowded dockets and disputes over civilian or military jurisdiction contributed to long delays in legal proceedings in cases where officers were charged under the 1998 antitorture law. At year's end, the cases of several officers whom the authorities had charged under the legislation were still pending a verdict.

As in previous years, NGO's and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem and resulted in several deaths (see Section I.a.). The authorities failed to resolve a number of cases of torture and mistreatment from previous years, including the cases of Jaime Palacios Sanche and Elvis Lopez Tuya.

On February 12, the army dropped tear gas from helicopters and used the force of gusts from helicopters to disperse squatters who had settled in Villa El Salvador.

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death (see Section I.a.).

Prison conditions are poor and extremely harsh in maximum-security facilities, especially those operating at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care are serious problems within the prison system. Prison guards and fellow inmates routinely victimized prisoners. Corruption is a serious problem among poorly paid prison guards, many of whom participate in sexual abuse, blackmail, extortion, narcotics and weapons sales, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities do not supply adequate bedding and budget only about \$0.75 (2.5 soles) per prisoner per day for food, the families of prisoners typically must provide for these basic needs. In high-security prisons, female inmates are allowed to see their children once a week. In prisons that house only common criminals, such as Lima's Chorrillos women's prison, children 3 years of age and younger live with their jailed mothers.

Overcrowding and inadequate infrastructure hamper efforts to improve the living conditions of prison inmates. There are 28 prisons in the country that held approximately 27,305 prisoners during the year. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built to accommodate 1,500 persons. Inmates have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities are unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons, and tuberculosis and HIV/AIDS are reportedly at near-epidemic levels. Detainees held temporarily while awaiting arraignment in Lima are not allowed outside for fresh air and have restricted access to bathrooms. At year's end, the Government was preparing to implement new regulations regarding prisoners' access to visitors and prisoners time outside of cell.

In 1999 the Human Rights Ombudsman published a report on prison conditions and administration, which highlighted many serious shortcomings, including a shortage of trained medical personnel, unreliable legal representation for prisoners,

and insufficient numbers of social workers. The Ombudsman and the IACHR have reported that the Government fails to supply enough lawyers, medical staff, or psychologists to service the prison system, resulting in serious problems for treatment and adequate legal counsel. The Ombudsman noted that the operating philosophy in the prison system is one of punishment rather than rehabilitation. Roughly half of all prisoners performed some form of voluntary work, and only 28 percent participate in some kind of educational activity.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violates international norms and standards, particularly with respect to its isolation and high altitude. Located at an altitude of about 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air have unavoidably detrimental effects on prisoner health. The prison can be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. Hospital care is 8 hours away by overland transportation. Face-to-face consultations by inmates with their attorneys are rare. To relieve some of the isolation, the International Committee of the Red Cross (ICRC), and to a lesser extent the Government, fund a monthly visit by families to inmates. In 1998 the International Federation of Human Rights, as well as visiting members of the IACHR and the Ombudsman, called on the Government to shut the prison down.

There were a number of protests and hunger strikes in various prisons, including the high security prisons at the Callao Naval Station and Yanamayo. In February prison inmates rioted and took over Yanamayo prison for roughly a week before authorities reestablished control. Conflicts between prisoners resulted in one death and several injuries. A wave of prison protests followed all over the country, including in Lima's Lurigancho prison, where security forces intervened to reestablish control. One prisoner died in the violence at Lurigancho, and over 40 prisoners were injured either by fellow inmates or by the security forces who acted to restore order. The Human Rights Ombudsman asked prison authorities to allow his staff to visit the prison following the riots, but was denied such access until after the riots ended. Some prison protests in Lima continued in September, October, and November, resulting in minor injuries but no reported deaths. Imprisoned Sendero Luminoso leaders began a hunger strike in December.

The Government permits prison visits by independent human rights monitors, including the ICRC. For most of the year, prison authorities did not grant representatives of the Human Rights Ombudsman access to the military prisons; however, that practice began to change under the Paniagua administration. Members of the Ombudsman's office were allowed to visit the naval facility in Callao in December (see Section 4). During the year, the ICRC performed 115 visits to prisons, detention facilities, and juvenile detention facilities, visiting a total of 3,061 prisoners. The ICRC also visited seven prisoners in custody at the maximum security naval base facility in Callao every 2 months.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain problems. 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. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. 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 of the country this must be accomplished as soon as practicable. However, the authorities often disregard this requirement. In December Congress passed legislation allowing the authorities to detain suspects in investigations of corruption for up to 15 days without arraignment. The law also permits authorities to prohibit suspects under investigation of corruption from traveling.

In February the President suspended all remaining emergency zones and restored the constitutional protections in those areas. Previously, the Government suspended constitutional protections against arbitrary arrest and detention in emergency zones, and security forces did not need an arrest warrant in order to detain a suspect.

Police may detain terrorism and treason suspects for a maximum of 15 days, and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. When suspects are held incommunicado, the authorities prohibit families from visiting suspects, and attorneys have access to them only during the preparation and giving of sworn statements to the prosecutor.

By year's end, the special terrorism division of the superior court dismissed 300 arrest warrants of the estimated 5,228 persons still subject to detention orders.

These cases involved many who were forced against their will to participate in terrorist activities during the internal conflict, or who were accused falsely of links with terrorist groups. In 1998 the Human Rights Ombudsman called on the Government to rescind all outstanding detention orders that were more than 5 years old, and to cancel all orders that did not comply with legal specifications.

By year's end, the Government had approved 65 pardons recommended by the ad hoc Pardons Commission and the Justice Ministry's Council on Human Rights, which evaluated and recommended pardons for persons convicted of terrorism, bringing the grand total to 546 pardons (see Section 1.e.).

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions; however, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus are restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges are able to hear such petitioners, instead of the 40 to 50 judges in previous years, thereby significantly delaying justice. In December the Paniagua administration restored the number of judges able to hear habeas corpus petitions to its original level as part of the restructuring of the court system. Judges rarely allow the unconditional release of suspected terrorists, even if there is insufficient evidence to bring a case against them, despite 1993 amendments to antiterrorism laws that gave lower court and superior court judges the power to do so. As a result, persons charged with terrorism sometimes must wait until their cases have been reviewed and dismissed by the Supreme Court before they are freed. This process can last more than a year.

In December figures from the National Penitentiary Institute (INPE) showed that approximately 46 percent of a total prison population of 27,305 had been sentenced. Over 50 percent of the prison population remained in Lima; of these prisoners, 74 percent remained unsentenced. The June IACHR report and the U.N. Commission on Human Rights report in July both expressed concern about the large number of unsentenced prisoners. The problem of prisoners who have served their terms and still have not been released continued. In December President Paniagua committed the Ministry of Justice to assess procedures for reviewing cases with pending sentences. By year's end, the Justice Ministry had recommended better ways to track the status of prisoners in the penal system.

In 1998 the Catholic Bishops' Social Action Commission called for implementation of a system that would allow first-time detainees to post bail. According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, since trial procedures in military courts are largely devoid of due process protections, the speed with which trials are concluded offers little benefit to the defendants involved. Once trials have concluded, prisoners have to wait long periods before receiving their sentences.

According to two human rights organizations, police routinely detain persons of African descent on suspicion of having committed crimes, for no other reason than the color of their skin, and rarely act on complaints of crimes against blacks (see Section 5).

The Constitution does not permit forced exile, and the Government respects this prohibition.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and easily controlled by the executive branch. As a result, public confidence in the judiciary remains low. In November the Government abolished an executive commission of the judicial branch and an executive commission of the Public Ministry. The duty of these commissions was to reform the judiciary; however, its members regularly ruled in favor of the executive branch under the Fujimori administration, compromising the independence of the judicial system and furthering the executive's control of it.

Previous attempts to reform the judiciary did little to restore its independence from the executive, and the lack of a fully functioning Constitutional Tribunal overshadowed procedural improvements. In November Congress restored to the Constitutional Tribunal three judges whom Congress removed in 1997 after they had opposed the application of a law allowing President Fujimori to seek a third term. This had paralyzed the court's ability to rule on any constitutional issues for lack of a quorum. Other serious problems affecting the judiciary included the curtailment of the authority of the National Council of Magistrates (CNM) to investigate, discipline, and remove judges, the continuing large number of provisional judges in the

court system, and the transfer of jurisdiction of sensitive cases to courts more inclined to rule in the Government's favor.

Throughout most of the year, roughly 80 percent of the country's approximately 1,700 civilian judges were provisional appointments, meaning that they had received temporary appointments that did not correspond to their rank, including 21 of the 33 judges on the Supreme Court. In some cases, the judges were assigned independently and without having gone through the proper channels for training. Critics charged that since these judges lacked tenure, they were more susceptible to outside pressures.

Working with opposition and civil society representatives in the OAS democratization dialog (see Section 3), the Government began taking steps designed to restore the judiciary's independence from the executive. In October Congress passed legislation that eliminated eligibility of provisional judges to hold administrative positions, such as posts on the National Elections Board (JNE) or the CNM. In November the Paniagua Administration began a comprehensive review of the court system, including the assignment of judges and prosecutors. By year's end, the Government had reassigned hundreds of provisional judges and prosecutors to positions more appropriate to their actual rank. Several provisional judges and prosecutors resigned or were removed from their positions permanently and were not reassigned.

The Government's reliance on untenured, provisional and temporary judges was demonstrated when the executive commission of the judicial branch created two specialized chambers of the Supreme Court in 1998. These chambers, staffed by provisional and temporary judges, assumed control over tax, customs, and narcotics crimes previously under the jurisdiction of the tenured judges of the Lima superior court. This practice enabled the executive branch to supervise closely such cases as that of Baruch Ivcher, his family, and associates (see Sections 2.a. and 2.d.). In December the Supreme Court eliminated these two specialized courts. In the same month, evidence emerged that showed how former intelligence advisor Montesinos improperly influenced cases through provisional judges on the Supreme Court and through the Attorney General, who was also a provisional appointee. The majority of implicated officials have either resigned or been suspended, and several investigations into corrupt judicial practices were underway at year's end.

There is a three-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. In November the Constitutional Tribunal resumed its mandate to rule on the constitutionality of congressional legislation and government actions; the National Judiciary Council tests, nominates, confirms, evaluates, and disciplines judges and prosecutors; and the Judicial Academy trains judges and prosecutors.

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. All criminal case convictions in civilian courts must proceed to a third phase, where the Supreme Court hears appeals and confirms or rejects the previous sentences. All defendants have the right to be present at their trial. Defendants also have the right to counsel; however, the public defender system often fails to provide indigent defendants with qualified attorneys.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their sentences to the Superior Military Council, which has 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 are active-duty line officers with little or no professional legal training.

In December 1999, Congress abolished the classification of acts of extreme violence such as criminal gang activity, homicide, kidnaping, and the use of explosives as aggravated terrorism. Under new law, such cases are designated as "special terrorism" and jurisdiction over such crimes falls under the civilian courts. In October Congress disbanded the SIN, including the National Intelligence Directorate for Social Peace and Safety, which had investigated such crimes.

While simple terrorism cases for civilians are tried in civilian courts, cases of treason, which is defined as being a terrorist leader or participating in a terrorist group's attack or activities, for civilians are tried only before military courts. Human rights groups and legal experts charge that the vaguely worded definitions of certain

crimes in the antiterrorism statutes often lead military judges to issue sentences disproportionate to the crimes committed. Moreover, defendants in treason cases who are found not guilty by a military court may be remanded to a civilian court for a second trial on terrorism charges based on the same facts.

Human rights groups and legal experts strongly criticize the power of the military courts to try civilians in cases of treason or aggravated terrorism and the powerlessness of the civilian judicial system to review military court decisions. In 1997 Gustavo Adolfo Cesti Hurtado, an insurance broker who had retired from military service 13 years earlier, was arrested, prosecuted, convicted, and sentenced to prison by the military justice system in a complicated case involving, in part, alleged insurance fraud in a military purchase of helicopters. When a civilian court approved a habeas corpus petition and ordered the military court to release Cesti, the military court not only refused to do so, but also charged the civilian judges with usurpation of power and sought to have them reassigned. The case was brought before the Inter-American Court of Human Rights, which rejected a government motion to dismiss it. The Court ruled in September 1999 that the Government had violated the American Convention on Human Rights, and ordered that the habeas corpus petition be honored and that the reparations stage be initiated in order to compensate the victim. In November 1999, the authorities released Cesti from military prison; however, Cesti's legal status remained unresolved at year's end, pending a request from the Government to the Inter-American Court for further clarification of its ruling.

In August the case of Lori Berenson, who was tried for terrorism by a military tribunal without sufficient guarantees of due process, was transferred to the civilian courts pursuant to a Military Supreme Court review based on new evidence. At year's end, a civilian prosecutor was investigating to determine if charges should be brought.

Proceedings in these military courts—and those for terrorism in civilian courts—do not meet internationally accepted standards of openness, fairness, and due process. Military courts hold treason trials in secret. Such secrecy is not required legally, but in some cases the courts deem that circumstances require it. Defense attorneys in treason trials are not permitted adequate access to the files containing the State's evidence against their clients, nor are they allowed to question police or military witnesses either before or during the trial. Some military judges have sentenced defendants without even having notified their lawyers that the trials had begun. Since the creation of the special military courts in 1992, 747 civilians have been sentenced for treason or aggravated terrorism, and by year's end 180 civilians still had cases pending. In December the Minister of Justice created a commission charged with reviewing the laws governing the military justice system.

The Council of Magistrates (CNM), established by the 1993 Constitution, regained many of its original functions in December. A March 1998 law had transferred the CNM's power to investigate and dismiss Supreme Court judges and prosecutors to the executive commissions of the judicial branch and the Public Ministry, respectively, both of which were controlled by strong allies of President Fujimori. Critics pointed to this action as a further example of executive branch control of the judiciary. A September 1998 law partially restored the CNM's powers, while leaving the Public Ministry in charge of determining whom the CNM could investigate.

Responding to OAS dialog recommendations, in November the Government and opposition agreed to establish a transitory judicial council, with all the legal powers of the CNM, in order to restore full power to the CNM, including sanctioning and ratification of judges and magistrates. The council is expected to work for 90 days reviewing laws and regulations put in place by the executive commission since 1998. Three judges and three jurists, appointed by consensus within the OAS dialog, compose the council. Since it began operating on December 6, the council has dismissed judges, reinstated others judged to have been unfairly discharged, and returned to lower courts judges who were serving provisionally in higher courts.

The first class of judges that the CNM selected was scheduled to graduate in the fall; however, their nominations to judgeships were delayed by the restructuring that resulted from the OAS talks. The Academy continued its in-service training program for judges and magistrates, which consists of a few hours of classes each week during the first year, and practical training during the second. The Academy's training program, originally scheduled to last 6 months but later extended to 2 years, was strongly criticized as further prolonging reliance on provisional and temporary officials, who are more susceptible to manipulation by the executive.

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 provided by the American Convention on Human Rights

and ruled that a civilian court should have had jurisdiction. It also ruled that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. The Court directed the Government to provide the four with new, civilian trials.

Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism.

However, the Government refused to accept the Inter-American Court's jurisdiction in cases involving terrorism, including the case of the Chileans, because laws passed after signing the Convention establishing the Court required military trials in cases of treason and aggravated terrorism. The Government's decision to withdraw from the Court's jurisdiction in these cases effectively restricted citizens' constitutional rights to seek redress in the hemisphere's preeminent international tribunal. The Court continued to process pending cases and stated that the Government could not withdraw immediately from the Court's contentious jurisdiction. In August the Government agreed to discuss the full integration of the country into the Inter-American human rights system, and the issue was discussed as a priority in the OAS-sponsored dialog. At year's end, the Government was preparing to return to the contentious jurisdiction of the Court.

In the civilian jurisdiction, a specialized terrorism division of the superior court tries cases. The division is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear several hundred cases of persons with old warrants outstanding for terrorism charges. Of these, judges found 300 persons innocent and ordered the suspension of their warrants. Human rights NGO's and the Human Rights Ombudsman noted that this addresses the concerns of those who considered themselves innocent, but who feared coming forward for an abbreviated and unfair trial. However, approximately 5,000 warrants remain in effect (see Section 1.d.).

The ad hoc Pardons Commission, which consisted of the Human Rights Ombudsman as chairman, the Minister of Justice, and President Fujimori's representative Father Hubert Lanssiers, ended its work on December 31, 1999. The Commission's mandate was to consider applications of those who believed themselves to be accused unjustly of terrorism. By the end of 1999, 3,056 of a total of 3,878 persons accused of these crimes had applied for clemency, and 481 had received the Commission's recommendation for pardon. A December 1999 law assigned the Commission's functions to the Justice Ministry's National Human Rights Council. Between January and November, the Council recommended (and President Fujimori granted) 32 pardons. After the Paniagua Government took office in November, the Government established a new ad hoc Pardons Commission that had by year's end recommended 33 additional pardons that were granted, bringing the total to 546. At year's end, the new Commission continued to review petitions not previously recommended. NGO's advocated that the new commission expand its review to include all convictions and sentences rendered by military courts, but by year's end, the Government had not made a decision on the matter.

There was no congressional action on the Human Rights Ombudsman's 1999 recommendation for legislation for monetary compensation of innocent persons released through the Pardon Commission's program. The matter was added to the agenda of the OAS talks in October, but Congress had not taken any action by year's end.

The Extrajudicial Conciliation Law, which Congress passed in 1998, was to have made conciliation a mandatory first step in most civil cases by January; however, due to administrative and other delays, partial implementation of the law was not scheduled to begin until January 2001 in Trujillo, and is scheduled to begin in Lima and Calloa in March 2001, expanding progressively to other cities during the year.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with terrorism are 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, NGO's indicate that this requirement is not always observed in practice. In February the Government eliminated emergency zones that covered approximately 5 percent of the country. Prior to that constitutional protections, including freedom of movement and other due process guarantees, had been suspended in those areas.

In the past, the Human Rights Ombudsman and human rights NGO's received complaints regarding the forced conscription of young men, including minors, by security forces as part of the constitutionally mandated system of compulsory 2-year

military service. A law went into effect in January that makes military service voluntary and prohibits the practice of 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. The Human Rights Ombudsman monitors implementation of the law to ensure that the military abides by it, since past efforts to prohibit forced conscription did not prevent it.

The Constitution provides citizens with the right to private communication, but the media, politicians, some government officials, and private individuals continued to report that the Government violated this right. The case of former SIE agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations, remained pending at year's end. 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. By year's end the Government had not taken action on those recommendations.

In May the IACHR recommended that the Inter-American Court hear the wiretapping case filed by opposition Congresswoman Anel Townsend and 13 journalists. They charged that the Government had violated their constitutional right to privacy and sought civil damages. The Supreme Court had dismissed the charges in 1998. The congressional Committee on Defense, Intelligence, and Internal Order conducted a summary investigation of the charges in 1999. The investigation not only exonerated the intelligence services and security forces, but concluded that the aggrieved journalists had wiretapped themselves and recommended that they be charged with having fabricated and disseminated false information that tainted the honor of the military. Having exhausted their domestic resources, the journalists took their case to the IACHR in November 1999.

Opposition politicians continued to report credible incidents of wiretapping and surveillance. Although high-level government officials denied government involvement in any of these incidents, there was little effort to investigate the allegations. In 1999 presidential candidate Luis Castaneda Lossio accused David Pinedo Torres of being a SIN agent and charged that Pinedo was surveilling him. The case against Pinedo was dropped during the year, as was the case against Castaneda for detaining Pinedo.

Reports of forced conscription by the MRTA (most of whose surviving members are jailed) and the greatly weakened Sendero Luminoso terrorist groups diminished significantly. However, Sendero Luminoso continued to coerce indigenous people to join its ranks (see Section 5).

During the year, the Ombudsman's office received isolated complaints of abuses committed by family planning personnel. Allegations first arose in 1997 that a number of 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 another type of good or service, or by not providing them with complete information about available alternatives. In a 1999 report, the Ombudsman recommended that family planning practitioners provide all clients with complete information about alternatives available to them, that they pressure no client into using any particular contraceptive method, and that if a patient chose sterilization, that the patient be afforded a 72-hour waiting period during which to consider that option. The Ombudsman also recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. The Ministry of Health accepted the Ombudsman's report and implemented many of his recommendations.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press; however, in practice the Government inhibited the full exercise of these freedoms for most of the year. Manipulation of opposition journalists through the judicial system and the use of government advertising revenues to influence reporting in print and broadcast media were serious problems. Human rights groups contend that government harassment of and alleged attacks against journalists also were problems. As a result, much of the media, especially the financially vulnerable broadcast television networks, practiced self-censorship. Many in the press regard the Fujimori administration's harassment of the media as a key reason for his victories in presidential elections. Following the establishment of the OAS dialog in August and the deactivation of the SIN in October, the climate of press freedom improved. Television stations began to show more balanced political coverage and allowed opposition views to be presented. Tabloids that were suspected of being fi-



nanced by the SIN discontinued publication, and the remaining tabloids changed their coverage to nonpolitical reporting.

The press represents a wide spectrum of opinion, ranging from left-leaning opposition views to those favoring the Government. In the greater Lima area alone, there are 20 daily newspapers, 7 television stations, 65 radio stations, and 3 news channels on 2 commercial cable systems. There are numerous provincial newspapers and radio stations. The Government owns one daily newspaper, one television network, and two radio stations, none of which has a particularly large audience.

Several international press groups, including the Committee to Protect Journalists (CPJ), the Inter-American Press Association (IAPA), and Freedom House, as well as the OAS, reported various cases and types of press harassment and accused the Government of being responsible for some of it. The CPJ named former President Fujimori as one of the world's "Top Ten Enemies of the Press" for the second year in a row. In October the media advocacy group Prensa Libre issued a report in which it cited numerous instances of surveillance and harassment of journalists, which it attributed to the Government and intelligence services. The group also noted limitations on access to airtime for opposition candidates, as well as a defamation campaign against the political opposition and independent journalists in tabloid newspapers allegedly funded by the Government.

Media outlets can, and do, criticize the Government; however, under the Fujimori administration, they risked reprisal through the loss of government advertising (often a major source of revenue), libel suits, or other judicial action on apparently unrelated issues. The Fujimori administration filed lawsuits against owners or managers of many antigovernment media outlets whose content appeared to depend as much on political as much as legal criteria. Incidents such as the high-profile 1997 loss by television owner Baruch Ivcher of his station and his citizenship (see Section 2.d.), TV Channel 13's co-owner Genaro Delgado-Parker's loss of his station in 1999, and the February seizure of Radio 1160's transmitters and sound equipment restricted press freedom and encouraged journalists and media owners to practice self-censorship.

The limitations on press freedom were particularly evident during the election campaign season that dominated the first half of the year, when broadcast television tilted heavily in favor of the Government and against the opposition in its news coverage and public affairs programming. On March 8, a month before the first round of voting, the OAS Special Rapporteur for Freedom of Expression, Santiago Canton, noted his concern and that of the IACHR over freedom of expression in the electoral process. On June 4, shortly after the final round of elections, the IACHR issued a statement describing the violations of freedom of expression. It specifically noted government pressure on the media to suppress coverage of and sale of airtime to opposition candidates, and government financing of pro-government tabloid papers that harassed opposition candidates and supporters.

The Government agreed to address freedom of the press issues as part of the OAS democracy talks, and in August the OAS dialog, established a working group to resolve former television owner Baruch Ivcher's Peruvian nationality, revoked by executive order in 1997, and to examine ways to resolve disputed ownership claims over Channel 2 and Channel 13. In October the Government agreed to restore Ivcher's citizenship and did so in December (see Section 2.d.). In early December, Ivcher returned to the country and regained control of Channel 2. Several days later, Delgado-Parker regained control of Channel 13. By year's end both stations were providing independent political reporting and analysis.

Journalists and media outlets also have been intimidated physically. According to the National Journalists Association (ANP), there were many cases of media harassment by the National Police and the military, and by local political and commercial organizations. The ANP reported 104 cases of journalist harassment through August, of which 61 percent were in the provinces and two-thirds involved violence.

The CPJ reported that in April an unidentified person fired shots at journalist Hernan Carrion, who directs a daily news program in Chimbote. Carrion requested protection from the provincial authorities, but continued to receive threatening phone calls following his continued criticism of the Government on his program. At the same time, the Government told the owner of the radio station that broadcasts Carrion's program to resubmit tax papers or be charged a substantial fee. The station suspended Carrion's program, asserting that it was for his own protection.

The Fujimori administration and its supporters used libel laws to suppress criticism of political leaders or offices. In August the pro-government newspaper *Expreso* and the director of the National Reserve Bank (who is the executive chairman of *Expreso*) filed a libel suit against Carlos Hildebrandt, the director of opposition newspaper *Liberacion* and an outspoken critic of the Government, and a journalist who wrote an article criticizing the management of *Expreso*. The plaintiffs sought

monetary damages amounting to \$1 million, a sum that appeared designed to bankrupt *Liberacion*. The case was pending at year's end. In another August incident, the Government's intellectual property rights administration filed a libel complaint against the majority owner of a web site specializing in publishing investigative reports critical of the Government on an unrelated matter.

In August the pro-government weekly news magazine *Gente* filed a libel suit against cable television news channel Canal N; Hugo Guerra, a senior editor of *El Comercio* (Canal N's parent newspaper); and opposition journalist Gustavo Gorriti for describing *Gente* as having ties to the intelligence service and the Government. *Gente* withdrew the lawsuit on September 20, 4 days after President Fujimori's September 16 announcement calling for new elections and the deactivation of the SIN.

The political opposition, press organizations, and rights groups charged that the Government used improper influence over the judiciary to intimidate and harass the press. Government manipulation of the legal system in these cases is difficult to prove, and in some cases, genuine legal disputes may have occasioned the lawsuits against media outlets. Opposition or independent media seem to encounter a disproportionate number of legal difficulties, including prosecution on tax issues, compared to media outlets that are uncritical of or favorable to the government in their coverage. Prominent cases included a March lawsuit filed by minority shareholders against leading daily newspaper *El Comercio* shortly after the paper exposed a massive signature forgery scheme used to register one of President Fujimori's electoral parties. In the *El Comercio* case, an investigation was opened despite the fact that the statute of limitations on the alleged crime of fraud had expired. The case was closed in July after stockholders reached an agreement on the matter.

In April a judge ordered the seizure of the printing press used to print opposition newspapers *Liberacion* and *Punto Final* as part of a bankruptcy proceeding. In a similar action, a judge ordered the seizure of bank accounts and real estate belonging to *Editora Correo*, a company that publishes a chain of independent papers in the provinces and whose shareholders also have a financial interest in a leading Lima tabloid newspaper *Ojo*. For several months thereafter, *Ojo* cut back substantially on its previously independent political coverage and later stopped publishing editorials.

Journalists continued to be intimidated by potential criminal prosecution when the Government leaves charges against them pending. By year's end, prosecutors had not closed their case for falsification of official documents against Guillermo Gonzalez, director of the NGO *Prensa Libre*, who broke a 1999 story on government wiretapping of opposition political candidates. In May the IACHR issued a recommendation that charges against him be dismissed for lack of evidence.

Throughout the electoral process, a number of tabloid newspapers made character assaults on opposition candidates in what appeared to be a coordinated campaign to tarnish President Fujimori's political opponents and critical members of the press. Intelligence agents allegedly orchestrated this campaign. The six tabloids that carried such attacks had almost identical headlines and text, and similar text also appeared on the Internet.

Suspicious infrastructure problems also seemed to plague opposition or independent media outlets during the election campaign and immediately thereafter, and some suggested that it was a form of harassment against the press. In one incident in February, an electrical failure prevented Radio Miraflores, a Lima opposition radio station, from reporting on a provincial tour by opposition candidate Luis Castaneda Lossio. In May a similar electrical outage prevented Canal N from broadcasting a rally for opposition presidential candidate Alejandro Toledo. At the height of the campaign period, from March to May, the Institute for Press and Society, an organization advocating press freedom, suffered systematic attacks on its e-mail system.

In July the Government limited a cable news channel's helicopter's access to the downtown Lima area by banning all civilian aircraft from flying below 9000 feet over the city. This occurred only days before a large-scale protest against President Fujimori's inauguration ceremony was to take place. Critics assert that this prohibited the media from monitoring the protests. CPJ noted that in September the Government prohibited flights over downtown Lima, which according to the Committee to Protect Journalists was a measure promulgated to prevent news agencies from providing aerial news coverage of protests after a scandal involving former de facto SIN head Vladimiro Montesinos became public. The Government stated that the flight restrictions were necessary for public security during the inauguration and protests.

In May Fabian Salazar, a former Channel 2 employee and associate of Baruch Ivcher, and a collaborator for opposition newspaper *La Republica*, alleged that agents from the SIN broke into his office and tortured him by sawing his wrist to

bone (see Section 1.c.). This occurred after he had received a videotape that he claimed compromised high government officials. A full investigation into the matter never was conducted.

The Government does not censor books or publications, films, plays, or limit access to the Internet.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice; however, police used force to disrupt protests during the year, injuring several protesters. The law does not require a permit for a public demonstration; however, organizers must inform the political authority (Prefecto) about the kind of demonstration and its location. Permission may be denied only for reasons of public safety or health. Municipal authorities usually granted permission for demonstrations.

Major demonstrations and political rallies were common throughout the year. Most were peaceful; however, in some cases, police and demonstrators clashed. In those instances, police usually use water cannons and tear gas to disperse the demonstrators. In February over 3,000 labor union, student, and opposition political party representatives protested unfair election conditions. When several protesters carrying sticks and throwing rocks confronted police, police used a powerful water cannon and tear gas to disperse the marchers. The police briefly detained a number of protesters who were throwing rocks and attempting to destroy private property.

On April 9, election day, nearly 100,000 persons gathered in Lima to celebrate the fact that President Fujimori had not won an absolute majority in elections. The event continued into the early morning of April 10, when protesters, led by Peru Possible leader and presidential candidate Alejandro Toledo, marched on the presidential palace. Police dispersed them with tear gas. Clashes between protesters and police were reported throughout the major cities. Some protesters sustained minor injuries.

During the period between April 9 and May 28, when second round presidential elections were held, Toledo led rallies and protests around the country. In mid-April a large protest in central Lima resulted in significant damage to the National Board of Elections (JNE) office building from rocks thrown by protesters, who were believed to be members of the Civil Construction Union. Several injuries were reported.

On July 26–28, approximately 100,000 persons gathered in Lima from all parts of the country to protest the inauguration of President Fujimori. On July 26 and July 27, these demonstrations were peaceful, with no confrontations. However, on July 28, the protests became violent. Small groups of protesters clashed with police at different points of a security perimeter formed to protect politicians and visiting dignitaries attending the inauguration. Unidentified individuals set fire to the National Bank building and the Justice Ministry and caused hundreds of thousands of dollars in damage during a day of confrontations that left six bank security guards dead from a fire. Police used tear gas and water cannons, and charged several persons with arson. The authorities also charged protest organizers for damage. Protest organizers alleged that government agents infiltrated the protests and set the fires. Police officials alleged that extremist groups used the protest as a pretense to provoke violence. Human rights groups allege that police prohibited human rights observers from entering the area of the violent protests to document the events, and that police used excessive force to control demonstrators (see Section 1.c.). The police maintained that they acted in order to ensure the safety of those attending the inauguration.

The Human Rights Ombudsman continued to promote dialog between protest groups and police on basic rules of conduct. Monitors from the Ombudsman's office served as official observers to ensure adherence to these rules by police and protesters alike. The Ombudsman's office reported that these measures reduce significantly tensions and the level of arbitrary arrests, while diminishing the risk of damage to public and private property. According to the Ombudsman, with some exceptions, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner.

The Human Rights Ombudsman worked with groups of protesters to inform authorities of their activities and work out rules of conduct prior to the protests against President Fujimori's inauguration in July. However, during large-scale demonstrations on July 28, the authorities and demonstration organizers failed to agree on ways to reduce the likelihood of confrontations and violence.

The Constitution provides for freedom of association, and the authorities generally respect this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, the Catholic Church receives preferential treatment from the State. Although the Constitution establishes the separation of church and state, it also acknowledges the Catholic Church as “an important element in the historical, cultural, and moral development” of the nation. The preferential status accorded to Roman Catholicism in public life is apparent in the special treatment and tangible benefits the Church receives from the State, including remuneration to certain clergy and church personnel, and tax exemptions on clergy salaries and real estate holdings. Teaching about Roman Catholicism in primary and secondary schools is mandatory. Conversion to other religions is permitted, and missionaries are allowed to enter the country and proselytize. By law, the military may hire only Catholic clergy as chaplains and Catholicism is the only recognized religion of military personnel.

In April 1998, the President issued an executive order that established basic Catholic religion courses for all public and private primary school students. Religion teachers must be approved by the bishop presiding over the local diocese. Most schools devoted 1 hour a week to such study. Parents who do not wish their children to participate in the prescribed religion classes must submit a written request for an exemption to the school principal. Non-Catholics who wish their children to receive a religious education in their own particular faith are usually free to organize such classes during the weekly hour allotted by the school for religious education, but must supply their own teacher. The Freedom of Conscience Institute (PROLIBCO), an NGO that favors the strict separation of church and state and opposes the preferential treatment accorded to the Catholic religion, opposes the requirement for Catholic teaching in the school curriculum and claims that the alternatives made available to non-Catholic parents violate the constitutional protection of the privacy and confidentiality of persons’ convictions and beliefs.

PROLIBCO and other religious groups legal had challenged the mandatory teaching of Roman Catholicism, but in October the Supreme Court dismissed their claim. PROLIBCO maintains that the ruling was issued in an irregular manner and without prior notice to its lawyers. PROLIBCO claims that the financial subsidies and tax benefits that the Government provides to the Catholic Church and its clergy are far more widespread and lucrative than publicly acknowledged. PROLIBCO also has alleged discrimination against non-Catholic groups who must pay import duties and a sales tax on Bibles brought into the country. At year’s end, PROLIBCO was preparing to take its case to the IACHR.

Sendero Luminoso rejects religion and in the past has threatened and intimidated religious workers.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement; however, passengers on public transportation and drivers in private vehicles may be checked at control points throughout the country. Until February the Government suspended the right of free movement in emergency zones, which had covered approximately 5 percent of the country in 1999, and travelers, including human rights monitors, could be prohibited from traveling to those areas. The Government eliminated all emergency zones in February.

There are no political or legal constraints on foreign travel or emigration; however, the authorities legally can restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship; however, according to the Nationality Law, naturalized Peruvians can 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.” Critics believe it was the Nationality Law that provided the Government with the legal basis for its 1997 invalidation of the citizenship through naturalization of Israeli-born television owner Baruch Ivcher. However, the Government claimed that its decision was based upon irregularities in Ivcher’s original naturalization petition 13 years earlier. In October the Government agreed to restore Ivcher’s citizenship and subsequently did so (see Section 2.a.).

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley.

Political violence in the 1980’s and early 1990’s resulted in the internal displacement of hundreds of thousands of persons from their original homes, and massive migration. Most families migrated to Lima or to one of several other department capitals. This movement created problems which, for the most part, remain unresolved despite continued efforts by the Government and NGO’s to address them.

According to the Ministry for the Promotion of Women and Human Development (PROMUDEH), since 1995 the Program for the Repopulation and Development of Emergency Zones (PAR) has supported the return of between 450,000 and 600,000 displaced persons. The PAR has assisted thousands of these persons to return to their homes; however, the PAR and NGO's agree that the majority of displaced persons have not returned permanently to their original communities due to various factors, including economic changes and social ties.

Despite governments and NGO efforts, many displaced persons lack basic documentation, such as birth certificates and voter registration cards. The Government established a PAR office to provide documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card. In 1999 the Government conducted a national registration drive to provide displaced persons with identity documents, which are required for a variety of social and other government services, and to register them to vote in the April national elections. According to NGO's and election monitors, this program was successful in reaching millions of voters across the country.

Another unresolved problem related to the displaced persons are pending arrests warrants against approximately 5,000 such persons, who fall into the category of "requisitorizados"—persons who were forced to join terrorist groups and who were accused falsely of voluntarily joining such groups and continue to have outstanding detention orders against them. Judges from the special Terrorism Court traveled from Lima and dismissed 300 such warrants during the year (see Section 1.d.). The pending legal status of such persons, along with the fact that the majority of these individuals speak only Quechua, increases their vulnerability and reduces even further their capacity for economic and social integration into urban areas.

Sendero Luminoso continued to coerce indigenous people to join its ranks during the year, which resulted in further internal displacement. There is also a large population of indigenous Ashaninkas who have faced not only a terrorist threat, but also the encroachment of oil exploration companies on their tribal lands (see Section 5).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The Commission also advises citizens who fear persecution at home and seek asylum abroad. The Government recognized 24 persons as new refugees during the year. There were approximately 756 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually. The question of first asylum did not arise.

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

### *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; however, serious problems in the process of elections held in April and May, including questions about President Fujimori's constitutional eligibility to be a candidate, the registration of candidates, allocation of Government resources to influence voters, and intimidation of the opposition, led domestic and international observers to call attention to the flawed nature of the process and to question the validity of election results and the state of democracy in the country. In September President Fujimori announced that he would exercise his constitutional power to convoke new national elections, to be held in April 2001, and in which he would not be a candidate. In November Congress removed President Fujimori for "moral incapacity," and President of Congress Valentin Paniagua succeeded to the presidency. Voting is by secret ballot and mandatory for all citizens between the ages of 18 and 70. Members of the armed forces and the police, as well as felons, are ineligible to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

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. ONPE administers elections and the RENIEC issues election identity documents. Many complaints about the elections centered around the executive branch's dominance of the JNE and ONPE, and their inability to administer elections in an unbiased man-

ner. In October and November, Congress passed legislation that allowed the Government to appoint new leadership for these institutions. By year's end, ONPE had a new director who had replaced over 100 of the organization's 180 permanent employees; 4 of 5 magistrates of the JNE also were replaced. In December Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide more specific geographic representation.

The Constitution stipulates that the President can be elected to a term of 5 years and may be reelected for one additional successive term. On December 27, 1999, President Fujimori announced his candidacy for a third term, on the grounds that he had completed only one full term under the 1993 Constitution. On December 31, 1999, the JNE dismissed 18 objections filed by opposition groups, political parties, and other civic groups who argued that a third term would be unconstitutional; the JNE claimed that it rendered its decision on technical grounds. The Human Rights Ombudsman subsequently stated that the JNE's decision did not correspond to constitutional law, but that because the Constitution vested the JNE with the final decision on electoral matters, citizens had to respect the JNE's decision.

The undermining of the Constitutional Tribunal by congressional action in 1997 (see Section 1.e.) set the stage for Fujimori's ability to seek a third term. Constitutional challenges to Fujimori's candidacy for a third successive term rested largely on a series of controversial actions taken by the executive-dominated Congress. In 1996 Congress passed the Law of Authentic Interpretation, which declared President Fujimori's 1995 victory as his first under the 1993 Constitution. In 1997 opponents of the law challenged its constitutionality, but the Constitutional Tribunal was unable to obtain the six of seven votes needed to overturn the law. Congress subsequently voted to remove three members of the Tribunal who had announced their nonbinding opinion that the law could not apply to Fujimori, leaving the Tribunal effectively unable to rule on any constitutional issues for lack of quorum.

In the April 9 elections, in accordance with the 1997 election law, 10 registered political parties presented 120-candidate slates for Congress, and 9 parties presented presidential candidates; the Peru 2000 alliance presented President Fujimori as a candidate. Local NGO's, the Human Rights Ombudsman, and international groups monitored the electoral campaign and the first round of elections. These groups enjoyed access to electoral institutions and government officials. However, there were attacks in pro-government media against some of these groups at various points in the campaign (see Section 2.a.). At the Government's invitation, the OAS sent observers for the April 9 elections. OAS observers also worked with local electoral institutions in preparations for the second round runoff, but none of the observer groups fielded monitors for the May 28 runoff elections because of the Government's unwillingness to postpone the election date so that vote tabulation software could be tested.

International and domestic observers viewed the general elections on April 9 and presidential runoff elections on May 28 as significantly flawed. Conditions for free and fair elections fell short of international standards. Several factors created a seriously flawed electoral process: disagreement over the legitimacy of President Fujimori's candidacy for a third consecutive term; complaints by opposition candidates of unfair campaign conditions that favored pro-government candidates; lack of public confidence in electoral institutions; and lack of transparency in vote tabulation and reporting. Although the Government took steps to improve the electoral environment, they were insufficient to ensure a level playing field.

Preelection conditions heavily favored government candidates. Several groups of electoral observers reported that government resources were used to the benefit of Fujimori's candidacy and others in his coalition. There were credible reports that military and police personnel worked on behalf of the pro-government candidates. The NGO Transparencia filed 170 formal complaints regarding use of government resources; the Public Ministry dismissed all but 2 of the complaints. In one case, prosecutors dismissed a complaint that employees of a public welfare and nutrition service distributed pro-government campaign literature. In another, the national tax authority conducted a surprise audit of one of the opposition candidate's businesses.

The JNE refused to investigate opposition complaints in many of these cases, stating that it did not have the resources or mandate to investigate. When the JNE or the Public Ministry did investigate, charges frequently were dismissed for lack of evidence. Only after repeated complaints from electoral observers did the JNE pledge to investigate use of government land for pro-government party paintings and signs. The President also issued a nationwide executive order against use of government resources. However, these measures were adopted too late in the campaign to overcome a widespread impression of preferential treatment enjoyed by the Peru 2000 alliance.

The preelectoral period also lacked impartiality and effectiveness in the administration in some significant areas. In late February, the newspaper *El Comercio* reported that a member party of the President Fujimori's Peru 2000 alliance had falsified over 1 million voter signatures in its registration drive. Accounts by 4 participants in the scheme detailed a large operation in which over 400 persons participated. The group allegedly worked for 1 month in a building behind the offices of pro-government legislator Oscar Medelius. Others accused of involvement included Peru 2000 official Luis Navarrete and Peru 2000 Secretary General Daniel Chuan. ONPE, the JNE, and the Attorney General pledged to investigate the allegations. ONPE concluded that the JNE had jurisdiction, and in March ONPE sent the JNE its report, along with the forged documents in question. In April the JNE deferred to the special prosecutor appointed to investigate the case. The JNE also ruled that Congress would have jurisdiction over legislators selected with alleged links to the scandal. In July Congress absolved the legislators linked to the forgery scandal.

In June the prosecutor filed charges against the witnesses who had exposed evidence implicating government employees, and who had themselves participated in the falsified signatures scheme. In September a judge dismissed charges against the informers, while the National Council of Magistrates opened an investigation against ONPE director Jose Portillo for allegedly investigating the case improperly. In October a judge ruled that no crime had been committed because official documents had not been falsified. However, the CNM removed Portillo from office.

Opposition candidates did not receive equal access to broadcast television station news coverage, and the pro-government tabloid press conducted smear campaigns against them (see Section 2.a.). The JNE claimed that it could not intervene because media laws did not give it authority to dictate programming on privately owned television stations. Formal complaints by candidates to the JNE often were dismissed for lack of evidence. Beginning in late March, broadcast television stations provided broadcast time to opposition candidates, but these spots were usually not aired during peak viewing hours. Though the opening reflected a government response to electoral observer criticism, the measure came too late to reverse the ill effects that opposition candidates had suffered from earlier lack of media access. Throughout the campaign, broadcast television coverage favored President Fujimori.

The April 9 elections were largely peaceful, and millions of citizens participated as voters, election workers, political party observers, and election monitors. Over 31,000 volunteers affiliated with local NGO's worked as poll monitors. International monitors found no specific instances of fraud during the polling.

However, there were widespread irregularities in the voting and vote tabulation processes. Observers cited illegal propaganda in or around polling areas as the most common irregularity. They also reported irregularities in voting materials, such as premarked ballots and some missing the name of the leading opposition candidate as a choice. Observers reported several instances of attempted intimidation of political party observers by police and military officials demanding their names and identification documents. Several hundred voting sites reported that more ballots were cast than the number of voters who had signed in. (Under the electoral law, the authorities count the extra votes unless the number of ballots exceeds the number of registered voters at that site.)

Several problems marred the vote tabulation and computation. Several vote tabulation centers did not open until late in the day. There were problems with the computer systems used to count the vote, and ONPE was unable to conduct a successful simulation of its data collection and tabulation process until shortly before polls closed. Although observers and party monitors were allowed to watch the computation at ONPE and regional collection centers, the systems used did not allow for independent verification of the results.

ONPE presented only partial results of the presidential returns on April 9, and an inexplicable delay in the computation created widespread allegations that politicians or others influenced the count. Election day exit polls and quick counts by the NGO *Transparencia* and polling firms showed that no candidate had won over 50 percent of the vote and that a runoff would be necessary. Electoral authorities released additional election results on April 12, and announced that it was "mathematically impossible" for any of the candidates to have won the first round. The next day officials confirmed definitively that there would be a second round. Final official results of the first round presidential elections were declared on April 28. Electoral monitors concluded that the vote tabulation and announcement process lacked transparency and created a lack of confidence in the official results.

After the announcement that no presidential candidate had won in the first round, the Government negotiated with second place candidate Alejandro Toledo and the OAS regarding measures to improve electoral conditions. Several working groups formed by the Human Rights Ombudsman, ONPE, the OAS, and the polit-

ical parties worked to address access to the media and media coverage, reform of ONPE's vote tabulation computer programs, and training of electoral personnel. While these groups made significant progress, the OAS sought postponement of the second round election to test ONPE's voting data computer programs.

Toledo withdrew from the race 10 days before the May 28 runoff, citing unfair electoral conditions and the Government's refusal to postpone the elections at the OAS's request. However, the JNE rejected his petition to remove his name from the ballot, and Toledo urged his supporters to purposely spoil their ballots in protest. On May 28, according to ONPE's unverifiable results, President Fujimori won 51 percent of the popular vote. Toledo won 17.68 percent of the votes and 29.93 percent were spoiled ballots of null. Observers, with the exception of one group, refused to monitor the vote, and Toledo and other opposition groups charged that the results were fraudulent.

Definitive results from congressional elections were not released until May 12, which also raised questions about the validity of those results. The JNE ratified the congressional results the same day, despite a number of pending challenges, including some claiming fraud. On April 12, initial returns had indicated that no party had won a controlling majority; however, in subsequent result announcements, there were significant changes in the results that favored pro-government candidates. There were, moreover, many changes of party affiliation that drew many representatives elected from opposition party lists to the pro-government coalition in Congress. By the time the new Congress was sworn in on July 24, nearly a dozen legislators elected on opposition slates had changed parties to join the Peru 2000 alliance, which gave it a majority in the 120-seat unicameral Congress. There were widespread allegations of bribery, blackmail, and other illegal and questionable practices; however not all party affiliation changes were necessarily the result of illegal actions. For example, the promise of a position as committee chair or the potential of being able to help a regional constituency was a factor cited by some who changed party affiliation. However, circumstantial evidence suggests that questionable practices were used in a number of instances. Luis Caceres Velasquez was declared ineligible for Congress due to a previous felony conviction. After he declared his intent to change from an opposition to the government party, the Supreme Court overturned the conviction and the JNE gave him back his seat. Edilberto Canales, implicated in a vote buying scandal, changed alliances and his legal problems were settled. Jorge Polack, who complained that he had been harassed by criminal legal proceedings because of antigovernment views broadcast on his radio station, had charges against him dropped after he changed his membership to the ruling party.

There were also widely reported irregularities in ONPE's tabulation of preferential votes for individual Congressional candidates. Several parties alleged that ONPE employees had been bribed to alter voting results. The Attorney General appointed a special prosecutor to investigate these allegations. In June JNE officials declared that Congress would be responsible for investigating newly elected legislators who allegedly benefited from manipulated results. On July 6, Congress approved a report that found 31 ONPE data entry officials, several regional ONPE center managers, and ONPE's information chief responsible for altering voting returns. The report concluded that five legislators representing government and official parties who benefited from the altered vote bore no responsibility. A television news program reported that of the 30 congressional candidates who benefited from alteration of the individual preferential vote count, 10 eventually were elected. By year's end, none of these elected legislators had been investigated for violating election laws.

In June the OAS General Assembly discussed the country's elections. OAS election monitoring mission head Eduardo Stein reported that the elections had been carried out in accordance with international standards. The OAS foreign ministers concluded that "the credibility of both the process and the outcome of those elections has been undermined by persisting reports of irregularities" and agreed to send OAS Secretary General Cesar Gaviria and Canadian Foreign Minister Lloyd Axworthy to Peru to establish a dialog on reforming the country's democratic institutions.

The OAS mission met with government officials, members of the opposition, and civil society representatives in late June and developed 29 recommendations grouped in 5 categories: (1) ensuring judicial independence; (2) freedom of expression and the media; (3) electoral reforms; (4) supervision and balance of powers among the executive branch and congress; and (5) measures to strengthen congressional oversight, reforms to the intelligence and military services. Although opposition and some civil society groups continued to call for new elections, the OAS delegation noted that the OAS General Assembly mandate explicitly precluded discus-



sion of new elections. However, delegates of the OAS added that local figures were not precluded from continuing to advance new elections.

The OAS dialog began in August. At the opposition's insistence, the Government agreed to form four working groups to address priority issues including the return to the Inter-American Court of Human Rights, the reestablishment of the Constitutional Tribunal, the resolution of Baruch Ivcher's nationality and ownership of television stations 2 and 13 (see Sections 1.d. and 2.a.), and the reorganization of the intelligence services.

In September Moral Independence Front party leader Fernando Olivera presented a videotape showing opposition legislator-elect Alberto Kouri taking a \$15,000 payment from then-de facto intelligence service chief Vladimiro Montesinos. The video showed Montesinos presenting Kouri with a contract committing him to switch party alliances. Montesinos was recorded remarking that he was aiming for a pro-government majority of at least 70 seats. When asked about the transaction, Kouri claimed that the money was a personal loan. Congress formed a committee to investigate Kouri and suspended him for 120 days. Kouri left the country when he learned of the investigation.

The airing of the tape also apparently influenced President Fujimori to announce on September 16, that there would be new national elections in which he would not be a candidate. He later appointed a special prosecutor to investigate Montesino's role in illegal activities. By year's end, the investigation had expanded to include investigation into his role in money laundering, illegal arms sales, narcotics trafficking, and bribery of public officials. Montesinos fled the country in October in order to avoid prosecution in these matters.

On November 22, President Fujimori sent his resignation to Congress from Japan, where he remained at year's end. Congress refused to accept his resignation and instead voted to remove him from office for "moral incapacity." The President of Congress Valentin Paniagua of the Popular Action Party succeeded to the presidency on November 22. He announced that he would uphold legislation allowing for new presidential and congressional elections in April 2001, and he accelerated the implementation of democratic reforms initiated in the OAS-sponsored talks.

By November participants in the OAS talks had agreed upon, and Congress had ratified, amendments to the Constitution that would end the term of the President and Congress in July 2001, thereby making new elections possible. The OAS dialog also produced agreement on deactivating the SIN, with provisions for including a civil society member in the executive branch's oversight commission and for creating a bipartisan congressional oversight committee.

The OAS dialog drew to a close after Paniagua assumed the presidency in November. Congress approved and the Paniagua administration continued to implement many of the OAS recommendations. By year's end, the Government made significant legal and electoral reforms (see Section 1.e.).

Legal actions against potential opposition candidates for congressional campaigns removed some of them from eligibility for public office. In 1999 Congress passed a law prohibiting candidacies for certain offices such as president or congress by anyone who had served in high office and had been charged with a crime against the State. In effect this law presumes the guilt of any persons charged but not convicted of a crime and removes the right to compete for office. This law disqualified former Labor Minister Jorge Mufarrech and Representative Beatrice Merino from standing as candidates. Congress annulled the law in October.

Women and some minorities participate actively in government and politics, although they are under-represented in both fields. From August to November, the president and three vice presidents of Congress were women. In December Congress amended the electoral law to include provisions requiring parties to include at least 30 percent of candidates on their slates to be of each sex; previously the level was 25 percent. At year's end there were 26 women in the 120-seat Congress. One of 15 cabinet ministers and several vice ministers are women, as are 3 of the 36 judges of the Supreme Court, and the Attorney General. In conjunction with the year's election campaign, four women's organizations sought to identify female candidates, promote women's interests, increase the number of female voters, prepare a woman's political agenda, and train women who were elected to office.

Citizens of Asian descent hold numerous leadership positions in government; former President Fujimori is of Japanese descent and one recent president of the Council of Ministers was of Chinese descent.

Several members of Congress have mixed ancestry, and a recent Vice President was a Quechua speaker, as was a recent Minister of Transportation and Communications. However, it is rare for indigenous people, who make up more than one-third of the population, to hold high public offices. The Afro-Peruvian minority, unofficially estimated at 3 to 5 percent of the total population, is not represented in

the leadership of any branch of the Government. There are three Afro-Peruvian members of Congress.

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

In general the Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely; however, the authorities at times sought to hinder the operations of human rights monitors, including harassment of members of the National Human Rights Coordinator.

Military commanders often did not grant access to local and international human rights monitors to investigate alleged abuses on military bases. However, by year's end, this policy began to change under the Paniagua administration. In December members of the Human Rights Ombudsman's office were granted access to the naval military prison in Callao for the first time ever.

Government, military, judicial, and police officials, as well as some members of Congress publicly accused NGO's and the IACHR of being overprotective of criminals and terrorists to the detriment of victims. These statements at times created a hostile environment for human rights groups but did not appear to hamper their ability to carry out their work. For much of the year, communication between the human rights community and the military ranged from strained to nonexistent. However, dialog between the NGO human rights community and civilian authorities improved significantly with the opening of the OAS sponsored dialog in August (see Section 3). By year's end, human rights organizations and the Government were represented in a number of the working groups which were examining legal reforms and pursuing the idea of a truth commission to examine past human rights abuses. Human rights community members reported that the Paniagua administration had initiated improvements in government-civil society relations, including the appointment of several former NGO leaders to his cabinet.

Most human rights NGO's are independent, thorough, and generally objective. The National Coordinator for Human Rights (Coordinadora), established in 1985, provides an umbrella organization for 60 human rights NGO's. The Coordinadora does not politicize its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate on the margins of the Coordinadora.

The Office of the Human Rights Ombudsman, created in 1993, receives funds from the Government and foreign governments and is considered an independent and effective institution for bringing citizens justice. The Ombudsman has investigative independence and the ability to inform the public of his conclusions and recommendations. However, the office has no enforcement mechanism other than moral suasion. Because of its reputation and role in society, the Ombudsman's office was asked to join in the OAS dialog to address the problems of the election and the ongoing process of democratization. The Ombudsman's office issued reports throughout the year on the elections, freedom of the press, the activities of the ad hoc Pardons Commission, the situation of 4,000 unresolved disappearance cases, and an annual report on the overall human rights situation, among others.

The Human Rights Ombudsman has a legal mandate to monitor prison facilities. However, until December, Ombudsman representatives continued to be denied access to the military prison in Callao (see Section 1.c.).

In July the IACHR published a report updating its 1998 factfinding mission. Although the Government welcomed the Commission's recognition of action it had taken, such as the creation of the Human Rights Ombudsman's office and the abolition of faceless judges, the report concluded that the Fujimori administration continued to reject the Commission's call to return to the Inter-American Court (see Section 1.e.). The IACHR report also noted the existence of impunity, restrictions on the freedom of expression, significant problems regarding the free practice of political freedoms and flawed elections, and the subjugation of the other branches by the executive branch under the Fujimori administration. In addition, the report stated that the significant problems that occurred during the electoral process were the "foreseeable outcome of several years in which the arbitrary will of the Government has prevailed over the law and democratic institutions."

Human Rights Watch and other groups reported on harassment or attacks on human rights workers. Among such attacks were telephonic threats against Jesus Agreda Paredes, who investigated the death of a detainee in police custody, and death threats against members of the Legal Defense Institute. NGO's reported that such harassment and threats dropped significantly after the Paniagua administration took office in November.

In July 1999, the Government announced its decision to withdraw from the contentious jurisdiction of the Inter-American Court of Human Rights after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of treason by a military tribunal. Members of the OAS dialog discussed with the Government terms for its return to the Court beginning in August. By year's end, legislation approving a return to the Court's jurisdiction had been approved by committees and was waiting for a plenary vote, and the Government was preparing to return to the Court's contentious jurisdiction.

At least two human rights organizations reported theft of their documentation during the year. On November 1, burglars stole computers and other documentation that the Human Rights Commission collected regarding human rights violations. On November 4, armed burglars broke into the office of the NGO Peace and Hope in Lima. The burglars held a security guard at gunpoint while they removed information from computers. In both cases burglars did not take valuable items or machines. AI alleged that the burglaries were organized by the SIN, and that their objective was to intimidate the human rights community. Police investigations had not identified those responsible by year's end.

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

*Section 5. Discrimination Based on Race, Sex, Religion, 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, religion, opinion, or economic condition. Nevertheless, discrimination against women, the disabled, indigenous people, and racial and ethnic minorities continued, although progress is being made in a number of areas. In December Congress passed legislation that made racial discrimination a crime.

*Women.*—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, continued to be a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims of abuse. A 1999 Population Council study estimated that 80 percent of women surveyed were beaten by their husbands. Human rights organizations believe a large number of domestic violence cases remain unreported. Nationwide in 1998 there were 27,935 complaints of domestic abuse (77 percent for violence and 23 percent for psychological abuse). Although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that the vast majority of reported cases do 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 is limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The 1997 domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home. The law also authorizes the victims' relatives and unrelated persons living in the home to file complaints of domestic violence. Whereas previously victims of domestic violence had to have a specialist in legal medicine certify their injuries and had to pay for the report, the new law eliminated the required fee and stipulated that the report may be prepared by any health professional. In March Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory conciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victim's needs.

In March 1999, PROMUDEH created the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. The program received approximately 9,000 cases during the year. PROMUDEH continued its public education campaign to sensitize government employees and the public on domestic violence.

According to the Human Rights Ombudsman's office, many women complain that police officers react indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints. The Ministry of Women's Advancement and Human Development, with NGO assistance, educates police about domestic violence and trains officers in all police stations in processing domestic violence cases. The Ministry also runs over 30 facilities, staffed entirely by women, that bring together in one place representatives of all government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might have recourse.

According to the Human Rights Ombudsman, many rape victims complain that court-appointed medical examiners inappropriately delved into their past sexual histories. They also 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.

In 1999 Congress responded to an appeal from the Human Rights Ombudsman and amended the Criminal Code to provide greater protection to victims of sexual violence. The amendments eliminated provisions that had allowed rapists and other sexual predators the opportunity to avoid prosecution if they reached a private settlement with their victims. In addition, the Ombudsman recommended rescinding the provision that specifies that, in cases of sexual abuse of victims over 14 years of age, only victims themselves may file a complaint; in November, the Government rescinded that provision of the law. Many victims are afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

In 1999 the Human Rights Ombudsman published an updated report on sterilization without informed consent of women in public hospitals and family planning clinics, and the Government took action on some of its recommendations during the year (see Section 1.f.). Acting on the Human Rights Ombudsman's findings, clinics implemented procedures to insure that patients are fully apprised of their options and their consequences. There were isolated complaints regarding this problem during the year.

The Constitution provides for equality between men and women, and the 1995 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 training opportunities is prohibited; however, it continues to occur in practice. In 1998 Congress removed the police rank of health-care professionals in police hospitals and accorded them civilian status only. Since over 80 percent of such professionals are women, the Human Rights Ombudsman challenged the constitutionality of the new law and its implementing regulations, on grounds of discrimination. The Superior Court of Lima ruled against the Ombudsman, who then appealed to the Supreme Court. By year's end, the Supreme Court had determined that the workers were stripped improperly of their police rank but had not made a decision concerning damages. In 1999 the Congress passed legislation protecting pregnant women against arbitrary firing.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Because of societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment. "Mibanco," a program supported by the Government and a consortium of NGO's, represents an effort to improve women's ability to generate income by providing credit to small businesses started by enterprising women. More than 60 percent of its clients are women.

*Children.*—The Government provides free, compulsory education through secondary school. Education is generally available throughout the country. However, 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 have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 47.7 percent for children under 5 years old, 51 percent for children ages 5 to 9 years old, and 49.9 percent for children age 10 to 14. School nonattendance is highest in rural and jungle areas and affects girls more than boys. In 1998 Congress amended the Child and Adolescent Code to provide pregnant school-age girls with the right to begin or continue attending school. The law also provided for regional offices to enforce children's rights.

The Children's Bureau of the Ministry of Women's Advancement and Human Development coordinates child and adolescent related government policies and programs. The National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children throughout the country.

At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate some 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. Settlements

adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children are serious problems. It is estimated that only 10 to 20 percent of mistreatment and abuse cases are reported, since many persons believe that such problems belong within the family and should be resolved privately. Nonetheless, in Lima alone, at least 400 rapes of minors are reported annually.

According to the 1993 Census, 69.6 percent of children 6 to 17 years old lived in poverty. Of these, roughly half live in rural areas. Of all children and adolescents under 17 years of age, 20 percent live in extreme poverty. In 1996 the infant mortality rate was 43 per 1,000. However, this figure masks wide regional disparities: it is 30 per 1,000 in urban areas, compared with 62 per 1,000 in rural areas. Approximately 26 percent of children under age 5, and 48 percent of children ages 6 to 9, suffered from chronic malnutrition. In those homes where the mother has a low level of education, as many as 50 percent of the children suffer from chronic malnutrition, and 114 per 1,000 die from preventable causes before they reach age 5.

According to a study by the National Institute of Statistics, children who live in poverty are less likely to reach high levels of education. The study indicated that approximately 75 percent of children not living in poverty attend school through the high-school level, whereas, only 43 percent of children living in poverty reach high school. Children living in poverty average only 4.5 years of education, compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attain university-level education, compared with 25.6 percent of children who live above the poverty line.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, is often gang-related. According to a 1998 congressional commission study, gangs carry out 75 percent of all acts of vandalism, 29 percent of assaults, and 23 percent of robberies. The majority of these crimes are committed under the influence of drugs and alcohol, and their underlying causes are unemployment, nonattendance at school, and difficult family relationships.

In 1999 the Government repealed a series of measures that had been used to reduce street crime, including prosecuting 16- to 18-year-old criminal gang members in military courts and sentencing those convicted to no less than 25 years in adult prisons.

As many as 1.9 million children work to help support their families. Of this total, some 500,000 children are under the age of 14, while 700,000 are between the ages of 15 and 17 (see Section 6.d.).

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports that minors work in the sex trade.

*People with Disabilities.*—The Constitution provides that severely disabled persons have “the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security.” In 1998 comprehensive legislation established the National Council for the Integration of People with Disabilities and specified the rights, allowances, programs, and services that should be provided for the disabled. The statute 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. However, in practice the Government devotes little attention and resources to the disabled, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of the disabled into the economy possible. According to the National Coordinator of the Association of Disabled People, the Government allocates an annual budget of approximately \$250,000 (1 million soles) to integrate the disabled into the economy. 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 disabled workers to be productive. As a result, disabled individuals and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 disabled persons, or 1.3 percent of the population; however, the Ministry of Health and the Pan American Health Organization estimate that the actual number of disabled persons could be as high as 3 million, or 13.8 percent of the population.

It is difficult for many disabled persons to obtain insurance coverage because carriers typically believe that a severe disability necessarily increases a person’s vulnerability to accidents and illnesses.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. Nor do accommodations exist, such as accessible polling stations, interpreters for the deaf in government service offices, and Braille or recorded versions of the Constitution, which would facilitate the participation of the disabled in the basic processes of democracy and citizenship. The Government made efforts to make voting easier for disabled persons in the April and May elections, although there were many complaints about inadequate access. In November the Human Rights Ombudsman's office announced a program to facilitate voter education and access for the handicapped for elections scheduled for April 2001.

According to officials of the Institute for Social Security, less than 1 percent of severely disabled citizens actually work. Among those who do, many have been channeled into a restricted number of occupations traditionally assumed to be "suitable" for the disabled, such as telephone switchboard operation and massage, in the case of the blind. Some private companies have initiated programs to hire and train the disabled, and a private foundation provides small loans to the disabled for the purpose of starting their own businesses. Nevertheless, disabled persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a discriminatory provision that the National Judiciary Council has interpreted to apply to all persons with disabilities. In 1998 SEDAPLA, Lima's water utility, dismissed all its blind switchboard operators, ostensibly as part of a nondiscriminatory, across-the-board cost-cutting measure. However, the chief advocate for the disabled in Congress reported that all the blind operators immediately were replaced by younger, sighted recruits. The disabled only recently have begun to organize and demand equal rights and opportunities as a minority.

*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 indigenous population still faces pervasive discrimination and social prejudice. Many factors impede the ability of indigenous people to participate in, and facilitate their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the provisions in the 1993 Constitution and in subsequent implementing legislation regarding the treatment of native lands are less explicit about their inalienability and unmarketability than were earlier constitutional and statutory protections. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous people lack such basic documents 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.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, which are 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. A 1998 regulation stipulating that all school teachers be certified initially caused fears that uncertified indigenous teachers would lose their jobs, and that the continued use of Aymara and Quechua as languages of instruction, as well as the very survival of indigenous cultures, had been put in jeopardy; however, due to the unwillingness of many certified teachers to work in rural areas, uncertified Aymara and Quechua-speaking teachers continue to work.

The native population of the Peruvian Amazon, estimated at between 200,000 and 300,000 persons, faces 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.

Many other factors also contribute to the marginalization of indigenous people in society. Poor transportation and communications infrastructure in the highlands and in the Amazon jungle region makes political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government action in Lima further limit the access and participation of indigenous people in society.

In many jungle areas, encroachment on native lands comes from a variety of sources, including colonists and coca growers, terrorists, and business interests in search of exploitable natural resources. For example, there are approximately 25 oil

exploration fields and numerous gold mining operations on indigenous lands in the Amazon region. The 45,000 Aguaruna and the 5,000 Huambisa people, who inhabit the area near the Peru-Ecuador border are only two of many indigenous groups that complain about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 Achuar people live in 36 communities, only 12 of which have title to their land. In addition, the Achuar are fighting an incursion by oil exploration and drilling interests, as well as against a government-sponsored influx of colonists. Title to land does not include mineral or other subsoil rights; this condition leads to conflicts between mining interests and indigenous communities. Such encroachment often can damage the environment and negatively affect the health of the native people. About 20 indigenous groups in the Amazon Basin have requested communal reserves to hunt game, which is allowed under the law, but the Government took no action on this request.

The two principal NGO's that represent the interests of the native population of the Peruvian Amazon are 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 coordinates the activities of the country's indigenous population. Both AIDSESEP and CONAP are 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. However, CONAP believes that mining and other development operations are inevitable and, therefore, wants native communities to share appropriately the benefits of that development. AIDSESEP remains opposed to territorial encroachments by government, commercial, and other interests.

Although indigenous rights advocates protest the low priority assigned by the Government to the socioeconomic condition of indigenous people and the lack of consultation regarding matters affecting their welfare, the Human Rights Ombudsman believes that the Government's attitude has changed. The Government's Indigenous Affairs Commission, formed in November 1998, is working to fulfill its mandate to coordinate all available state services to meet the needs of indigenous people better. The Commission, which is chaired by the Ministry of Women's Advancement and Human Development, has among its members officials from a variety of relevant ministries as well as four representatives of the indigenous peasant population in the highland and coastal areas and the native population of the Amazon jungle. In 1999 Congress created an Indigenous Affairs Committee; however, the Committee was largely inactive during the year.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. Isolated primarily along the Ene River in Junin department, Sendero Luminoso continued to coerce indigenous Ashaninkas to join its ranks, which resulted in further internal displacement in this region.

*National/Racial/Ethnic Minorities.*—In December Congress passed legislation that made racial discrimination a crime. The minority population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tend to be concentrated along the coast, often face discrimination and social prejudice, and they are among the poorest groups in the country.

Afro-Peruvians generally do not hold leadership positions in government, business, or the military; however there are three Afro-Peruvian members of Congress. Both the navy and the air force are widely believed to follow unstated policies that exclude blacks from the officer corps. The law prohibits employment advertisements in the newspapers from specifying the race of the candidates sought, but employers often find 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 significantly discriminatory practices. In one reported case, a foreign diplomat and his family were denied membership to a prestigious Lima social club because of race.

According to two organizations specializing in the rights of persons of African descent, police continue to detain persons of African descent on suspicion of having committed crimes, on the basis of their skin color. Similarly, police rarely act on complaints of crimes against Afro-Peruvians. Afro-Peruvians are portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although Peruvians of Asian descent historically have suffered discrimination, their social standing has improved markedly during the past decade, as the country has sought to emulate Asia's earlier economic growth and as the Asian community achieved financial success. In addition to former President Fujimori, who is of Japanese descent, many other persons of Asian descent hold leadership positions in business and government.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the law provide for the right of association; however, worker rights advocates claim that the laws are overly restrictive. About 5 percent of the total work force of 8.5 million belong to organized labor unions. More than half of all workers participate in the informal sector of the economy. Workers are not required to seek authorization prior to forming a trade union, nor can employers legally condition employment on union membership or nonmembership. However, groups including the International Confederation of Free Trade Unions (ICFTU) assert that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, fail to protect the rights of workers to form unions. Labor rights advocates claim that many workers are reluctant to organize due to fear of dismissal.

The International Labor Organization (ILO) indicated that several aspects of the labor law are not consistent with the international standard of freedom of association. The ILO specifically criticized a provision that permits businesses to employ youth workers between the ages of 16 to 25 as up to 30 percent of the workforce; workers in this age bracket are precluded from union membership and participation. The ILO requested modifications to the laws that regulate 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.

Unions represent a cross section of political opinion. Although some unions traditionally have been associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. The several union leaders who ran for Congress in the April elections all did so in their own names, without official union sponsorship. Nevertheless, some union activists who run for public office receive unofficial backing from their unions.

The main union confederations have criticized the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association. Unions also complain that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, the legislation allows companies to offer financial compensation instead of reinstatement. Although the law prohibits companies from firing workers solely for their involvement in union activities, this provision has not been rigidly enforced. In practice, the legislation continued to have a negative impact on the right of association by making it easier for companies to fire workers involved in union activities. There is no legal protection against employer interference in trade unions.

The Peruvian General Workers' Union (CGTP) and other labor groups held several general strikes throughout the country during the year. According to press accounts, one strike in August drew support from civil service workers, health providers, and construction workers, as well as support from a broad range of religious and social organizations and opposition politicians. In September a work stoppage culminated in protest marches around the country, including a large gathering of up to 20,000 persons in downtown Lima. The Government took no actions to prevent the strikes or reprimand participants.

On July 25, unknown persons broke into the headquarters of the United Worker's Center (CUT) and stole printed material and other items just before the Four Quarters March. The ICFTU noted that the police refused to register the CUT's complaint or begin an investigation. Moreover, the ICFTU asserted that police officers attempted to infiltrate union and other demonstrators who were planning the march.

Confrontations in Lima between union-affiliated protesters and police occurred in several different instances. In some cases these confrontations were reportedly provoked by protesters who burned tires, threw rocks, and tried to destroy public and private property. Police action resulted in injuries in several cases.

In August medical workers undertook a 2-day strike to protest low wages and working conditions. In November the Paniagua administration met with labor leaders in the health care sector to try to resolve wages and benefit related complaints. The Paniagua administration leaders also met with union leaders from the education sector to discuss their long standing grievances.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, 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 regulations prohibit probationary, apprentice, and management employees from union membership. The law does not prohibit temporary employees from joining a union, but they cannot join the same union as permanent workers.

According to the regulations, 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 time they may devote to union business on company time. The Labor Code requires employers to reinstate workers or compensate financially those whom companies have fired. It is illegal to fire workers for union activities, though reports from labor activists indicate that this is a common practice.

To become an official collective bargaining representative, a union must represent at least 20 workers. Representatives may participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams cannot exceed the size of union teams, and both sides are permitted to have attorneys and technical experts present as advisers.

Proposals for a strike require secret ballot approval of a majority of all workers in a company, whether union members or not; labor activists find the requirement to be onerous. A second vote must be taken, if petitioned by at least 20 percent of the workers. However, labor rights advocates complain that many workers are reluctant to participate even in secret ballots, due to fear of employer retaliation, particularly since a full list of workers who attend meetings in which such ballots are taken must be submitted to management. Strikes can only be called in defense of labor rights. Unions that employ workers in public services deemed essential by the Government are further restricted from striking.

In November the ILO's Committee of Freedom of Association issued a report in response to allegations of antiunion discrimination. It recommended that the Government enact and enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities.

The labor movement criticizes the amended Employment Promotion Law, which it asserts makes it easier for employers to dismiss employees and thereby to impede the right of workers to bargain collectively. There are no legal restrictions that prevent unions from negotiating for higher levels of worker protection than the baseline standards provided for by law.

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 allege that, in practice, few employers respected this provision. If workers reject an employer's proposed changes, the Ministry of Labor is required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances are upheld in full or in part, employers are 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.

In December the Paniagua administration established a national labor council to promote dialog among business, labor, government, and international organizations. The dialog focused on discussing reforms to legal provisions regarding dismissal policies and collective bargaining rights.

Although a conciliation and arbitration system exists to resolve management and labor disputes, union officials complain that their proportionate share of the costs of arbitration often exceeds their resources. In addition, union officials claim that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers on temporary, personal services contracts to prevent increases in the number of union members. Although the law restricts the number of temporary workers hired to 20 percent of a company's work force, worker rights advocates allege that this quota rarely is respected. Employers deny that they are biased against unions, and argue that the labor stability provisions of the legislation have made long-term commitments to workers too expensive.

Special regulations aimed at giving employers in export processing 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 have difficulty in unionizing, although worker rights advocates admit these zones are few in number and do not contribute substantively to labor's unionizing difficulties.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. 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 seem to have addressed the problem. During the year, the Ministry of Energy and Mines reported that the number of registered dredging companies fell, while informal operations continued. NGO sources and the ILO reported in 1999 that mechanization largely has replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry. According to the ILO, PROMUDEH, and the Ministry of Labor, there were no reports of forced child labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child and Adolescent Code of 1992 governs child and adolescent labor practices. The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs to help support their families 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. Certain types of employment are prohibited, 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. The ILO and NGO's report that child labor remained a problem nationwide, and especially in the informal sector.

Human and labor rights groups criticized the modification of the Child and Adolescent code, passed in August, that maintained the current minimum age for work at 12 years old (with permission), and argued that it contradicts international guidelines on the minimum age of child workers.

The Constitution provides for compulsory, free education through secondary school. Nevertheless, largely because of widespread poverty, approximately one-third of all school-age children and adolescents work during daytime hours rather than attend classes, and only a few of them attend classes at night.

Many children are pressed to help support their families from a very early age by working in the informal economy, which escapes government supervision of wages and working conditions. Other children and adolescents work either in formally established enterprises, or as unpaid workers at home, or at times in the sex trade (see Section 5).

Adolescent workers must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for ages 12 through 14, and 6 hours for ages 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions are violated routinely, especially in the informal sector. Child and adolescent laborers work long hours in the agricultural sector. Many other children are at times reportedly employed in dangerous occupations or in high-risk environments, such as gold mining, garbage collection, loading and unloading produce in markets, and brick making, or work in stone quarries and fireworks factories, among others.

In recent years, government surveys have estimated the number of child and adolescent workers at anywhere from 500,000 to 1.9 million. A 1996 government study found that 8 percent of the work force is between the ages of 6 and 14 (see Section 5). Child and adolescent labor tends to be seasonal, with the highest survey statistics reported during school vacation periods.

There were two allegations of child labor in the informal gold mines of Madre de Dios department in during the year. The authorities investigated the incidents and intervened with the families involved.

The Constitution does not prohibit specifically forced or bonded labor by children, although there are laws which prohibit this practice (see Section 6.c.).

*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 March the Government raised the statutory minimum wage to \$117 (410 soles) a month, which is not considered sufficient to provide a decent standard of living for a worker and family. That year the Government estimated the poverty line to be about \$45 (157 soles) a month per person. According to some estimates, as much as half the work force earns the minimum wage or below.

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; however,

it continued to be a problem in practice. The labor code provides for a 48 hour work week for women. Labor advocates state that workers have been pressured to work longer hours to avoid dismissal.

While occupational health and safety standards exist, the Government lacks the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. The Ministry of Labor employs a force of 100 inspectors to carry out unannounced visits throughout the country. When firms are found to be in violation of the law, the Government sanctions them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. The worker does 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. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. In November 1999, the Government adopted legislation that criminalized alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimping. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment are enforced and could be used to sanction traffickers in persons. Available information suggests that trafficking in persons to, from, within, or through from the country is not a significant problem.

## SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multi-party, parliamentary democracy 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 comprises a prime minister, a cabinet, and a bicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In national elections held on March 6, Denzil Douglas of the ruling St. Kitts and Nevis Labour Party remained Prime Minister; his party won 8 of 11 seats in the legislature. The judiciary is independent; however, intimidation of witnesses in high-profile, drug-related cases is a problem.

Security forces consist of a small police force, which includes a 50-person Special Services Unit that receives some light infantry training, a coast guard, and a small defense force. The forces are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The mixed economy is based on sugar cane, tourism, and light industry. Most commercial enterprises are privately owned, but the sugar industry and 85 percent of arable land are owned by a state corporation. In 1998 and 1999, hurricanes caused an estimated \$450 million damage, affecting over 85 percent of the houses and buildings, greatly reduced sugar production, and caused significant losses in the tourism industry. However, during the year, construction, small manufacturing, and the services sector registered some improvement. Per capita gross domestic product remained about \$7,000 in 1999.

The Government generally respected citizens' human rights; however, there were problems in a few areas. Poor prison conditions, apparent intimidation of witnesses and jurors, government restrictions on opposition 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. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

*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 observe this prohibition in practice. However, there were occasional allegations of excessive use of force by the police, particularly during the annual Carnival celebration or other special events. The

police force conducts its own internal investigation when complaints are made against members.

Prison conditions are poor. Prisoners suffer from severe overcrowding and poor food, and security is lax. These conditions have contributed to riots in the past, although none has occurred since 1994. The prison, built in 1840, was designed to accommodate 60 inmates but houses over 100 prisoners. A prison on Nevis houses 20 inmates. Female inmates are segregated from male prisoners; however, there are no separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects this provision 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 are permitted to visit detainees regularly.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, intimidation of witnesses and potential intimidation of jurors in high-profile, drug-related cases threatened this traditional independence. The Government is exploring the possibility of a program to protect witnesses, judges, and jurors through the Caribbean Community.

The court system comprises one 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 is 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 are observed. In the latter part of the year, approximately 29 persons were being held on "remand" (detention pending trial or further court action). The length of remand varies according to offense and charges; persons may be held for days, weeks, or months.

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 respect these prohibitions. 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, for the most part, the authorities respected these provisions in practice.

There are no daily newspapers; each of the major political parties publishes a weekly or biweekly newspaper. A third weekly newspaper is nonpartisan. The publications are free to criticize the Government and do so regularly and vigorously. International news publications are readily available.

The Government owns the only radio and television station on St. Kitts, and these media generally did not adequately publicize rallies and other events held by opposition parties. A Trinidadian company manages the station; however, the Government appoints three of its five board members. There is a religious television station and a privately owned radio station on Nevis.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Political parties organized demonstrations, rallies, and public meetings during the March election campaign without government interference.

The Constitution provides for the right of association, and the Government respects this right in practice.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise. There were no reports of 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 by peaceful means, and citizens exercise this right in practice through periodic elections held on the basis of universal suffrage. A vigorous multi-party political system

exists, in which political parties are free to conduct their activities. All citizens 18 years of age and older may register and vote by secret ballot. Despite some irregularities, orderly general elections were held in March.

The Legislative Assembly has 11 elected seats; 8 for St. Kitts and 3 for Nevis. The Government holds 8 of the 11 seats; opposition parties hold the other 3 seats. In the March elections, Douglas' St. Kitts and Nevis Labour Party won all eight seats on St. Kitts; the People's Action Movement (PAM) lost the one seat it had held. The Concerned Citizens Movement won two of the three Nevis seats; the Nevis Reform Party won the remaining one. The island of Nevis has considerable self-government, with its own premier and legislature.

In accordance with its rights under the Constitution, the Nevis Island Assembly in 1996 initiated steps towards secession from the Federation, the most recent being a referendum in August 1998 that failed to secure the required two-thirds majority for secession. However, the matter of secession remained open, and in October the newly appointed opposition leader publicly stated his desire to have "two separate governments."

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the former opposition party PAM alleges widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be PAM supporters. PAM alleged that the ruling party dismissed or demoted many PAM supporters from their jobs in order to replace them with its own supporters. The Government acknowledged that it had withheld pension benefits from opposition members of Parliament voted out of office but asserted that it had paid pension benefits to those entitled to them.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties. There are 3 women in the Cabinet, 3 of 4 magistrates are women, the court registrar is female, and 7 of 20 permanent secretaries are female.

*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 have been formed. There were no requests for investigations or visits by international human rights groups.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 respects these provisions in practice.

*Women.*—According to a government official, violence against women is a problem, but many women are reluctant to file complaints or pursue them in the courts. Despite this reluctance, there were publicly reported cases of both domestic violence and rape, and a few convictions. There is no legislation addressing domestic violence.

The role of women in society is not restricted by law but is circumscribed by culture and tradition. There is no overt societal discrimination against women in employment, although sectoral analyses suggest that women do not yet occupy as many senior positions as men. The Bureau of Women's Affairs, under the Ministry of Health and Women's Affairs, is active in promoting change in the areas of domestic violence, poverty, health, institutional mechanisms to advance the status of women, and leadership positions for women. Since 1997 the Bureau has also been active in training the police and school guidance counselors on issues of domestic violence, sexual crimes, and child abuse.

*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 is free and universal.

*People with Disabilities.*—Although there is no legislation to protect the disabled or to mandate accessibility for them, the Government and the Constitution prohibit discrimination in employment, education, and other state services.

*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 have associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union, is associated closely with the St. Kitts and Nevis Labour Party and is active in all sectors of the economy. There is

also a newly active teachers' union, a union representing dockworkers in the capital city, and two taxi drivers' associations.

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, are enforced by established practice and custom, but not by law. There were no major strikes during the year.

Unions are free to form federations or confederations and to affiliate with international organizations. The islands' unions maintain 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. The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees who were fired for union activities. However, the employer must pay lost wages and severance pay. There is no legislation governing the organization and representation of workers, and employers are not legally bound to recognize a union, but in practice employers do so if a majority of workers polled wish to organize. Collective bargaining takes place on a workplace-by-workplace basis, not industrywide. The Labor Commissioner mediates all types of disputes between labor and management on an ad hoc basis. However, in practice few disputes actually go to the Commissioner for resolution. If neither the Commissioner nor the Ministry of Labor are able to resolve the dispute, the law allows for a case to be brought before a civil court.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, and they do not occur in practice. While neither the Constitution nor the law specifically address bonded labor, it has not been a problem in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The 1966 Employment of Children Ordinance outlaws slavery, servitude, and forced labor, and prescribes the minimum legal working age, which is 14 years. The Labor Ministry relies heavily on school truant officers and the community affairs division to monitor compliance, which they do effectively. The law mandates compulsory education up to the age of 16. Although the law does not specifically address bonded labor, it has not been a problem in practice (see Section 6.c.).

*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 minimum wage varies from \$56.18 (EC\$ 150) per week for full-time domestic workers to \$74.91 (EC\$ 200) per week for skilled workers. These provide a barely adequate living for a wage earner and family; many workers supplement wages by keeping small animals such as goats and chickens. The Labor Commission undertakes regular wage inspections and special investigations when it receives complaints; it requires employers found in violation to pay back wages. The Government provides unemployment benefits to workers who lose their jobs temporarily or permanently.

The law provides for a 40- to 44-hour workweek, but the common practice is 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 are 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 have 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 are no laws that specifically address trafficking in persons.

An "economic citizenship" program allows foreign investors to purchase passports through loosely monitored procedures involving cash inflows ranging from \$200,000 (EC\$540,000) to \$285,000 (EC\$770,000). This program reportedly has 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 force them to work under conditions similar to bonded labor until their debt is repaid.

---

## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The Government is composed of a prime minister, a cabinet,

and a bicameral legislative assembly. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In general elections in 1997, the Saint Lucia Labour Party (SLP) defeated the incumbent United Workers Party (UWP), gaining 16 of 17 seats in the House of Assembly. Dr. Kenny Anthony of the SLP assumed the prime ministership from the UWP's Dr. Vaughan Lewis. 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 has some paramilitary training) and a coast guard unit. They are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The economy is based on tourism and on the export of bananas, which represent the principal sources of foreign exchange earnings. Saint Lucia is diversifying its economy into other types of agriculture, light manufacturing, and construction. Unemployment, estimated at 21 percent, remains a source of potential instability. Per capita gross domestic product for 1999 was provisionally estimated at \$3,648.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The major problems included an extrajudicial killing by police; occasional credible allegations of physical abuse of suspects or prisoners by the police; very poor prison conditions; some censorship; long delays in trials; and recurring domestic violence against women. Child neglect and abuse are problems. On December 31, a deadly attack on parishioners in a Catholic church, although believed to be an isolated act by disturbed persons, raised concerns about religious tolerance.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, there was one extrajudicial killing by police.

On November 19, police shot and killed an escaped prisoner, Alfred Harding, who was jailed on charges of armed robbery and attempted murder. Harding, a Barbadian national, had escaped from prison in that country and also escaped from prison in Castries in July 1999. The police reported that he was killed while trying to flee, armed with an ice pick; some witnesses contradicted police reports and said that the police shot the prisoner after recapture, while he was subdued and held on the ground. Human rights groups criticized the police action as an example of the use of excessive force by police. The Minister for Home Affairs stated that an international group would be invited to conduct an impartial investigation; results still were pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture, and there were no reports of such abuse. However, human rights groups assert that the police occasionally use excessive force.

In July 1999, when the police recaptured escaped prisoner Alfred Harding (see Section 1.a.), they detained him in chains and shackles and kept him continuously in solitary confinement amid the general prison population. He filed a court case asserting that his rights were violated, but he was held in this manner until his human rights case was decided. In August the High Court awarded him \$9,250 (EC\$25,000) in compensation, stating that prison authorities were wrong in keeping him in shackles and solitary confinement for so long.

Prison conditions are very poor. The island's only prison, built in the 1800's to house a maximum of 101 prisoners, was subject to severe overcrowding with over 340 inmates. The prison's conditions, overcrowding, and lengthy trial delays led to a prison riot in June 1997; prisoners set fires that destroyed over half of the antiquated prison. The inmates asserted that the fires were part of a protest for improved prison conditions. Following the fires, the authorities transferred about 250 inmates to a factory shell outside the capital and stationed the paramilitary Special Services Unit at the prison. The prison since has been repaired, the majority of prisoners have been returned to the prison, and the Special Services Unit has ceased guarding the prison.

Following the riots, the Government invited Penal Reform International (PRI), a London-based nongovernmental organization, to study the prison and make recommendations. Its recommendations included the release of prisoners awaiting trial for minor offenses and the introduction of noncustodial alternatives as a sentencing option. As a result of the PRI report, the authorities selected a new superintendent of prisons who took over in February 1998, established a permanent Complaints Board composed of prominent citizens to meet every month to hear prisoners' com-

plaints, hired 24 new prison officials, and made some limited improvements to the facility. Despite these measures, inmates made another attempt to burn down the main prison facility in September 1998 but caused only limited damage. According to the superintendent, both the 1997 and the 1998 incidents of unrest occurred prior to the start of a new session of the High Court when prisoners on "remand" (detention pending trial or further court action) discovered that their cases were not on the published list of cases to be heard. At any given time, there may be 100 or more prisoners on remand who have been denied bail and are awaiting trial.

The Government started the groundwork for a new \$17 million (EC\$50 million) prison in the more remote eastern part of the island in 1998. It was scheduled for completion during the year, but progress was delayed and officials expect it to be completed in 2001.

The Government maintains a separate facility for women and in September there were 11 female prisoners. Conditions in the women's facility are somewhat better than those at the men's prison. Detained juveniles are held in the same facility as women.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Government adheres to the constitutional provisions that prohibit arbitrary arrest or imprisonment and require a court hearing within 72 hours after detention. However, the authorities frequently have held prisoners for years on remand after charging them (there is no constitutional requirement for a speedy trial). At the time of the 1997 prison riot, about 160 of the prisoners were on remand. For example, two foreign nationals, a Ghanaian and a Nigerian, have been held on remand since 1996. These individuals are detained for immigration violations, pending resolution of who is to pay the expense of their deportations.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

There are two levels of courts: 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) in value and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases can be appealed to the Eastern Caribbean Court of Appeal. Cases 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 observe both constitutional and statutory requirements for fair public trials.

However, the court system continued to face a serious backlog of cases. In the latter part of 1998, the magistrate's courts had a backlog of over 6,000 cases. Following an official study, in July 1999, the Government hired a new director of public prosecutions and provide him an assistant to attempt to speed up the trial process and reduce the backlog. His work and the flow of cases through the court system continue to be hampered by a shortage of magistrates and resources, and the backlog likely has not diminished. Previously, the Government had invited a team of justices from Australia to conduct a study and to make recommendations for reducing the backlog. The team issued a report (the Bauer report) in 1998. At year's end, the Government still was reviewing the report's recommendations.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

#### *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 respects these rights in practice; however, some censorship is practiced. In September a representative of a small foreign publishing house arrived in the country from Martinique with a number of books. Customs authorities seized 57 of them under a law that bans certain books. The authorities returned 37 of the books but kept the others for further review. The publisher questioned the banning and confiscation as a violation of freedom of speech. A number of the books seized were on religion or religious themes (see Section 2.c.).



There are five privately owned newspapers, two privately owned radio stations, and one partially government-funded radio station. They carry a wide spectrum of political opinion and are often critical of the Government. The radio stations have discussion and call-in programs that allow persons to express their views. The two local television stations also are owned privately and cover a wide range of views. In addition there is subscription cable television service, which provides programming from a variety of sources.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The law requires permits for public meetings and demonstrations if they are to be held in public places, such as streets, sidewalks, or parks. The police routinely grant such permits; the rare refusal generally stems from the failure of organizers to request the permit in a timely manner, normally 48 hours before the event.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. However, a number of the books customs authorities seized in September were on religion or religious themes, including titles such as *The Egyptian Book of the Dead*, *The Greater Key of Solomon*, *The Lost Books of the Bible*, and *The Ancient Mysteries of Melchizedek* (see Section 2.a.).

On December 31, two men alleged to be members of the Rastafarian movement attacked a Sunday Mass in a Catholic Church. They killed a nun, set the priest on fire, and wounded 12 other persons. At year's end, the authorities brought charges of murder and arson against the two men, and the investigation continued. Rastafarian leaders criticized the attack, and Archdiocese representatives criticized what they termed "an atmosphere of intolerance" and a "callous disrespect for authority" in the country. The Government criticized the attack as the work of mentally disturbed persons who underscored the plight of "impoverished and marginalized youth" alienated from societal norms.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of the forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government and exercised that right in 1997 when the SLP defeated the UWP, which had governed with only one interruption since 1964. The SLP won 16 of 17 seats, campaigning on a platform of job creation and economic diversification and appealing explicitly to women and younger voters. In response to concerns about the size of the SLP's parliamentary majority, Prime Minister Anthony publicly emphasized that the Government would make efforts to reach out to the opposition to ensure that the country's democratic traditions were not undermined by the small size of the parliamentary opposition. The 1996 merger of smaller parties—the Concerned Citizens' Movement, the Saint Lucia Freedom Party, and the Citizens' Democratic Party—into the SLP left the country with only two major political parties. The Governor General, who had been affiliated with the UWP, stepped down following the elections. He was replaced by Pearlette Louisy.

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. Two members of the Senate are independent, appointed by the Governor General.

There are no legal impediments to participation by women and minorities in government and politics; however, they are underrepresented. Two of the 13 members of the Cabinet are women, as is the Governor General.

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

The Government generally does not restrict international or nongovernmental investigations of alleged violations of human rights. In some cases it has requested international organizations to investigate possible abuses.

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

The Constitution does not address discrimination specifically; however, government policy is nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement. There are no legal restrictions on the role of women or minorities.

*Women.*—There is increased awareness of the seriousness of violence against women. The Government does not prosecute crimes of violence against women unless the victim presses charges. If the victim chooses for any reason not to press charges, the Government cannot bring a case. Charges must be brought under the ordinary Civil Code. In 1997 the Government established a family court to hear cases of domestic violence and crimes against women and children.

The police force conducts some training for police officers responsible for investigating rape and other crimes against women, but there is no special unit that handles crimes against women. Police and courts enforce laws to protect women against abuse, although police are hesitant to intervene in domestic disputes, and many victims are reluctant to report cases of domestic violence and rape or to press charges.

The 1994 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 would no longer have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for women was established in 1988 in Castries, the capital; a second opened in the southern town of Vieux Fort in January 1999. These centers monitor cases of physical and emotional abuse and help clients deal with such problems as incest, alcohol and drug abuse, homelessness, nonpayment of child support, custody, and visitation rights. The Crisis Center has publicized the plight of battered women and has protested the rare deaths of women who were victims of domestic violence. The organizers continued to work to establish a shelter for battered women and homeless girls; however, no progress had been made at year's end. The Crisis Center reports that the number of new cases declined since the establishment of the family court because women can seek help in two places. Some secondary schools address the problems of sexual harassment and battering in their curriculum topics.

Women's affairs come under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Women. The Minister is responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

*Children.*—Since independence, successive governments have given high priority to improving educational opportunities and health care for the nation's children. Education is free and compulsory from age 5 through 15. However, only about one-third of primary school children continue on to secondary schools, and the drop-out rate from primary to secondary school is higher for boys than for girls. Government clinics provide prenatal care, immunization, child health care, and health education services throughout the island.

A broad legal framework exists for the protection of children through the Criminal Code, the Children and Young Persons Act, the Family Court Act, the Domestic Violence Act, and the Attachment of Earnings Act. Although the Government adopted a national plan of action in November 1991 for the survival, protection, and development of children, it still has not fulfilled this program by implementing effective programs. The Saint Lucia Crisis Center reported that the incidence of child abuse remains high. There were reports of abandoned children at times roaming the streets with no organized, fully functioning safety net or adequate supporting institutions to assist them. There are no specific laws enacted to cover foster care, adoptions, and child welfare social services.

*People with Disabilities.*—No specific legislation protects the rights of the disabled, nor mandates provision of access to buildings or government services for them. There is no rehabilitation facility for the physically disabled, although the Health Ministry operates a community-based rehabilitation program in residents' homes. There are schools for the deaf and for the blind up to the secondary level. There is also a school for the mentally retarded.

*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 are unionized; about 20 percent of the total work force is unionized. Unions are independent of government and are free to choose their own representatives in often vigorously contested elections. There are no restrictions

on the formation of national labor federations. In 1994 several of the major unions formed an umbrella grouping called the Industrial Solidarity Pact.

Strikes in both the public and private sectors are legal, but there are many avenues through collective bargaining agreements and government procedures that may preclude 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.

Unions are free to affiliate with international organizations, and some have done so.

*b. The Right to Organize and Bargain Collectively.*—On January 11, the Registration Status and Recognition of Trade Unions and Employer Organizations Act entered into effect. Unions have the legal right to engage in collective bargaining, and they fully exercise this right. Although union representatives have reported attempts by the Government and other employers to undermine this process, the new law is viewed widely as pronounion, and it has resulted in increased organizational activity by unions.

The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints. It also requires that employers reinstate workers fired for union activities.

Labor law is applicable in the export processing zones (EPZ’s), and there are no administrative or legal impediments to union organizing or collective bargaining in those zones. However, in practice many firms resist union efforts to organize in the EPZ’s, but there has been some progress because of the new law.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is 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.*—While the Children and Young Persons Act permits a minimum legal working age of 14 years, education legally is required through age 15. Ministry of Labor officials are responsible for enforcing the law. There were no reports of violations of child labor laws. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Wages Regulations (Clerks) Orders, in effect since 1985, set out minimum wage rates only for clerks. These office workers receive a legislated minimum wage of about \$300 (EC\$800) per month. The minimum wage is not sufficient to provide a decent standard of living for a worker and family, but some categories of workers receive more than the legal minimum for clerks, which is used only as a guide for setting pay for other professions.

There is no legislated workweek, although the common practice is to work 40 hours in 5 days. Special legislation covers hours that shop assistants, agricultural workers, domestics, and young people in industrial establishments may work.

Occupational health and safety regulations are relatively well developed. The Labor Ministry periodically inspects health and safety conditions at places of employment under the Employees’ Occupational Safety and Health Act of 1985. The Ministry enforces the act through threat of closure of the business if it discovers violations and the violator does not correct them. Workers are free to leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, within, or through 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. During the spring, divisive general strikes were settled only because Prime Minister Sir James F. Mitchell, whose New Democratic Party (NDP) had won an unprecedented fourth term in June 1998 by a slim margin, agreed to resign, with elections to be held by March 31, 2001. On October 27, Mitchell resigned, and Arnhim Eustace, an NDP parliamentarian, replaced him. 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 (SSU) with some paramilitary train-

ing, that is often accused of using excessive force. The force is controlled by and responsive to the Government, but police continued to commit some human rights abuses.

St. Vincent has a market-based economy. Much of the labor force is engaged in agriculture. Bananas are the leading export and a major source of foreign exchange earnings. However, the banana industry is declining, and the growing tourism sector is becoming the leading earner of foreign exchange. Unemployment is estimated to be 35 percent, and the 1999 per capita gross domestic product was approximately \$2,550.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The police SSU was accused of an extrajudicial killing. Other principal human rights problems continued to include occasional 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. Political and Other Extrajudicial Killing.*—There were no reports of political killings.

In March the police SSU shot and killed David Browne as they were taking him into custody for building a shack on the grounds of a secondary school. The police said he sustained an accidental but fatal shot to the temple when he resisted arrest. Human rights activists called for an inquiry and claimed that the police SSU used excessive and injudicious force leading to the death.

On December 14, 1999, a police antidrug patrol shot and killed Junior Harry, who they said was fleeing while the patrol conducted a search for narcotics in buildings near the town of Barrouallie. A police spokesman said that Harry was armed with a shotgun. Although the authorities planned to hold an inquest to establish whether police used excessive force, there was no information as to the results of any such inquiry.

*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 have noted that a high percentage of convictions are based on confessions. One human rights group believes 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.

There is no independent review board to monitor police activity and to hear public complaints about police misconduct. Human rights advocates recommend such a board to protect the rights of citizens who complain about police misconduct.

Prison conditions are poor. Prison buildings are antiquated and overcrowded, with one holding an average of 300 inmates in a building designed for 75, which results in serious health and safety problems. An inmate who wishes to speak with his lawyer must do so by written correspondence, and the authorities sometimes monitor and censor such correspondence.

In July 1999, prisoners rioted and seized control of the prison, protesting poor conditions and treatment. The Government acceded to a number of the prisoners' demands; however, conditions did not change significantly. In the spring, prisoners again demonstrated, and the Government appointed a former SSU commander as the new Superintendent of Prisons. Local human rights activists have acknowledged that he has tried to improve internal communications and training for prison personnel. However, the Government has not implemented any of the recommendations made by a Commission of Inquiry following the July-August 1999 disturbances.

In August identified prisoners whipped another prisoner, burned him with acid, and cut a piece of his ear off with a knife. The assaulted inmate asserted that this action was carried out as punishment when he had not supplied them with drugs after he had been released earlier from jail. Prison officials asserted that police failed to respond to arrest the inmates who had tortured and mutilated this prisoner.

Prison officials expressed frustration with the lack of resources, proper training, personnel, and progress in securing a new facility. The jail is in the center of the capital city with low walls that are accessible to passers-by. Prison guards are known at times to collaborate with prisoners in corrupt and illegal practices. Some guards have been disciplined for engaging in sexual acts with inmates. Reportedly, guards also supply drugs and other contraband or stand by while rough, abusive,

or inhuman prison punishment is meted out either by fellow prisoners or other guards.

There is a separate section for female inmates in the prison.

Conditions are inadequate for juvenile offenders. There is a small facility for delinquent boys; however, it is not financed by the Government and depends upon donations. As a result, it is in disrepair and only houses a small number of boys. Youngsters may be charged and convicted as criminals from the age of 8. In such cases, youngsters may then be jailed with older criminals. Although separate legal statutes exist for youthful offenders, there are no separate magistrates, prosecutors, or procedures to handle such cases.

The Government permits prison visits by independent human rights monitors.

*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. Although there are only two official magistrates, the registrar of the High Court and the presiding judge of the family court effectively serve as magistrates when called upon to do so. While this practice reduced the backlog, complaints continue regarding police practices in bringing cases to court. Some defense attorneys claim that this has caused 6- to 12-month delays in preliminary inquiries for serious crimes.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent and impartial court, and the judiciary is independent 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 are three magistrates, as well as one magistrate who serves only the family court.

The Constitution provides for public trials. The court appoints attorneys for indigent defendants only when the defendant is charged with a capital offense. Defendants are presumed innocent until proven guilty and may appeal verdicts and penalties. There is a large backlog of pending cases. In January a fire destroyed offices with records in the magistrates' court. The family court handled some cases, but the backlog increased. The court reopened in September with 1 day per week set aside to handle an increasing workload of drug-related cases. The court docket may average 55–60 cases a day, when reasonably only 5 to 7 may be heard, adjudicated, or disposed.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens, and there were no reports of such abuses.

#### *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 respects this right in practice.

There are two major newspapers and numerous smaller, partisan publications; all are privately owned, and most are openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press. However, individual journalists believe that government advertising, a significant source of revenue, sometimes is withheld from newspapers that publish articles that are less than favorable to the Government.

The lone television station in St. Vincent is privately owned and operates without government interference. Satellite dishes are popular among those who can afford them. There is also a cable system with mainly North American programming that has over 300 subscribers. The Government controls programming for the government-owned radio station.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government respects them in practice.

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government through regularly scheduled free and fair elections. St. Vincent has a long history of multiparty parliamentary democracy. During the June 1998 election, the ruling New Democratic Party won a slim 1-seat majority (8 of 15) in Parliament, despite losing the popular vote by a 55 to 45 percent margin to the opposition Unity Labour Party (ULP). Calling this outcome an "overt manifestation of rejection by the public" of Prime Minister Mitchell's Government, the ULP made claims of election fraud and demanded new elections.

The Prime Minister refused the ULP demand and instead proposed a constitutional review to consider possible amendments, such as a provision for proportional representation. Lingering dissatisfaction led to thousands of persons participating in rallies and strikes in April and May calling for the Prime Minister's resignation. A rally by the Organization in Defense of Democracy, comprised of leading private and public sector unions, said new elections should be held immediately and threatened "a total shutdown of the country" on May 3. After mediation by regional figures, the Prime Minister and his ruling NDP signed a six-point agreement known as the Grand Beach Accord, which confirmed that the Prime Minister would resign by January 2001 and call early elections before March 31, 2001. On October 27, Mitchell resigned and was replaced by Arnhim Eustace, an NDP parliamentarian. In November leaders of the three political parties signed a "Code of Conduct" intended to govern the campaign period. It includes a pledge of equal time on local radio and other electronic media and an agreement not to incite or encourage violence.

There are no legal impediments to women's full participation in politics or government; however, they are underrepresented. There is only one woman in Parliament, as a member of the opposition.

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

Opposition political groups and the Vincentian press often comment on human rights matters of local concern. The St. Vincent and the Grenadines Human Rights Association (SVGHRA) monitors government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. The Government generally is responsive to public and private inquiries about its human rights practices.

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

The Constitution provides for equal treatment under the law regardless of race, sex, or religion, and the Government adheres to this provision.

*Women.*—Violence against women, particularly domestic violence, remains a major problem. The Government took legislative steps to address this problem through the Domestic Violence/Matrimonial Proceedings Act (1994) and the more accessible Domestic Violence Summary Proceedings Act (1995). Both laws 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. Since passage of the laws, the SVGHRA has conducted numerous seminars and workshops throughout the country to familiarize citizens with their rights under these acts. Increasing numbers of women are coming forward with domestic violence complaints.

Depending on the magnitude of the offense and the age of the victim, the punishment for rape is generally 10 or more years in prison.

A 1995 amendment to the Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. Previously, fathers who had been ordered to pay child support could appeal decisions and not pay while the appeal was being heard. This resulted in a huge backlog of appeal cases and effectively reduced the number of mothers and children receiving support payments. There is a family court in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there is only one bailiff to service all the country, summonses often are not served on time for cases to be heard as scheduled in court.

The Ministry of Education, Women's Affairs, and Culture has a women's desk that assists 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, a social services agency established by the Catholic Church in 1989 and staffed by four trained counselors and three foreign volunteers, provides counseling and therapy services.

*Children.*—Education is not compulsory, but the Government states that it investigates cases in which children are withdrawn from school before the age of 16. Although the Government has played a more prominent role in legislating health and welfare standards since independence, the infant mortality rate is still very high. One underlying cause is 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. Nevertheless, reports of child abuse remain high and are on the increase. The Social Welfare Office is the government agency responsible for monitoring and protecting the welfare of children. The police are the enforcement arm; the Social Welfare Office refers all reports of child abuse to the police for action.

*People with Disabilities.*—There is no specific legislation addressing persons with disabilities, and the circumstances for disabled individuals are generally difficult. Most severely disabled persons rarely leave their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supports a school for the disabled which has two branches. A separate, small rehabilitation center treats about five persons daily.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides citizens the right to form unions and to organize employees, and the Trade Unions and Trade Disputes Act allows the right to strike. Employers often ignore the constitutional provisions that provide for union rights, and claim that they have a constitutional right not to recognize a trade union. However, some employers seek a good industrial relations environment and cooperate with trade unions.

In April and May, thousands of persons, including members of leading private and public sector unions, participated in rallies and strikes calling for the Prime Minister's resignation (see Section 3). Other than these, there were no major strikes during the year.

St. Vincent and the Grenadines joined the International Labor Organization in 1997 and assumed all its obligations for enforcement of labor standards.

Unions have the right to affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—There are no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. Some companies offer packages of benefits with terms of employment better than, or comparable to, what a union normally can obtain through negotiations. The law prohibits antiunion discrimination by employers. Generally effective mechanisms exist for resolving complaints. The authorities may order employers found guilty of antiunion discrimination for firing workers without cause (including for participation in union activities) to reinstate the workers or give them severance pay.

According to press reports in August and September, seven workers at the East Caribbean Group of Companies (ECGC—an agricultural manufacturing concern)—six of whom were executive members of a newly formed, government-registered ECGC Workers Union—were fired for “undisclosed reasons” following a 2-day sick-out. Shortly thereafter, Labor Minister Jerry Scott intervened in an attempt to resolve the matter, but the ECGC board refused to reinstate the workers. Instead, they provided fired workers with a severance package that included a statement that these workers had conspired to close down the company.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is not known to occur. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum working age at 16 years of age, although a worker must be 18 years of age to receive a national insurance card. The labor inspection office of the Ministry of Labor monitors and enforces this provision, and employers generally respect it in practice. The age of leaving school at the primary level is 15 years; when these pupils leave school, they usually are absorbed into the labor market disguised as apprentices. There is no known child labor except for children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets minimum wages, which were last promulgated in 1989. 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 wage for workers provided shelter is \$0.82

(EC\$2.25) per hour; skilled industrial workers earn \$7.36 (EC\$20) per day, and unskilled workers earn \$3.68 (EC\$10) per day. In many sectors the minimum wage is not sufficient to provide a decent standard of living for a worker and family, but most workers earn more than the minimum. The Wages Council, according to law, should meet every 2 years to review the minimum wage, but it has not met since 1989.

There is no legislation concerning the length of the workweek; however, the general practice is to work 40 hours in 5 days. The law provides workers a minimum annual vacation of 2 weeks.

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 only factories, but enforcement of these regulations is ineffective. Workers enjoy a reasonably safe working environment; however, the trade unions have dealt with some violations relating to safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual deficiency by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. It was not clear under present legislation whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

*f. Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.

---

## SURINAME

After over a decade of predominantly military rule, Suriname installed a freely elected Parliament and inaugurated a democratically chosen president in 1991. After free and fair elections in May, the new 51-member National Assembly elected Ronald Venetiaan of the National Party of Suriname (NPS) as President in August with the necessary two-thirds majority required by the Constitution; he replaced Jules Wijdenbosch of the National Democratic Party (NDP). Venetiaan had previously served as President in 1991–96. The Constitution provides for an independent judiciary, and previous disputes over appointees by the former president were alleviated when the appointees in question resigned from the judiciary; by year's end, the judiciary appeared to be acting independently.

The armed forces are responsible for national security and border and immigration control; they are under the control of the civilian Minister of Defense. Civilian police bear primary responsibility for the maintenance of law and order; they report to the Ministry of Justice and Police. The first Venetiaan Government had reformed the military in 1995–96 by purging military officers and supporters of former dictator Desi Bouterse, who ruled the country in the 1980's. Although in the May elections Bouterse's party won 10 seats in the National Assembly, 1 of which he occupies, the party's influence within the military has declined steadily. Members of the security forces continue to commit some human rights abuses.

The economy depends heavily on the export of bauxite derivatives. Unregulated gold mining is an increasingly important economic activity that highlights a lack of land rights for indigenous and tribal people, and it has a serious environmental impact. The Government and state-owned companies employ over half the working population. Overall economic conditions deteriorated during the year, and estimated gross domestic product declined by approximately 4 percent. The inflation rate was 82 percent, compared with 113 percent in 1999. Per capita annual income was about \$1,000.

The Government generally respected the human rights of its citizens; however, serious problems still remain in some areas. Police mistreat detainees, particularly during arrests; guards abuse prisoners; and local detention facilities remain overcrowded. The judiciary suffers from ineffectiveness and a huge case backlog. There was some harassment and media self-censorship, and societal discrimination against women and indigenous and tribal people persists. Violence against women and trafficking in women and girls are problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.



While there have been no recent reports of political killings, the Government has not addressed past abuses, and they continue to be a focus of concern. The authorities have not taken action against prison guards who allegedly beat a prisoner to death in 1993. Late in the year, the Government began an investigation into the December 1982 executions by the Bouterse regime of 15 opposition leaders; there has yet to be an investigation into the 1986 massacre of civilians at the village of Moiwana.

In December 1997, the Wijdenbosch administration appointed a "committee to establish the framework for a commission to investigate past human rights abuses." Human rights groups, which had been pressing since 1995 for an independent human rights commission to investigate violations committed during the 1980's, neither were informed nor consulted prior to the establishment of the committee. Moreover, the chairman of the committee was reportedly a member of Bouterse's team of legal advisers; his appointment raised questions regarding the objectivity of the group's work. Although the committee's report was presented to the former President in September 1999, the Government did not release its contents or recommendations. In view of the human rights record of the Bouterse regime, many of whose members participated in the Wijdenbosch Government, human rights organizations remained concerned about the potential for a deterioration of civil liberties.

After the elections, there were calls for the new Government to investigate the December 1982 murders before the 18-year statute of limitations expired in December. In October the Court of Justice began hearings on the murders in response to a request from relatives of the victims. Bouterse's lawyer sought to postpone the hearings, but the court denied his request. The court heard testimony from the victims' relatives, human rights activists, and the prosecutor's office, which had not yet made any investigation into the killings. Previously, Bouterse himself had requested an investigation, after the victims' relatives asked a Dutch court to prosecute him in that country. Following an order from the Court of Justice, an examining judge called for a full investigation into the 1982 murders, including the actions of 36 suspects.

*b. Disappearance.*—There were no reports of politically motivated disappearances. However, the new Government has yet to take any action to investigate allegations of some disappearances that occurred under previous regimes.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman treatment or punishment, but human rights groups continue to express concern about official mistreatment and have documented cases of police mistreatment of detainees, particularly during arrests, and guard abuse of prisoners.

Prison conditions are poor. There are three state prisons and several detention facilities at police stations, where arrestees are detained until they appear before a judge for trial. Human rights activists are concerned about conditions in the prisons and especially about conditions in local detention facilities. They report that the jails are overcrowded, that guards mistreat prisoners, and that medical care and living conditions are inadequate. Police officers, who are not trained in prison work, serve as the jailers at local detention facilities, a situation that human rights groups assert contributes to the abuses.

Women's jail and prison facilities and conditions are, in general, better than the men's facilities and conditions. There is a wing of an adult prison for boys under age 18 who have committed serious crimes. Juvenile facilities for boys between the ages of 11 and 18 within the adult prison were adequate; educational and recreational facilities were provided.

In February 1999, the human rights group Moiwana '86 issued a report that accused prison officials at two of the federal prisons of using electrical shocks to discipline prisoners. The report further asserted that different ethnic groups receive different forms and degrees of punishments. Prison officials denied the accusations, and the Government took no investigative action. Moiwana '86 did not pursue the issue further.

The completion of a new prison and renovation of existing jails have reduced somewhat the problems and improved overall health and safety conditions. However, the older jails remain seriously overcrowded, with as many as four times the number of detainees for which they were designed. In addition these older prisons are unsanitary. At police stations, guards allow detainees no exercise and only rarely permit them to leave their cells. Detainees and human rights groups also complain about inadequate prison meals, although families are permitted and encouraged to provide food to incarcerated relatives. Local detention facilities remain overcrowded.

Since 1996 Moiwana '86 has monitored the condition of prisoners. Representatives of the group report that in general they have access to prisoners and receive cooperation from prison officials on routine matters. Moiwana '86 and the police cooperated to develop a detention officer training program for police guards working at the local detention facilities. The program consists of lectures given at the state prison to both guards and prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the authorities generally respect these provisions in practice. However, delays have caused prisoners who appeal their sentences to remain in prison until a ruling is reached on their appeal, even if they have served the full term of their original sentence. Lawyers have filed complaints, but the problem has not been resolved.

The law provides that the police may detain for investigation for up to 14 days a person 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 tried. The judge of instruction has the power to authorize release on bail, but that power is used rarely, if ever.

Pretrial detainees, who constitute a large percentage of inmates, routinely are held without being brought before a judge. They often are held in overcrowded detention cells at local police stations. Of those held in police custody or detention cells, a steadily growing number already had been convicted but not yet placed in prisons.

The military police continued to observe the requirement to hand over to the civil police civilians arrested for committing a crime in their presence. The military police continued to maintain responsibility for control of the country's borders and airports, but it no longer investigated civilian crimes.

The Constitution does not prohibit specifically forced exile; however, it is not practiced.

*e. Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, an ongoing dispute between the previously sitting judges and a new slate appointed by the former Government severely damaged the concept of an independent judiciary. However, the change in government led to the resignations of the disputed judges. The new Government appointed an acting president of the Court of Justice and named the Solicitor General to act also as Attorney General. As a result of the conflict, the effectiveness of the civilian and military courts still was limited in practice, but at year's end, the judiciary appeared to be acting independently.

The judicial system consists of three lower courts and an appeals court, which is called the Court of Justice; there is no Supreme Court. In July 1998, President Wijdenbosch named a new President of the Court of Justice and Prosecutor General without consulting with, and over the objections of, the sitting justices. Most legal authorities interpret the Constitution to require that consultation, and the members of the court refused to recognize the named President of the court or Prosecutor General. In spite of the continued objections, President Wijdenbosch named additional justices without consultation in December 1998. In May 1999, the appointed President of the Court of Justice first swore in himself, and then he swore in the new justices. With the change in Government, the President of the Court and other disputed judges resigned. The 1987 Constitution calls for the establishment of an independent constitutional court. Although the previous Government did not take any steps to set up such a court, at year's end the Venetiaan Government was assembling a group of judges to sit on the court.

The Constitution provides for the right to a fair public trial in which defendants have the right to counsel if needed. The courts assign lawyers in private practice to defend indigent prisoners and pays lawyers from public funds. However, the court-assigned lawyers usually only appear at the trial, if they appear at all. The courts must, and in practice do, free a detainee who is not tried within the 164-day period. In one instance, a court levied a fine against the Government for failing to release detainees as directed by the court. Trials are before a single judge, with the right of appeal. Due to the conflict over the legitimacy of the president of the Court and the justices, there is a large backlog in the judicial system.

Military personnel generally are not subject to civilian criminal law. A soldier 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 provides for the right to privacy. The law requires warrants for searches, which are issued by quasi-judicial officers who supervise criminal investigations. The police obtain them in the great majority of investigations. There have been complaints of surveillance of human rights workers by members of the military police and the division of central intelligence. There is 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 respects these rights; however, in practice there were reports of intimidation and harassment.

The parliamentary and extraparliamentary opposition criticize the Government freely. Some media members continue to practice some self-censorship because of the history of intimidation and reprisals by certain elements of the former military leadership.

The Wijdenbosch Government publicly reprimanded radio stations and newspapers for their negative coverage of protest demonstrations that took place in May 1999. Although the Government threatened to censor the press, it ultimately took no action, and there continued to be reports unfavorable to the Government.

In April one of the two daily newspapers, *De West*, was firebombed one night. At year's end, the incident remained under investigation.

On July 24, a group of Bouterse supporters harassed and attempted to beat a journalist outside the National Assembly. The journalist was known to be critical of Bouterse, and the attack took place the first day Bouterse occupied his new seat in the Assembly. The police intervened, but the Bouterse supporters threatened to find the journalist anywhere in the country.

The two daily newspapers, five television stations, and most of the radio stations are owned privately. Two television stations and two radio stations are owned publicly. Four companies provide cable television, which includes international channels. Two companies, one private and one public, offer unrestricted access to electronic media.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. However, in response to a series of public demonstrations in May 1999, the Government announced that it intended to begin enforcing a 1930's law requiring a permit to hold a public demonstration or gathering. After the announcement, in late July 1999, the authorities detained two opposition leaders for demonstrating without a permit but quickly released them. Subsequent public marches were allowed to proceed without permits.

The Constitution provides for freedom of association, and the Government respects this right in practice.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens may change their residence and workplaces freely and may travel abroad as they wish. Political dissidents who emigrated to the Netherlands and elsewhere during the years of military rule are welcome to return. Few of them have chosen to do so, generally for economic reasons. Citizenship is 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 in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides for this right, but in the past the military prevented its effective exercise. Although the military twice has transferred power to elected civilian governments following coups, 2000 marked the second time since independence from the Netherlands in 1975 that one elected government succeeded another in accordance with constitutional provisions. The Government is still in the process of institutionalizing democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for the right to change the government through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects the President by a two-thirds 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 Constitution provides for the organization and functioning of political parties. Many parties and political coalitions are represented in the National Assembly. After the May elections, President Venetiaan formed a 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, and they are underrepresented in government and politics. 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 have made limited gains in attaining political power in recent years, political circles remain under the influence of traditional male-dominated groups, and women are disadvantaged in seeking high public office. In the May elections, voters elected nine women to the National Assembly, compared with six who held seats in the previous assembly, and the Assembly appointed a woman as vice chairperson. The Cabinet includes one woman as Minister of Foreign Affairs, another as Minister of Internal Affairs, and a third as Deputy Minister of Social Affairs.

Although the Constitution prohibits racial or 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. Most of the country's political activity takes place in the capital 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. Voters elected the first Amerindians to the National Assembly in 1996. After the May elections, there are eight Maroons and one Amerindian in the National Assembly. There are no Maroons or Amerindians in the Cabinet.

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

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally are not cooperative or responsive to their views. There have been complaints of surveillance of human rights workers by members of the military police and the division of central intelligence.

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

The Constitution and laws, with the exception of 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 suffer various forms of discrimination.

*Women.*—Violence against women is a problem. The law does not differentiate between domestic violence and other forms of assault. The Government has not addressed specifically the problem of violence against women. According to a national women's group, victims continue to report cases of violence against women and complain of an inadequate response from the Government and society to what appears to be a trend of increasing family violence. Although the police have been reluctant to intervene in instances of domestic violence, a national women's group noted that police attitudes have improved significantly as a result of training conducted in 1999.

There are no specific laws to protect women against trafficking and sexual exploitation. Prostitution is illegal; however, the police lack the resources to enforce these laws effectively. There were credible reports of trafficking in women for prostitution (see Section 6.f.).

Women have the right to equal access to education, employment, and property. Nevertheless, social pressures and customs, especially in rural areas, inhibit their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experience economic discrimination in access to employment and in rates of pay for the same or substantially similar work. The Government has not made specific efforts to combat economic discrimination.

The National Women's Center is a government agency devoted to women's issues; there is also a women's policy coordinator. Their effectiveness is limited severely by financial and staffing constraints. The principal concerns of women's groups are political representation, economic vulnerability, violence, and discrimination.

*Children.*—School attendance is free and compulsory until 12 years of age, but some school-age children do not have access to education due to a lack of transportation, facilities, or teachers. There is no legal difference in the treatment of girls and boys in education or health care services, and in practice both are treated fairly equally. Both students and parents complained about the Government's decision to double enrollment fees for public school, which occurred both in 1999 and 2000. Children face increasing economic pressure to discontinue their education in order to work.

The Government allocates only limited resources to ensure safeguards for the human rights and welfare of children. There are continuing reports of malnutrition among poor children, but it is difficult to quantify the extent of the problem. In the capital, where most of the country's population is concentrated, there are several orphanages and one privately funded shelter for sexually abused children. Elsewhere, distressed children usually must rely on the resources of their extended families. There were credible reports of hospitals refusing to hand newborns over to their mothers until hospital bills were paid in full, sending them instead to a state facility. The Government denied that such refusals occurred and stated that there was no such policy; one human rights group continued its investigation into the matter.

There is no societal pattern of abuse directed against children; however, some children are exploited sexually, and there were credible reports of trafficking in girls for prostitution (see Section 6.f.). The legal age of sexual consent is 14; however, it is not enforced strictly, and the Asian Marriage Law lowers the marriage age for children of Asian descent to 12 years for girls and 15 years for boys. Otherwise, one must be 31 years old to marry without parental permission.

*People with Disabilities.*—There are no laws concerning disabled persons and no provisions for making private or public buildings accessible to them. There are also no laws mandating that they be given equal consideration when seeking jobs or housing. However, there are some training programs for the blind and others with disabilities. In practice disabled persons suffer from discrimination when applying for jobs and services.

*Indigenous People.*—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians and Maroons suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs are concentrated in the capital and its environs, while the majority of Amerindians and Maroons live in the interior. Government services in the interior became largely unavailable, and much of the infrastructure was destroyed during the 1986–91 domestic insurgencies; progress in reestablishing services and rebuilding the infrastructure has been very slow.

The Government appointed the Consultative Council for the Development of the Interior in September 1995. This council, provided for in the 1992 peace accords that formally ended the insurgencies, includes representatives of the Maroon and Amerindian communities. However, the Government did not consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands. Early in the year, the Widjenbosch Government made an attempt to grant some land rights to indigenous people. Tribal leaders rejected the proposal, asserting that it was too weak. In November the new Government's Minister of Natural Resources met with tribal leaders and promised to work with tribal authorities toward a solution regarding land grants.

Organizations representing Maroon and Amerindian communities complain that small-scale mining operations, mainly illegal Brazilian gold miners, dig trenches that cut residents off from their agricultural land and threaten to drive them away from their traditional settlements. Mercury runoff from these operations also contaminates and threatens traditional food source areas.

Maroon and Amerindian groups continued to cooperate with each other in order to exercise their rights more effectively. Two summits, or “gran krutus,” bringing together Maroon and Amerindian tribal leaders, have been held, the most recent in September 1996. During these summits, indigenous leaders reiterated their demands for the right to participate in decisions concerning the use of natural resources on land they claim as their own and for greater autonomy from the Government.

*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 is organized into unions, and most unions belong to one of the country’s six major labor federations. Unions are independent of the Government but play an active role in politics. The small Labor Party historically has been a very influential force in government.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors are common as workers try to secure wage gains to protect their earning power from inflation.

There are no restrictions on unions’ international activities.

*b. The Right to Organize and Bargain Collectively.*—The Constitution explicitly recognizes these rights, and the authorities respect them in practice. Collective bargaining agreements cover approximately 50 percent of the labor force. Bauxite industry workers are organized, but gold miners are not. The law prohibits antiunion discrimination by employers, and there are 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. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it generally is not known to occur. However, there were credible reports of trafficking in women and girls for prostitution (see Section 6.f.). The law prohibits forced and bonded labor by children, and such practices generally are not known to occur.

*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 enforce this law only sporadically. Children under 14 years of age work as street vendors, newspaper sellers, or shop assistants. Working hours for youths are not limited in comparison with the regular work force. School attendance is compulsory until 12 years of age. The law prohibits forced and bonded labor by children, and there were no reports of such practices, although trafficking of girls for prostitution does occur (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—There is no minimum wage legislation. In October 1999, civil servants were granted a tax-free 60 percent pay increase for those with the lowest wages, a 55 percent increase for middle wage earners, and a 50 percent increase for the highest wage earners. Including that pay increase and a cost of living allowance of about \$12 (Sfl 30,000), the lowest wage for civil servants is about \$40 (Sfl 102,000) per month. This salary level makes it very difficult to provide a decent standard of living for a worker and family. Government employees, who constitute approximately 50 percent of the work force of 100,000, frequently supplement 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. Civil service and other wages are not keeping pace with inflation.

Work in excess of 9 hours per day or 45 hours per week on a regular basis requires special government permission, which is granted routinely. Such overtime work earns 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 is responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel preclude the division from making regular inspections of industry. Accident rates in local industry do not appear to be high, and the key bauxite industry has an outstanding safety record. However, there is 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.*—The only laws that specifically prohibit trafficking in persons are old “white slavery laws” that are enforced only rarely.

There were credible reports of trafficking in women and girls for prostitution. Women and girls from the interior are brought to the capital city and also to various

gold mining locations in the interior. Several clubs in the capital also are known for recruiting women from Brazil and the Caribbean. There were credible reports of individuals using the country as a transit point to transport Brazilian women to Europe and the United States for purposes of prostitution.

In addition alien smuggling organizations use the country as an intermediate destination to smuggle Chinese nationals, including women and girls, to the United States, where frequently they are forced into bonded-labor situations.

---

## TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been free and fair general elections since independence from the United Kingdom in 1962. A bicameral parliament and a prime minister govern the country. Parliament elects a president, whose office is largely ceremonial. In elections on December 11, voters returned the ruling United National Congress (UNC) party led by Prime Minister Basdeo Panday to power with 19 seats in the 36-member Parliament. A 12-member elected House of Assembly handles local matters on the island of Tobago. The judiciary is independent but inefficient.

The Ministry of National Security controls the police service and the defense force, which are responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the police service, and the Ministry has little direct influence over changes in senior positions. Police and prison guards committed some abuses.

Oil and natural gas production and related downstream petrochemical industries form the basis of the market-based economy. The service sector is the largest employer, although continued industrialization has created many jobs in the construction industry. Agriculture, while contributing only 2 percent to gross domestic product, remains an important employer, both at the subsistence and commercial level. Although per capita income is approximately \$5,700 annually, 12.5 percent unemployment contributes to a skewed income distribution, which has not improved despite economic growth of 6.7 percent. Government efforts to address this problem by further diversification into manufacturing and tourism have been only partially successful.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, police and guard abuse of prisoners, poor prison conditions, long delays in trials, and extensive violence against women remain problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

In the December 31, 1999, murder of politician Hanraj Sumairsingh, which some thought might have had a political motivation, the police arrested and charged a member of Jamat al Muslimeen, a radical group. However, bribery and corruption were believed to be motives behind the killing.

*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 officials employed them; however, there were credible reports of police and prison personnel abusing prisoners in incidents that involved beating, pushing, and verbal insults.

A 1999 ruling permits corporal punishment for certain crimes, including aggravated assault, rape, deliberate shooting, and robbery with violence. During the year, the courts sentenced 5 persons to corporal punishment (ranging from 5 to 10 birch strokes) in addition to prison terms. The law also was changed to increase the corporal punishment for rape from 15 strokes to 20.

Prison conditions at the women's prison and two of the three men's prisons meet minimum international standards. However, conditions are worse in the Port of Spain prison, which dates from the 1830's. It was designed for 250 inmates but houses about 1,000. Diseases such as chicken pox, tuberculosis, AIDS, and other viruses spread easily, and prisoners generally must purchase their own medication. Overcrowding is a problem for the entire prison system, which housed 4,700 inmates in prisons built to accommodate 1,800. A new maximum security prison opened in

1998 houses about 850 prisoners, but it is not yet fully functional. With an eventual capacity of 2,100, this prison is expected to help alleviate the problem.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government generally observes this prohibition.

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 bring the accused before a magistrate within 24 hours; for indictable offenses, the accused must appear within 48 hours. At that time, the magistrate reads the charge and determines whether bail is appropriate. Magistrates may deny bail to violent or repeat offenders. If for some reason the accused does not come before the magistrate, the case comes up on the magistrate's docket every 8 to 10 days until a hearing date is set. The courts notify persons of their right to an attorney and allow them access to an attorney once they are in custody and prior to any interrogation. However, the authorities do not always comply with these standards. Allegations of corruption among justices of the peace also raised concerns about compliance; the Government pledged to dismiss and prosecute any justice found to have violated these standards (see Section 1.e.).

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. A person detained under this provision has access to counsel and may have the detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide the tribunal with the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably practicable" following receipt of the grounds. There have been no reports that the authorities abused this procedure.

The Constitution prohibits forced exile, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair judicial process. After the Chief Justice warned in 1999 that the executive branch was encroaching upon judicial independence, the Government appointed two independent commissions to review the issue. A Commonwealth commission concluded that the judiciary was not threatened by the Attorney General's involvement in judicial administration; however, a law association group recommended that executive requests should be handled by the Prime Minister, not the Attorney General.

The court system consists of a court of appeal, a high court, and a magistrate's court. A criminal offense first is sent to a magistrate's court for a preliminary inquiry to determine if it can be heard before a magistrate without a jury. If the magistrate determines that the offense is a serious one, it is referred to the High Court, where it is heard before a judge and jury. All civil matters are heard by the High Court. Appeals can be filed with the local court of appeal and ultimately to the Privy Council in London. There is considerable support for abolishing appeals to the Privy Council and establishing a Caribbean Court of Justice, located in Trinidad and Tobago, to serve as the final court of appeal.

An October decision of the Privy Council ruled that all death row prisoners throughout the Caribbean have a right to be heard before its Mercy Committee, which can stay death sentences. The Council decided that prisoners should be given access to all material put before the Mercy Committee. In addition procedures followed by the Mercy Committee now can be subject to judicial review.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. All criminal defendants have the right to an attorney. In practice the courts sometimes appoint attorneys for those persons charged with indictable offenses (serious crimes) if they cannot retain one on their own behalf. The law requires a person accused of murder to have an attorney. An indigent person may refuse to accept an assigned attorney for cause and obtain a replacement.

Despite serious efforts to improve the judiciary, severe inefficiency remains in many areas. Several criminal cases were dismissed due to judicial or police inefficiency. Despite significant progress, lengthy trial delays remain a serious problem.

The Government continued to take steps against corruption in the criminal justice system. Over a 2-year period, the authorities charged at least 80 persons with various offenses after a presidential commission's investigation found collusion among justices of the peace, bailiffs, and police officers in the granting and fixing of bail. The Government revoked the licenses of 25 justices of the peace. However, at year's end, the charges brought against these individuals were still before the court. Only



one of those indicted as a result of the commission's inquiry had come to trial. In that case, a court convicted one of the justices of the peace and sentenced him to 4 years' imprisonment.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects this right in practice. An independent press and a functioning democratic political system combine to ensure freedom of speech and of the press.

The three major daily newspapers freely and often criticize the Government in editorials. Widely read weekly tabloids tend to be extremely critical of the Government. All newspapers are privately owned. The two local television newscasts, one of which appears on a state-owned station, are sometimes critical of the Government but generally do not editorialize.

Over the past several years, the Media Association of Trinidad and Tobago and the Publishers' Association have expressed concern about media treatment and access to the Government. For its part, the Government sometimes charges unfair treatment by the media, which the press views as unwarranted criticism. When the Prime Minister labeled Ken Gordon, head of a major media corporation, a "pseudoracist" for editorials about the rise of the ruling UNC party, Gordon filed suit for libel. In November a court found the Prime Minister guilty of libel and ordered him to pay damages to Gordon.

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 are banned.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. The police routinely grant the required advance permits for street marches, demonstrations, or other outdoor public meetings. In 1998 the Government amended the Summary Offences Act to put greater controls on holding public rallies. The amendments 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. In practice the amendments have not restricted unduly public meetings, demonstrations, or exempted events. One planned political youth demonstration was postponed when the police denied a permit due to concerns about size and safety.

The Constitution provides for freedom of association, and the Government respects 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 respects this right in practice.

In October Parliament passed an Equal Opportunities Bill that prohibits acts that offend or insult another person or group on the grounds of race, origin, or religion, or which incite racial or religious hatred. In November Parliament passed a separate bill that in part removed certain legal provisions interfering with the religious practices of the Spiritual Shouter Baptist and Orisa faiths.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice.

There is no provision for persons to claim or be classified as refugees or asylum seekers; the Ministry of National Security's Immigration Division handles any such requests on a case-by-case basis. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held at intervals not to exceed 5 years. Elections for the 12-member Tobago House of As-

sembly are held every 4 years. 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.

In the 1995 general elections, the former opposition UNC and the ruling People's National Movement (PNM) each won 17 seats in the 36-member Parliament. The National Alliance for Reconstruction (NAR) won two seats and joined with the UNC to form a new government. Basdeo Panday became the country's first Prime Minister of East Indian descent. The PNM is primarily but not exclusively Afro-Trinidadian; the UNC is primarily but not exclusively Indo-Trinidadian. In general elections in December, voters returned Prime Minister Panday and his UNC party to power with a 19-seat majority. The PNM won 16 seats and the NAR 1 seat. Election observers noted that the elections were wellorganized, peaceful, free, and fair. Several recounts were requested and proceeded without incident. By year's end, opposition challenges to election results in two districts had not yet been decided.

There are no specific laws that restrict the participation of women or minorities in government or the political parties. Women hold many positions in the Government and political party leadership but are still under-represented. Four of 36 elected members of the House of Representatives and 9 of 31 appointed Senators are women, with 2 women serving as ministers. Prime Minister Panday appointed the first woman to serve as Attorney General; she since has moved to the position of Minister of Education. Prime Minister Panday also appointed the first female acting Prime Minister.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. While government officials are cooperative, the Government has bitterly attacked Amnesty International's criticism of prison conditions and due process. An independent Ombudsman receives complaints relating to governmental administrative issues and investigates complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

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. In 1999 it withdrew from the IACHR following its required 1-year notice. The Government also withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights, but reaccessed with the reservation that the U.N. Committee would not have jurisdiction over death penalty cases.

The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constitutes cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government established time limits for appeals to courts and human rights bodies. Local appeals are now disposed of within an average of 16 months compared with the previous average of 7 years.

The Government asked the IACHR and the U.N. Committee each to agree to dispose of petitions within 8 months. According to the Government, both bodies responded that they could not provide such assurances. The Government stated that the conflict between a binding Privy Council ruling and its obligations to the human rights organs had to be resolved in favor of the Constitution and the Privy Council. The Government indicated that it would execute condemned prisoners who have exhausted all their appeals and have unresolved petitions pending more than 8 months before one of the human rights bodies.

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

The Government respects in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex. In October Parliament passed an Equal Opportunities Bill that makes discrimination illegal on the basis of race, ethnicity, sex, religion, marital status or disability. It also establishes a commission to investigate cases of alleged discrimination and a tribunal to judge complaints.

*Women.*—Physical abuse of women continued to be an extensive problem. There has been increased media coverage of domestic abuse cases and signs of a shift in public opinion, which held that such cases were a private matter. The Government has taken action to improve aid to victims. Murder, rape, and other crimes against women are reported frequently; 30 percent of all female homicide victims were believed to have been killed by their husbands or lovers. Rape, spousal abuse, and spousal rape are criminal offenses. The 1991 Domestic Violence Act was intended

to facilitate court-issued restraining orders to protect victims and extended protection to common-law relationships, a frequent form of marital union. However, some observers say that the number of restraining orders issued has not increased at the rate expected since the enactment of the law. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers are reported to be unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. There were more than 4,000 complaints of spousal abuse during the year; police handled an average of 9 cases a day that led to reports by victims, with the actual incidence of such abuse considered to be much higher. Two government ministries, operating independently, direct the nongovernmental organizations (NGO's) that run most of the country's social programs addressing domestic violence, including five shelters for battered women. A rape crisis center offers counseling for rape victims and perpetrators on a voluntary basis. A government-sponsored hot line receives about 300 calls per month.

In 1999 a new Domestic Violence Act came into effect. That law strengthened provisions of the 1991 law and allows easier access for police in instances of domestic violence. Parliament approved amendments to the Sexual Offences Act that broaden the definition of sexual offenses, increase the punishment for such crimes, and require the police to keep a register of sexual offenders.

Many women hold positions in business, the professions, and government, but men tend to hold the most senior positions. There is no law or regulation requiring equal pay for equal work; during the year, a bill containing such provisions was introduced into Parliament, but no action was taken on it.

The Division of Gender Affairs in the Ministry of Culture and Gender Affairs is charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also exist.

*Children.*—The Government's ability to protect children's welfare is limited by a lack of funds and expanding social needs. Education is free and compulsory through primary school. Some parts of the public school system seriously fail to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. There is no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. Abused children are usually placed with relatives if they are removed from the home. If there is no relative who can take them, there are several government institutions and NGO's that accept children for placement.

*People with Disabilities.*—There is no legislation that specifically enumerates or protects the rights of disabled persons or mandates the provision of access to buildings or services, although NGO's lobbied Parliament to pass such legislation. The lack of access to transportation, buildings, and sidewalks is a major obstacle for the disabled. The Government provides some public assistance and partial funding to a variety of NGO's which, in turn, provide direct services to disabled members or clients.

*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 are not subject to discrimination.

*National/Racial/Ethnic Minorities.*—Various ethnic and religious groups live together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appear between Afro-Trinidadians and Indo-Trinidadians. Each group comprises about 40 percent of the population. The private sector is dominated by Indo-Trinidadians and people of European, Middle Eastern, or Asian descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians tend to find employment in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians assert that they are excluded from equal representation in the civil service due to racial discrimination. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians are in the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones.

In 1996 there were reports that several popular recreational clubs refused entry to Afro-Trinidadians and dark-skinned Indo-Trinidadians. The reports led to criticism of racism by the local press, and the Government pledged to implement a law banning racial discrimination in entry policies for private clubs. However, the Government has not yet taken such action.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1972 Industrial Relations Act provides that all workers, including those in state-owned enterprises, may form or join unions of

their own choosing without prior authorization. Union membership has declined in recent years, with an estimated 25 to 30 percent of the work force organized in 19 active unions. Most unions are independent of the Government or political party control, although the Sugar Workers' Union historically was allied with the UNC. The Prime Minister formerly was president of the Sugar Workers' Union.

The law prohibits antiunion activities before a union is registered legally, and the Ministry of Labor enforces this provision when it receives a complaint. A union also may bring a request for enforcement to the Industrial Court. All employees except those in "essential services," which include the police and many other government employees, have the right to strike.

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 consider this court to be impartial; it consists of government, business, and labor representatives.

Unions freely join federations and affiliate with international bodies. There are no restrictions on international travel or contacts.

*b. The Right to Organize and Bargain Collectively.*—The Industrial Relations Act establishes the right of workers to collective bargaining. The Ministry of Labor's conciliation service maintains statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

The Industrial Court may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation, or it can impose other penalties including imprisonment. When necessary the conciliation service also determines which unions should have senior status.

There are several export processing zones (EPZ's). The same labor laws apply in the EPZ's as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit specifically forced or compulsory labor, but there were no reports that it was practiced. 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. Education is compulsory through primary school. 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 probation service in the Ministry of Social Development and Family Services is responsible for enforcing child labor provisions, but enforcement is lax. There is no organized exploitation of child labor, but children are seen begging or working as street vendors. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The 1998 Minimum Wages Act established a minimum wage of about \$1.10 (TT\$7.00) per hour. The minimum wage is not sufficient to support a worker and family, but most workers earn more than the minimum. The Ministry of Labor enforces the minimum wage regulations.

The Minimum Wages Act also established 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 form 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 Industrial Relations Act 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 legislation dealing with kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports of persons being trafficked to, from, within, or through the country.

## URUGUAY

Uruguay is a constitutional republic with an elected president and a bicameral legislature. In November 1999, voters elected Senator Jorge Batlle of the Colorado party President, and he assumed office on March 1. 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 constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control over 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. The civilian authorities exercise effective control over the security forces. The police at times committed human rights abuses.

The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The leading exports are meat, leather, and rice. The Government respects private property rights. The unemployment rate was estimated at 14.4 percent in November. The economy shrank by between 0.5 and 1 percent during the year, following a decline of 3.2 percent in 1999. Annual per capita income was about \$6,348 in 1999.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of dealing with individual instances of abuse. However, there were problems in some areas, principally instances of police abuse and mistreatment of detainees, poor prison conditions, and delays in the justice system. Court cases sometimes last for many years, resulting in lengthy pre-trial detention. In August the President created a Peace Commission to clarify what happened to about 160 persons who disappeared for political reasons during the 1973–85 military dictatorship. Violence against women and societal discrimination against women and the black minority are problems. In September the police arrested the leader of a small neo-Nazi group.

## RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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 in 1973–85. However, some victims and relatives of victims had success using the civilian courts to seek redress.

In the case initiated in 1999 by the widow of a criminal suspect who in 1998 died under suspicious circumstances while in police custody, the court dismissed charges against the principal suspect. Although an appellate court ordered the trial court to investigate the causes of the criminal suspect's death, the judge and prosecutor shelved the investigation.

The decision of the Supreme Court of Justice was pending in the case of 12 former political prisoners and their families who sued the Government for damages suffered as a result of their imprisonment, torture, and in three cases death in custody during the military dictatorship. Although in 1998 a trial-level court ordered the Government to pay each plaintiff approximately \$93,600 (1.17 million pesos) in damages, an appellate-level court later reduced this award to approximately \$16,850 (210,600 pesos) per person for 11 of the cases and \$23,640 (295,500 pesos) for the other case. The plaintiffs have appealed the appellate court's decision to the Supreme Court of Justice.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Although the 1986 Amnesty Law required the Government to investigate the fate of those citizens who were detained and who then disappeared during the dictatorship, the first three administrations following the return to democracy consistently refused to do so. During the year, the new Government for the first time undertook such an effort.

On August 9, President Batlle created a Peace Commission in order to clarify the fate of the approximately 160 Uruguayans believed to have disappeared for political reasons during the dictatorship (115 in Argentina, 36 in Uruguay, 6 in Chile, and 2 in Paraguay). The Commission was charged with receiving and analyzing information relevant to the disappeared persons. It is to prepare individual summaries of its conclusions as to the fate of each person and to recommend 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 legally dead. The Commission consists of six members appointed by the President and operates under the supervision of the office of the President. One retired military officer told the press that "hundreds" of current and retired officers serving during the period of military rule had adopted a pact of silence with regard to the disappearances. Although the Commission was created for an initial mandate of 120 days, in early December its mandate was extended for an additional 4-month period.

Shortly after taking office, President Batlle personally intervened to resolve one of the most high-profile cases of a disappeared person, that of the granddaughter of Argentine poet Juan Gelman. By combining information provided by Gelman with information obtained from other sources, Batlle succeeded in locating the young woman, who had been born in captivity in Uruguay to Gelman's daughter-in-law and adopted by an Uruguayan family after her mother died in prison.

Since the 1986 Amnesty Law precludes criminal actions against suspected participants in human rights violations during military rule, some persons have sought justice in non-Uruguayan courts. In March 1999, Sara Mendez filed papers in an Argentine court formally accusing five present and former members of the Uruguayan military with the 1976 kidnaping of her infant from her Buenos Aires home. The case remained pending in Argentine courts and, during the course of the year, Mendez gave testimony on several occasions. A DNA sample taken in May from a young man believed possibly to have been Mendez' kidnaped son indicated that he was not related to Mendez. An Italian prosecutor continued to investigate charges brought in an Italian court in 1999 against four present and former members of the military and one police officer accused of responsibility in the disappearance of eight Italian-Uruguayan dual nationals.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits brutal treatment of prisoners, but the police continued at times to commit abuses. On occasion such abuse resulted in forced confessions (see Section 1.d.).

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. 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. While the courts seldom convicted and punished law enforcement officials for such abuse in the past, such prosecutions were occurring more frequently. In the first 5 months of the year, the authorities prosecuted approximately 40 police officers for a variety of crimes, typically involving corruption, excessive use of force, or theft of suspects' property. They brought homicide charges against one officer, who shot and killed a neighbor who had a dispute with the officer's brother-in-law.

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. A 1999 Ministry of Interior study reported that courts had investigated or convicted 179 police officers, and that 117 of these cases were linked directly to the exercise of their jobs. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, in accordance with U.N. codes regarding the use of force.

Some torture victims and relatives of victims continued to use the courts to seek redress for their grievances. A group of 12 former political prisoners (and their survivors) appealed the decision of an appellate court to reduce the award made by a trial court for the damages that they suffered due to their imprisonment and torture (see Section 1.a.).

Conditions in prisons for the approximately 4,450 prisoners remain poor but not life threatening. A 1997 legislative human rights commission report criticized the "excessive use of force and abuse of authority" by prison guards and officials, and stated that sanitation and health standards in the prison system were "unacceptable." This report reflected the work of a previous commission that in 1996 published a report to the Government citing overcrowding, lack of staff training, corruption, and physical violence as problems. Prisoners often find that they must supplement prison provisions with bedding, medicines, and toiletries brought by friends or relatives. According to press reports and a study conducted by SERPAJ, a non-governmental organization (NGO), HIV-positive inmates sometimes received inadequate medical treatment. There were several incidents of prisoner unrest during the year, including at least one hunger strike in which several hundred prisoners demanded better prison conditions, but none were as serious as the incidents of unrest that occurred in 1999.

Female prisoners are held in separate facilities from male prisoners; most are held in a women's prison in Montevideo. Some provincial prisons have separate facilities for their small number of female prisoners. In general conditions for female

prisoners are significantly better than for male prisoners, in large part because of the small number of female inmates.

Minors are held in institutions operated by the National Institute for Minors (INAME). The most controversial aspect of the 1995 Public Security Law would allow the Government to put minors with a record of violent crimes in adult prisons if INAME has no room in its own institutions. Even though the law stipulates that minors would occupy separate facilities within the prisons, human rights groups adamantly opposed this provision. As a result, INAME has decided that it will not send minors to adult prisons. Juvenile offenders are separated according to their gender, age, and the severity of their crime. Those juveniles who commit serious crimes are incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in these facilities are generally better than those in ordinary jails, in part because they are less crowded. Juvenile offenders who pose less of a threat to society are placed in halfway house facilities, oriented toward rehabilitation, in which a group of offenders lives together with adult counselors. These facilities provide educational, vocational, and other opportunities, and the juvenile offenders are able to enter and leave without restriction.

The Government permits prison visits by human rights monitors, although prisoner unrest, as well as the requirement to route all such requests through the Ministry of Interior, at times caused delays.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respect this provision in practice. The only exception is when the police apprehend the accused during commission of a crime. 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. In June the President signed a new law that obligates police officers to inform individuals of the reason for their arrest. 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. It is during this 24-hour period that police sometimes abuse prisoners, occasionally resulting in forced confessions (see Section 1.c.).

A 1980 law stipulates that police confessions obtained before a prisoner appears before a judge and attorney (without the police present) have no validity. Further, should a prisoner 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, as of mid-year approximately 73 percent of all persons incarcerated were awaiting a final decision in their case (compared with 68 percent in mid-1999). However, this proportion used to be 90 percent; declines in recent years are due to the Government's efforts to improve the functioning of the criminal justice system. Because of the slowness of the judicial process, the length of time prisoners spend in jail before the judge issues a verdict may exceed the maximum sentence for their crime. The uncertainty as to how long one will be imprisoned is a factor creating tension within the country's prisons.

The Government does not use forced exile as a means of punishment.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects 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 are not made public routinely. Only the prosecutor and defense attorney have access to all documents that form part of the written record. The courts introduced oral argument in 1990, but individual judges use it at their option. Most judges choose to retain 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.

A 1997 law to reform and modernize the Criminal Code provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and is expected to accelerate the pace of criminal trials. Although the law

was to take effect in 1998, budget constraints have resulted in repeated postponement of its implementation, and it is not scheduled for implementation until 2004.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, but the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.”

All elements of the political spectrum freely express their viewpoints in both print and broadcast media.

Montevideo has 5 daily newspapers and 9 important weeklies; there are also approximately 80 other weekly and a few daily newspapers throughout the country. Montevideo has one government-affiliated and three commercial television stations. There are about 150 radio stations, 25 television stations, and 250 cable television stations in the country.

A 1989 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 calls for 3 months’ to 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 use this law intermittently to set and enforce certain limits on freedom of the press.

Human rights activists and journalists have alleged that state enterprises such as the telephone and electric companies on occasion have withheld advertising from independent media that are critical of the Government and have favored media friendly to the Government with extensive paid advertising.

In February Nery Colombo, a former local official seeking reelection, shot and killed journalist and radio station owner Julio Cesar da Rosa, after the latter suggested in a broadcast that the former was unfit to run for public office. Colombo committed suicide immediately after the killing. On the night of May 2, unknown assailants shot at journalist and political activist Julio Cesar Sanchez Padilla while he was driving his car. Sanchez was not injured, and the authorities were unable to identify the perpetrators of, or a motive for, the attack.

In August the press association criticized the newspaper distributors’ union for a 1-day refusal to distribute one newspaper (see Section 6.a.).

The national university is autonomous, and the authorities respect academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government respects them 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.

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects 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. 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 cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government grants first asylum in cases in which a refugee’s claims are verified by the UNHCR. The Government works actively with international organizations in the provision of temporary protection to refugees from Colombia.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a multiparty democracy with mandatory voting for those 18 years of age or older, and there are no suffrage restrictions regarding race, sex, religion, or economic status. The Colorado



party, the National (Blanco) party, the Broad Front coalition, and the New Space party are the four major political groupings.

Women and minorities are under-represented in politics and government. None of the 13 cabinet ministers are women, and only 3 of 30 senators and 13 of 99 deputies are women. There are no female justices on the Supreme Court. There has never been a black parliamentarian or cabinet-level official except in July when, for the first time, an Afro-Uruguayan elected as an alternate deputy substituted in legislative sessions for an absent deputy for approximately 10 days.

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

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

In August the President created a Peace Commission to clarify what happened to the persons who disappeared for political reasons during the 1973–85 military dictatorship (see Section 1.b.).

*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, discrimination against some groups exists.

*Women.*—Violence against women continues to be a serious problem. A 1999 Ministry of Public Health study projected that within 5 years, domestic violence would constitute the second most prevalent threat to public health, after traffic accidents. In a 1997 poll of 545 urban and suburban households, 47 percent of respondents reported physical or psychological abuse from their partners, with 23 percent reporting severe abuse. 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 Montevideo city hall's hot line for victims of domestic violence received about 4,500 complaints during the year, compared with 5,975 complaints in 1999. Persons calling the hot line are provided counseling, free legal advice, and may be referred to NGO's that can provide further social services. A new law signed in June increased sentences for rape and certain other sexually related crimes. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely are initiated for those crimes. Similarly, although the law prohibits sexual harassment in the workplace, few complaints are ever filed under this provision.

The Government has established an office of assistance for victims of domestic violence that trains police how to resolve complaints of violence against women. A directorate within the Ministry of Interior instituted a public awareness campaign about domestic violence and founded 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 NGO's operate shelters in which abused women and their families can seek temporary refuge.

Women enjoy equality under the law but face discrimination stemming from traditional attitudes and practices. The work force exhibits segregation by gender. Women, who make up almost one-half the work force, tend to be concentrated in lower paying jobs. Women's salaries average two-thirds those of men, a figure that reflects gradual improvement in recent years with respect to pay equity. In 1999 about 60 percent of the students at the public university were women. Women often pursue professional careers but are underrepresented in traditionally male-dominated professions. In 1997 the Government approved regulations to implement a 1989 law for equality in the workplace that had previously gone unenforced, and it formed a national commission for workplace equality that includes representatives from the Ministry of Labor, the Ministry of Education and Culture, chambers of commerce, and the umbrella labor organization. However, there never have been any cases brought under the new regulations. There were 13 female cadets enrolled in the Air Force Academy's 75-member student body, representing nearly a doubling of the female enrollment since 1999. Four female cadets are expected to receive commissions as pilots or navigators in the air force during the year. The Army Military Academy has 27 female cadets, out of a total enrollment of approximately 225. The Naval Academy admitted its first female cadet during the year.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities remained centered on followup 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 regards the education and health of children as a top priority. An institute in the Ministry of Interior oversees implementation of the Government's programs for children but receives only limited funding for programs. An estimated 40 percent of children under the age of 5 live in the poorest 20 percent of homes. The Government is attempting to extend proper health care and education to them with the help of UNICEF. The Government provides free, compulsory primary and secondary education, and 95 percent of children complete their primary education. Girls and boys are treated similarly. Free education is 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 the National Institute for Minors for the period determined by the judge. The INAME-run institutions emphasize the rehabilitation of minors. INAME maintains an extensive network of programs, including shelters for at-risk children. INAME also operates a confidential hot line for children who are victims of domestic abuse.

A draft Code of the Child, intended to bring the law into compliance with the provisions of the U.N. Convention on the Rights of the Child, was introduced into the new legislative session during the year. The previous legislative session ended before a prior version of the bill could be enacted into law.

*People with Disabilities.*—A national disabilities commission oversees implementation of a 1989 law on the rights of the disabled. Although the law mandates accessibility for disabled persons only to new buildings or public services, the Government is providing access to a number of existing buildings. The law reserves 4 percent of public sector jobs for the disabled. There is no governmental discrimination against disabled persons in employment, education, or in the provision of other state services. 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 black minority, estimated at 5.9 percent of the population, continues to face societal discrimination. A government study conducted in 1996–97 found that the unemployment rate for blacks was 1.5 times the rate for whites. The National Institute of Statistics found that blacks earn an average of 20 percent less than whites who perform the same job. According to a recent study published by Mundo Afro (an NGO), the illiteracy rate among black women is twice the national average, and the percentage of black women who have pursued higher education is one-third the rate in the population at large. According to the same study, one-half of Afro-Uruguayan women work as household domestics. Blacks are practically unrepresented in the bureaucratic and academic sectors.

*Religious Minorities.*—Isolated neo-Nazi elements have carried out occasional, limited attacks and activities since 1997. Law enforcement authorities have responded vigorously to such activities. In August 1999, an intensive police investigation resulted in the arrest of eight members of a very small neo-Nazi group suspected of creating racist and anti-Semitic Internet websites. The authorities charged five of the suspects with subversive association; two also were charged with inciting hate or violence towards a particular group. Pending the court's final decision in the case, the defendants were released after serving approximately 3 months of imprisonment, the minimum statutory penalty for first offenders in cases of this nature. In September the police arrested and charged with inciting racial hatred the leader of another small neo-Nazi group believed responsible for pro-Nazi propagandizing.

#### *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 concerning union activities. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. An estimated 15 percent of the work force is unionized. Labor unions are independent of political party control but traditionally have associated more closely with the Broad Front, the leftist political coalition.

The Constitution provides workers with the right to strike, and there were numerous strikes during the year. 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." In June the umbrella labor confederation PIT/CNT organized a 1-day general strike. In December the PIT/CNT organized a second 1-day general strike to protest the Government's 5-year austerity budget proposal.

In August after the newspaper *El Pais* printed a story reporting on high costs charged by the newspaper distributors' union, the union refused to distribute *El Pais* for 1 day in protest. The union asserted that it was being blamed for the demise of newspapers, while the press association called the protest an assault on freedom of the press.

There are mechanisms for resolving workers' complaints against employers, but unions complained that these mechanisms sometimes were applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintain that organizers are dismissed for fabricated reasons, thus allowing employers to avoid penalty under the law.

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 has chosen 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 antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities. However, in cases of legal challenges by union activists, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers.

Union members continued to file claims of discrimination with the Ministry of Labor, which has a labor commission that investigates all claims. In 1999 there were 16 claims of antiunion discrimination submitted to the Ministry of Labor. (The Ministry's mediation service received a total of 353 laborrelated complaints that year, of which it successfully mediated 307 cases and failed to resolve 31 cases; 15 remained open at the end of that year. Nearly half of all complaints related to workers' wages.) While there was no specific information on the antiunion discrimination complaints, most were resolved through rehiring the employee with full rights or compensation of the employee (without being rehired). Most complaints are resolved within a few months, but a few cases remained unresolved at year's end. Labor unions have complained that some businesses have encouraged formation of worker cooperatives, which serve to reduce their labor costs. Although such cooperatives do not necessarily affect workers' social insurance and other public benefits, they can reduce workers' job security and result in a loss of seniority. They also weaken the power of trade unions and of collective bargaining.

All labor legislation fully covers workers employed in special export zones. There are no unions in any of these zones, but the few workers in these zones are not in traditionally organizable occupations.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it is not known to occur. The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the law. Some children work as street vendors in the expanding informal sector or in the agrarian sector, which generally are regulated less strictly and where pay is lower; however, illegal child labor is not a major problem. By law minors under the age of 14 may not be granted permission to work, and this is enforced in practice. Minors between the ages of 14 and 15 are 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. A total of 95 percent of children complete primary school education, which is free and compulsory. Controls over salaries and hours for children are more strict 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. In conjunction with an NGO, in March INAME began a pilot program to pay families \$83 (1,000 pesos) per month to parents who take their children off the streets and send them to school. This amount approximates what a child might earn working on the street. On December 8, the Government created a National Committee for the Eradication of Child Labor, which is to create a national action plan to combat it.

The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, which was set in January at about \$86 (1,060 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family. The vast majority of workers earn 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, in order to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—work off the books and thus forfeit certain legal protection.

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; however, there were no reports that persons were trafficked to, from, within, or through the country.

---

## VENEZUELA

Venezuela is a republic with an elected president and a unicameral congress. The Constitution, which entered into effect on December 30, 1999, also provides for a “Citizen Power” branch of government, which includes the Ombudsman, the Public Prosecutor, and the Controller General, and an “electoral power”—the National Electoral Council (CNE). On July 30, voters reelected President Hugo Chavez Frias of the Fifth Republic Movement (MVR). The MVR also won 92 seats in the 165-member legislature. According to international observers, the year’s general elections were generally free and fair; however, there were localized technical problems and irregularities, and the process leading to the elections was a controversial and difficult one. The date for the elections originally was set for May 28, but as that date approached it became increasingly apparent that the CNE had failed to organize the elections adequately. Constant changes to the voter database—which both the opposition and nongovernmental organizations (NGO’s) alleged were intended to offer electoral advantage to President Chavez’s supporters—made it impossible to complete programming of the electronic voting machines or carry out other necessary steps. The Supreme Court ordered a delay and gave responsibility for setting the new date to the National Legislative Committee (a panel serving as the country’s legislature pending election of the National Assembly). The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources.

The security apparatus includes civilian and military elements, both accountable to elected authorities. The Interior and Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. The Defense Ministry controls the General Directorate for Military Intelligence, 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 guarding the exterior of prisons and key government installations, maintaining public order, monitoring frontiers, conducting counterdrug operations, and providing law enforcement in remote areas. It also supplies the top leadership for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. The Metropolitan Police is the main civilian police force in and around Caracas. There was continued controversy during the year over the use of the armed forces in traditionally nonmilitary roles in government and society, including the appointment of military officers to high-ranking government positions. Some 70,000 members of the military continued to participate in a public works program begun in 1999, including conducting a census of the unemployed; providing medical care to the needy; renovating schools, playgrounds, and medical care cen-

ters; and removing garbage. At year's end, 3 of the 14 members of the President's Cabinet, including the Minister of Defense, were either active or retired career military officers, as were the presidents of the major state-owned corporations Petroleos de Venezuela, CITGO, and Corporacion Venezolana de Guyana. There are also a number of military officers in high and mid-ranking government positions in agencies responsible for social development, public works, and finance. Both police and military personnel were responsible for human rights abuses during the year.

The country has abundant natural resources, and its per capita gross domestic product (GDP) is \$4,302. However, income is distributed unevenly with approximately 80 percent of the population living at or below the poverty line, which is \$1,986 per capita. Oil accounted for 27 percent of GDP, 53 percent of government revenues, and 84 percent of the country's exports during the year. Nonoil exports also are dominated by natural resources, with some basic refining. Iron, aluminum, steel, and petrochemical products together comprise nearly half of the country's nonoil exports. The vast majority of all natural resource extraction and production is done by entities owned and operated wholly or in part by the Government. During the year, the economy began to recover from its deepest recession in 10 years as oil prices increased from historic lows to the highest prices since the oil crises of the 1970's. Growth for the year is estimated at 3.2 percent; the economy contracted by 6.1 percent in 1999.

The Government's human rights record remained poor in some areas; although there were improvements in some areas, serious problems remain. During the year, the police and military committed extrajudicial killings of criminal suspects at an increased rate. Excessive use of deadly force by police and security forces was a serious problem; over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. Investigations continued into the forced disappearances of criminal suspects by the security forces. Torture and abuse of detainees continued, and the Government failed to punish police and security officers guilty of abuse. While overcrowding was reduced in some prisons, prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. Arbitrary arrest and detention increased. Lengthy pretrial detention, and corruption and severe inefficiency in the judicial and law enforcement systems also were problems. The Government struggled to implement the Organic Criminal Procedures Code (COPP), which required a major shift from a secretive inquisitorial system to an open adversarial system; however, there were successes including a reduction in the number of prisoners who had not been convicted of a crime. The authorities suspended a number of judges for incompetence or corruption. The December 1999 Constitution established civilian trials for soldiers accused of abuses and committed the Government to the rulings of international courts. Security forces committed illegal searches. Concern over freedom of the press increased, and some critics charged that the Government intimidated the media. Self-censorship was reportedly widespread. Concern over freedom of association increased, due in part to a Supreme Court ruling that could limit the legal rights of some associations. The Government described some refugees as "displaced persons in transit" and restricted their ability to request asylum. The new Constitution created a national Ombudsman, who repeatedly and frankly advocated for the respect of human rights. Violence and discrimination against women, abuse of children, discrimination against the disabled, and inadequate protection of the rights of indigenous people continue to be problems. Concern over labor rights increased, and on December 3, voters approved a referendum to "overhaul" union leadership. Child labor persisted, and there were reports of trafficking in children for forced labor. Killings due to vigilante justice increased significantly.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects, at significantly increased levels. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected human rights NGO, documented 170 extrajudicial killings from October 1999 through September, compared with 101 killings from October 1998 to September 1999. The killings involved summary executions of criminal suspects, indiscriminate or excessive use of force, and death resulting from mistreatment while in custody. According to PROVEA, state police forces other than the Metropolitan Police were responsible for 82 killings; the Metropolitan Police were responsible for 25 killings; the PTJ, 25 killings; the National Guard, 9 killings; the municipal police

forces, 8 killings; the army, 6 killings; the DISIP, 4 killings; and other security forces, 11 killings. These figures reflect a range of killings in very different situations committed by organizations with varying levels of control and responsibilities. The majority of the killings were attributed to various state and municipal police forces that report to local officials and usually have little training or supervision. Excessive use of deadly force was a problem; according to the Government, over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. There are reports that police fire on criminal suspects who disobey orders to halt. Many politicians contributed to a climate of official acceptance of the excessive use of force when, during the national election campaign, they employed slogans such as "bullets for the underworld" and "the only good criminal is a dead criminal."

The perpetrators of extrajudicial killings act with near impunity, as the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the new Organic Criminal Procedures Code and, in the meantime, remains highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of prosecutions in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued are frequently light, or the convictions are overturned on appeal. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; however, the provision does not apply to military trials for cases that predate the new Constitution (see Section 1.e.). Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

Red de Apoyo, an NGO, reported that on January 6, the Yaracuy state police detained Jaime Hilarion Palima and Richard Lucambio on a city street in San Felipe. Hilarion's and Lucambio's bodies were found 5 days later on a river bed and a highway, respectively. The case was under investigation at year's end.

On April 8, the Metropolitan Police fired indiscriminately at a group of individuals who had just seen them shoot and kill a suspected criminal, and also killed one of the witnesses, Guillerma Colmenares. The police also tortured another witness, Donis Ramirez (see Section 1.c.). The case was under investigation at year's end.

On June 30, the Metropolitan Police arrested Ronny Tovar, age 17, Francisco Mister, age 14, and Luis Hernandez, age 21, in their homes. Witnesses heard shots and saw the bodies of the three young men being taken from the scene in a police vehicle. The bodies later were recovered, and the case was under investigation at year's end.

Security forces committed some killings in prisons; however, the majority of the 338 inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

The authorities continued to investigate allegations of human rights violations by the military and security forces sent to Vargas state in December 1999. The forces were sent to restore order after an outbreak of looting following heavy rains, which triggered flooding and landslides that killed an estimated 20,000 persons. Witnesses claim that military and security forces beat, detained, and killed alleged criminal suspects and other individuals between December 19 and December 25, 1999 (see Sections 1.b., 1.c., 1.d., and 4). On May 22, Foreign Minister Jose Vicente Rangel stated that confirmed cases of these abuses were "numerous and important."

For example, on December 25, 1999, National Guard Corporal Lorenzo Badillo Cano shot and killed Luis Bastardo as he celebrated the Christmas holiday on a street in La Guaira. The Prosecutor General, with the cooperation of the PTJ and the National Guard, successfully prosecuted Badillo, who pled guilty to murder and, on September 6, was sentenced to 10 years in prison, less than the 15 to 25 years established by law. The authorities also are investigating four disappearance cases from the same time period in Vargas (see Section 1.b.).

There were no prosecutions for the June 1999 death of Jhon Linares, who was detained by the Metropolitan Police and later was found dead from three bullet wounds at the hospital, or Oswaldo Blanco, who died in February 1999 due to abuse by the National Guard.

At year's end, the trial of a police officer for the February 1999 death of Angel Castillo Munoz was ongoing. Castillo died when Sucre state police broke up a peaceful student demonstration; he was hit in the head by a rubber bullet and fell unconscious into an area saturated by tear gas. Police reportedly continued to fire, despite students' attempts to surrender, resulting in a delay of medical care to the injured students.

The PTJ made no progress in the investigation of the May 1998 killings of Carlos Alberto Colmenares Garcia, Richard David Palacios Garcia, and Avelino Rafael Vega, who died after the Sucre municipal police opened fire on their car. There has been no further investigation into the January 1998 killings of Harold Michael Zambrano Gonzalez and Arturo Jose Hernandez Ramirez by the Metropolitan Police.

There was no further information on the appeal by the prosecution of a court's 1999 decision to exonerate a PTJ member implicated in the 1995 execution-style killing of 21-year-old Hector Rojas, despite evidence of the officer's guilt.

On August 4, a court convicted two National Guardsmen and one prison guard and sentenced them to terms ranging from 15 to 30 years in prison for the 1996 deaths of 25 inmates in a fire started by prison guards at La Planta prison.

In March the victims' families and the Government reached an out-of-court settlement in the case of the 1992 killings of at least 63 prisoners at Catia prison.

In November 1999, before the Inter-American Court of Human Rights, the Government accepted its responsibility in 44 cases of extrajudicial killings by security forces during and after the civil unrest of February-March 1989, in which some 300 alleged extrajudicial killings were committed. The Government also agreed to compensate the families of the victims and to identify and punish those responsible; however, during the year there was considerable disagreement regarding compensation, and an agreement had not been reached at year's end. The Committee of Family Members of Victims of the Unrest had referred a total of 45 cases to the Inter-American Commission on Human Rights (IACHR) in 1995. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In October 1997, the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. By year's end, the Government had complied partially; it had investigated and made a payment, but it had not punished any of those responsible.

Mob lynching of supposed criminals increased significantly due to the public's perception of increased impunity resulting from the difficult implementation of the COPP. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 1999 and September, PROVEA recorded 22 lynchings and 107 attempted lynchings, compared to 2 lynchings and 24 attempted lynchings between October 1998 and September 1999. Vigilante groups known as "brigadas" continued to operate.

*b. Disappearance.*—The December 1999 Constitution prohibits forced disappearance, obliges an individual to disobey an order to carry out a disappearance, and provides for the prosecution of the intellectual author of the crime. There were no reports of targeted political disappearances; however, there were reliable reports of persons who disappeared after being detained by the security forces at the end of 1999.

The authorities are investigating allegations that the military and security forces carried out forced disappearances of alleged criminal suspects and other individuals in Vargas state during a crackdown on looters in December 1999. On December 21, 1999, army paratroopers separately arrested Oscar Blanco Romero and Marco Monasterio without explanation, in their homes in Caraballeda, Vargas state. Following the filing of habeas corpus petitions, the army made a formal response in which they acknowledged detaining the men but stated that they were immediately turned over to the DISIP. The DISIP first stated that they had no agents in the area at the time, then reversed that position, but stated that they did not have Blanco and Monasterio in detention.

On December 21, 1999, army paratroopers beat and arrested Jose Rivas Fernandez on a city street in Caraballeda, Vargas state, according to reliable reports. The army command states that it did not detain Rivas. On December 23, 1999, DISIP agents seized Roberto Hernandez Paz in his uncle's home in La Guaira, Vargas state. The uncle subsequently heard Hernandez plead to the security agents and a gunshot coming from the family's garden. Neighbors witnessed the injured victim being placed in a DISIP vehicle and driven away. The DISIP stated that it did not arrest Hernandez. Neither individual had been located at year's end; investigations into both cases continued.

The Government's investigation of the Vargas cases has been slow and disorganized, and charges have been filed in only one case (see Section 1.a.). The investigating team has been changed three times, with each new team starting a new inquiry afresh. The Government has been unable to compel the cooperation of the DISIP. In response to a request to provide photographs of the agents who operated in Vargas at the time of the disappearances, the DISIP supplied an album that included photographs of retired agents, deceased officers, and prisoners. Prosecutors also are investigating whether DISIP agents broke any laws when they visited army

paratroopers and asked questions about army officers who had served in Vargas in December 1999. Since investigation of the paratroopers is the responsibility of the Prosecutor General and the army, the possibility that DISIP agents were engaged in witness intimidation is under investigation. Human right groups called for obstruction of justice charges to be brought against the DISIP to compel its cooperation.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The new 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 rehabilitation. Under the COPP, detainees have the right to a judicial determination of the legality of their detention within 3 days, a reduction from the previous 8-day period that human rights groups argued was the principal time in which detainees were tortured (see Section 1.d.); however, the security forces continue to torture and abuse detainees physically and psychologically. Credible human rights groups report that this abuse most commonly consists of beatings during arrest or interrogation, but there have been incidents when the security forces used near suffocation and other forms of torture that leave no telltale signs. Most victims come from the poorest and least influential parts of society.

PROVEA documented 429 cases of torture, beatings, and other abuse from October 1999 through September, compared with 424 cases from October 1998 through September 1999. According to PROVEA, the Metropolitan Police of the Caracas federal district were responsible for 94 of the reported incidents; other state police forces were responsible for 147 incidents; the National Guard, 93 incidents; the municipal police forces, 58 incidents; the DISIP, 22 incidents; the army, 9 incidents; and the PTJ, 6 incidents. In April 1999, human rights NGO's presented a report to the U.N. Committee Against Torture in which they documented 120 torture cases since 1987 that they have investigated and reported to the Prosecutor General and the National Human Rights Commission, but that still have not been investigated fully by the Government.

Torture, like extrajudicial killings, continues because the Government does not ensure the independent investigation of complaints needed to bring those responsible to justice. In addition to lack of vigor by the judiciary, the fact that the Institute of Forensic Medicine is part of the PTJ also contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few instances of torture have resulted in convictions.

On March 1, according to Red de Apoyo, the Zulia state police arrested Jose Matheus in his home and accused him of involvement in a kidnaping. The police held Matheus incommunicado for 11 days and severely beat him and tortured him psychologically.

On April 8, the Metropolitan Police tortured and threatened to kill Donis Ramirez if she spoke to the authorities. Ramirez had seen the police fire indiscriminately at a group of individuals who had just witnessed them shoot and kill a suspected criminal, also killing one of the witnesses, Guillerma Colmenares (see Section 1.a.).

There was no prosecution for the August 1999 torture of Juan de la Cruz Bravo by the PTJ in Guasdualito. Bravo, who had been accused of murder, allegedly was drugged, beaten, and subjected to electrical shock. There was also no prosecution for the March 1999 beating of Andres Flores by the Metropolitan Police.

No action ever was reported against some 50 Baruta municipal police officers who attacked residents of the poor working class Caracas suburb of Petare in December 1997, injuring 43 persons. There was no reported progress from the criminal court investigation or the internal investigation by the chief of the Baruta municipal police.

The police used tear gas and pellet guns against peaceful demonstrators, resulting in some injuries (see Section 2.b.).

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted in 1999. Complaints against the security forces in this area subsequently decreased. The Support Network for Justice and Peace has documented many human rights abuses in this region by amassing detailed witness testimony. There has been no resolution of the border area cases from 1995, in which members of the military, in separate incidents in reaction to guerrilla attacks, tortured 23 rural workers near Cararabo and 19 peasant farmers in La Victoria, both in Apure state. The investigations into these incidents continued at year's end.

Prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff and National Guard members, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treat-



ment. During the year, the prison population decreased to 84 percent of capacity, due to the implementation of the COPP. However, because of the poor distribution of inmates, approximately 40 percent of prisoners still are housed in seriously overcrowded facilities.

The Government failed to provide adequate security in prisons, resulting, according to PROVEA, in 338 deaths and 1,255 injuries from violence in jails from October 1999 through September 2000—a decrease from a total of 390 deaths and 1,695 injuries from violence between October 1998 and September 1999. The majority of the 338 inmate deaths resulted from prisoner-on-prisoner violence, especially during clashes between rival gangs, riots, fires, and generally unsafe conditions in prison facilities. Many others died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. Security forces committed a small number of the killings in prisons. Prisoners also had false expectations with respect to the benefits of the COPP, which resulted in increasing levels of tension and violence. Funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that occurs in the prisons.

Female prisoners are detained in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often detain minors together with adults; however, separate facilities exist for juveniles. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

On August 31, the prison emergency, which had been declared on September 30, 1999, was ended, and the Interinstitutional Commission managing it was disbanded. Despite resistance from the Catholic Church and NGO's, the Government sporadically used the National Guard, normally charged with guarding the outside of the prisons, to maintain internal control of the prisons.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the COPP provide for freedom from arbitrary arrest and detention; however, the security forces routinely continued to arrest and detain citizens arbitrarily at an increased rate.

There continued to be arbitrary detentions by the Metropolitan Police of the federal district of Caracas, the DISIP, municipal police forces, the National Guard, and the PTJ—especially during anticrime sweeps in impoverished sections of major cities. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 8,981 persons detained in sweeps from October 1999 through September, an increase from the 6,236 persons detained in sweeps from October 1998 through September 1999.

Amnesty International reported that in September, police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 5).

In December 1999, security forces arbitrarily detained suspected looters in Vargas state (see Sections 1.a., 1.b., 1.c., and 4).

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger that the accused may flee or impede the investigation. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado (see Section 1.c.). 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 early March, the Government announced that pretrial hearings would be held on weekends to allow the authorities to process detainees in accordance with the COPP's provisions, rather than release suspected criminals. In no case can the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor can it exceed 2 years. Confusion over the new code still

exists, and arbitrary arrests continue to be common. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their hearings.

Before the COPP came into effect in 1999, roughly 70 percent of prisoners had not been convicted of a crime because, under the old procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow and secretive inquisitorial justice system of the old code had led to an inefficient, overwhelmed, and corrupt justice system, which resulted in cases languishing an average of 4 to 5 years in the courts, during which time the accused usually remained in jail. Under the COPP, prisoners accused of petty crimes who have not been convicted but already have served 2 years or the minimum sentence possible for that crime (whichever is lesser) are to be released if they pass a psychiatric examination. During the year, approximately 9,000 prisoners were released under the new provisions and benefits provided by the law. There were approximately 14,200 prisoners at year's end, 45 percent of whom have not been convicted of a crime—a decrease from 57 percent in 1999.

Prisoners carried out protests to demand that the Government expedite the review of the cases of inmates who might benefit from the COPP's provisions. While there were still some prisoners who had not been convicted but already had served 2 or more years in prison, prisoners also had false expectations with respect to the benefits of the COPP, which resulted in tension and violence (see Section 1.c.).

Forced exile is illegal and is not practiced.

*e. Denial of Fair Public Trial.*—The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Prosecutor General, who provides opinions to the courts on prosecution of criminal cases and brings public employee misconduct and violations of the constitutional rights of prisoners or accused persons to the attention of the proper authorities; the Ministry of Interior and Justice, which manages the national police force, oversees the prisons, and files complaints in criminal courts; and the executive directorate of the magistrate, 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.

Both the old code and its 1999 replacement, the new Organic Code of Criminal Procedures, provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the old secretive inquisitorial code, the presumption of innocence was ineffective in the justice system, which became overburdened, inefficient, and corrupt under a paper-intensive, costly, and time-consuming judicial process. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. This new adversarial system of justice gives practical effect to the presumption of innocence and eliminates the secret stage of trial that had existed in the previous system. It also establishes the right to plead guilty and make reparation agreements, a statute designed to clear the overburdened justice system of simple cases and minor offenses. Lengthy delays in trials were still common, although there has been some improvement.

The Government continued to struggle to implement the COPP, which required a major shift in the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, the judge, and the lawyers. The police no longer may detain persons arbitrarily for up to 8 days and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in open court. For the second year, open, oral trials took place around the country despite a shortage of trained personnel and resources. The COPP's successful implementation over the long term is expected to require further progress, including increased training for police and lawyers and a significantly increased number of prosecutors and defenders to handle the workload.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. The Executive Directorate of the Magistrature (DEM), which replaced the Judicial Emergency Commission, reported that there are approximately 275 public defense attorneys for the entire country.

The Government ended the Judicial Emergency created in 1999 to bring about reform of the judicial system; however, significant attempts to reform the judicial system continued. During the year, the DEM—which oversees the selection, training, and discipline of judges—removed 100 judges from office based on charges of incompetence or corruption and suspended an additional 350 judges. Suspended judges

continued to receive salaries; however, some observers charged that their right to appeal was restricted. The Government announced that it expected to hold the first competitive examinations for judicial vacancies, a process established under the COPP, in January 2001 in Miranda and Vargas states. Judges with pending cases against them were not eligible to take the examinations, and judges who had been reprimanded had points deducted from their scores.

In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to “take care” with the process to suspend a judge handling a politically sensitive libel case against editor Pablo Lopez Ulacio (see Section 2.a.). In August Molina resigned, claiming that he lacked the political support needed to continue his duties.

The military courts implemented a similar reform of the military justice system and are making the transition to the new system. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; this represented a fundamental change in human rights policy. However, the provision does not apply to military trials for cases that predate the new Constitution. Human rights NGO’s expressed 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. As a result, military judges trying human rights cases that predate the new Constitution can be subject to improper influence, and offenders might evade punishment for extrajudicial killings and other human rights abuses.

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 infringed on citizens’ privacy rights. Security forces often conducted searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO’s of illegal wiretapping by the security forces.

In April DISIP announced that it had dismissed some 50 agents for engaging in illegal wiretapping of other government agencies. In July during a dialog the DISIP held with the national Ombudsman’s office and NGO’s about a proposed restructuring of the National Intelligence System (which was not carried out at year’s end), the agency stated that it had files on 1 in every 19 citizens (or 520,000 individuals).

During the campaign for the July 30 elections, DISIP agents searched offices of an opposition governor, despite a 1999 promise by President Chavez that the DISIP would not be used for political operations (see Section 3).

*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 while the Government generally respects these rights in practice, some media critics charge that the Government intimidates the media and report that self-censorship is widespread. Individuals and the media freely and publicly criticize the Government; however, concern over freedom of the press increased during the year. A provision in the December 1999 Constitution states that all persons have the right to “timely, truthful, and impartial” information, without censorship. This “truthful information” article has raised concerns among many in the domestic and international media that it could be used by the Government to censor or intimidate the press. In April the governor of Apure state issued a decree requiring “true information” within the state. There were immediate protests, and the governor withdrew the decree. Also in April, officials of the National Electoral Council stated that the Council was considering possible regulations governing the publication of political polls. There were strong protests from the media, and no regulation or legislation ever was proposed formally.

There were numerous allegations of inappropriate government pressure against the media. In January the DISIP questioned two reporters from the daily *El Nacional* about articles they had written about beatings and extrajudicial killings in Vargas in December 1999 (see Sections 1.a. and 1.c.). A subpoena was issued that required one reporter to name her sources. She was threatened with imprisonment or fines for noncompliance; however, no action was taken against her when she refused to provide the information. In May the television program *24 Hours*, hosted by Napoleon Bravo on the Venevision station, was canceled. Bravo charged that government pressure was to blame; government and network officials denied the accusation. Individual journalists and editors have reported receiving intimidating or threatening phone calls.

The Constitution also provides for the “right to reply” for individuals who believe they are portrayed inaccurately in media reports. President Chavez demanded a right to reply on several occasions. However, certain individuals named by the President in his weekly national radio show have complained that they have not been granted the right to reply.

In September a court dismissed a long-running criminal defamation suit against a journalist and editor of the monthly magazine *Exceso*. The Inter-American Press Association had protested the case, in which it was alleged that a businessman who was the subject of a critical article in *Exceso* used improper influence over the judiciary to retaliate against the magazine. A separate criminal defamation suit, against weekly newspaper *La Razon*, continued at year’s end; the International Committee to Protect Journalists has protested this case. On July 8, a judge ordered Pablo Lopez Ulacio, the editor of *La Razon*, placed under house arrest for failure to appear in court to answer libel charges brought against him by Tobias Carrero Nacar, a businessman and friend of President Chavez. In the spring, *La Razon* published articles that alleged that Luis Miquilena, president of the National Legislative Committee (CLN), had influenced improperly insurance contracts to Carrero. The DEM sanctioned the judge who issued the house arrest order, and he eventually recused himself from the case. In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to “take care” with the process to suspend the judge (see Section 1.e.). Lopez was released from house arrest after 1 week; however, a new arrest order was issued, and Lopez went into hiding. Because of the lengthy process and considerable legal costs, both lawsuits have been interpreted by some observers as examples of the use of criminal defamation or libel lawsuits, or the threat of such lawsuits, to intimidate journalists and discourage investigative journalism.

There were no reports of government-sponsored attacks on journalists; however, several journalists were assaulted physically or verbally for what appear to have been political motives. Some observers assert that President Chavez’s aggressive rhetoric in criticizing the media as having portrayed him unfairly has contributed to a climate of intimidation and hostility toward the media that encourages such attacks. At one presidential press conference in Maracay in March, reporters refused to ask President Chavez questions in protest of what one termed “the President’s constant attacks against the media.” During a May 1 campaign march by President Chavez, some partisans attending the campaign chanted slogans that characterized reporters as “traitors” and “enemies,” pushed or hit journalists, and attempted to destroy their equipment. President Chavez later condemned these assaults. In February anonymous leaflets were distributed throughout the Caracas subway that criticized journalists as “enemies of the revolution” and named certain prominent journalists.

In September 1999, government officials complained that international media coverage of events was unfair, and some made allegations of “an international media conspiracy.” Also during that month, a small group of activists occupied the offices of the Associated Press in protest of the news service’s supposed antigovernment stance. A regional radio station alleged that state security agents searched its offices in what the radio viewed as an effort to intimidate.

Instances of bomb threats—and on two occasions in December 1999, discoveries of small explosive devices in or near newspaper buildings—have contributed to what some journalists have called “a climate of intimidation” of the media. In February the Venezuelan Press Association publicly commented on the deteriorating situation for press freedom in the country.

There is no statutory censorship. The Government has tools to influence the press, such as licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. However, in practice, the media environment is free and open, although some journalists believe that self-censorship is becoming more widespread. Few newspapers regularly publish editorials that reflect the view of the newspaper, but signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations do not broadcast overt institutional political opinions, although opinion and talk shows are common.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in November 1995, but the Supreme Court still had not ruled on this matter at year’s end.

Print and electronic media are independent. There are state television and radio stations whose directors are named by the President but whose broadcast policies

are autonomous. The Government financed and published the newspaper *The President's Post* during the first 6 months of the year. The President has a weekly call-in radio show on state-run Radio Nacional. At the President's discretion, his speeches or other public appearances may be declared a "national broadcast." All television and radio stations are required by law to preempt scheduled programming and transmit the national broadcasts in their entirety (on occasion, 2 or more hours) instead. A documentary-style "news program," varying in length from 5 to 15 minutes, produced by the President's staff, began airing in June. The program, which focuses heavily on the activities of the President and the Government, is produced one or more times a week. It is broadcast before regularly scheduled evening news programs. Like the national broadcasts, by law every television station must broadcast these programs.

The International Association of Broadcasting and domestic media figures criticized provisions of a telecommunications law enacted in June. The parts of the law related to broadcast content and frequency concessions were particularly controversial. Article 209 establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believe that this article might allow the suspension of media broadcasts for vague and arbitrary reasons.

In April Monsignor Baltazar Porras, the president of the Roman Catholic Episcopal Conference of Venezuela (CEV), publicly criticized the Government regarding a lack of electoral transparency, growing social instability, and the supra-constitutional activities of the CLN. Following these criticisms, the press reported that DISIP videotaped a Mass said by Monsignor Porras. The Director of DISIP immediately apologized, the agent was suspended, and the national Ombudsman's office opened an investigation of the incident. Bishops also reported receiving telephone threats during the CEV's assembly. In October the governor of Merida state announced that he had made a formal request to the public prosecutor to begin a criminal investigation of Monsignor Porras for alleged financial irregularities relating to the Church's administration of a publicly funded hospital. Because Monsignor Porras has criticized the Government, some observers interpreted the investigation as retaliation for that criticism.

There is no state censorship of books, films, or other media products. Internet access is completely free and uncontrolled.

The Government traditionally has respected academic freedom; however, there have been isolated allegations that individual professors at state universities have been removed or warned of possible removal from their academic positions because of outspoken political views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

The December 1999 Constitution prohibits the use of firearms to control peaceful demonstrations; however, as in previous years, some demonstrations turned violent and were quelled by security forces. According to PROVEA, no persons were killed, but 139 persons were injured during demonstrations from October 1999 through September, compared with 2 persons killed and 77 injured from October 1998 through September 1999. The student and teaching sectors carry out the largest number of protests, and the security forces quell the majority of their demonstrations.

On April 5, residents of Cojedes state protested threats by the CLN to remove Governor Alberto Galindea for alleged financial irregularities. The protests in San Carlos and Tinaquillo turned violent, and the National Guard and state police intervened with tear gas. Approximately 18 persons were wounded and affected by tear gas; the state legislative assembly building was destroyed.

On November 5–6, students in Merida protested the death of a fellow student under suspicious circumstances at the hands of the police. The protest became violent and security forces sent tanks, 350 soldiers, and 150 police to stop the demonstration. Police detained 18 persons.

The Constitution provides for freedom of association, and the Government respects this right in practice; professional and academic associations generally operate without interference. However, on November 21, the Supreme Court ruled that (1) Nongovernmental organizations that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; (2) Religious organizations are not part of civil society and are subject to the same re-

strictions; and (3) The Government has an obligation to ensure that NGO's are "democratic in nature" and therefore that the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. While there is ambiguity as to how the ruling is to be implemented, NGO's, labor unions, and other members of civil society expressed serious concerns about the ruling. The national Ombudsman's office questioned the constitutionality of the ruling and argued that it was up to civil society itself to define its members, not the Government.

*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, and the public order, and the Government generally respects this right in practice.

Each local church must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa to enter the country, which is obtained through the Ministry. Missionaries are not refused entry generally, but many complain that the Government often takes months or years to process a request.

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 are free to establish and run their own schools, but they do not receive subsidies from the Government.

On November 21, the Supreme Court ruled that religious organizations are not part of civil society and that their legal rights therefore were restricted (see Section 2.b.).

On several occasions, leaders of the Roman Catholic Church were monitored or threatened by state agents for political reasons (see Section 2.a.).

*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 respects these rights. However, the Government can suspend the freedom to travel, as it did from June 1994 to July 1995. The Government also restricts foreign travel for persons being investigated for criminal activities. For 3 weeks in December 1999 and in January, the security forces sometimes restricted movement in and out of the areas hardest hit by the floods.

The Constitution recognizes and provides for the right to asylum and refuge and mandates the passage of an organic law to codify this right. However, there is no domestic legislation regarding determination of refugee status, the procedure or criteria to be applied, and no independent organization to handle asylum requests exists. In the absence of any such legislation, the Government established an Interministerial Technical Commission (CTI) in 1999 to address cross-border movements and allows the Venezuelan Bishops' Conference to coordinate with the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. In 1999 there were a total of 188 persons in the country who had been granted refugee status. Approximately 100 individuals filed asylum claims during the year; however, the CTI did not rule on any requests.

The Government in theory provides first asylum. However, in August 500 Colombians entered the country following a paramilitary attack in the La Gabarra-Tibu area of Colombia. The Government provided humanitarian aid but, in coordination with the Colombian Government, quickly repatriated all of the Colombians. The Government determined that the Colombians were not refugees but "displaced persons in transit." This term does not exist in international humanitarian law, and its use appeared to be designed to avoid the Government's international obligations to "refugees." The accelerated procedures adopted by both governments for the return of the Colombians limited their opportunity to seek asylum, despite the intention previously stated by some members of these groups to different NGO's and the UNHCR.

A similar episode occurred in June 1999, when some 3,500 Colombians entered the country in 3 waves following a paramilitary offensive in the Catatumbo area of Colombia. These individuals also were termed "displaced persons in transit," and quickly repatriated in coordination with the Colombian Government. There are reports that some of those returned subsequently were killed by paramilitary forces in Colombia. There were no other reports of the possible 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 1999 Constitution provides citizens with the right to change their government peacefully, and citizens exercise 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. Political parties organize, and their candidates are allowed freely to run for office and to seek the support of voters. The President has extensive powers; however, the legislature appoints the members of the Supreme Court, the National Electoral Council, and the so-called Citizen Power consisting of the Prosecutor General, Ombudsman, and Controller General.

At President Chavez's behest, the National Constituent Assembly (ANC) decreed general elections in order to "relegitimize" authorities elected under the (now-defunct) 1961 Constitution. The new Constitution, which went into effect on December 30, 1999, replaced the previous bicameral legislature with a unicameral body, and membership in the former could not simply be carried over to the latter.

The CNE, whose members were appointed on a temporary basis by the ANC at the end of December 1999, organized the elections. In making these appointments the ANC, citing an earlier Supreme Court decision acknowledging that it had "super-constitutional" powers, made no attempt to apply even in spirit the procedures set forth in the new Constitution regarding civil society participation in the selection process. This unilateral selection by the ANC (which easily approved a slate provided by its leadership) of the members of the CNE was criticized widely by the political opposition, media, and NGO's. These groups also criticized similar measures taken by the ANC in choosing its replacement body—the National Legislative Committee, as well as in making interim appointments to the Supreme Court and the Citizen Power. The CLN was an unrepresentative 21-member panel given responsibility in January for serving as the country's legislature pending election of the National Assembly. The CNE invited representatives from the campaign teams to participate in their work.

Elections were scheduled by the ANC for May 28 for every elected office in the country; more than 35,000 candidates ran for some 6,000 offices. On March 28, the Constitutional Chamber of the Supreme Court dismissed two suits that challenged the constitutionality of the election law and consequently the scheduled date of May 28 for the elections. However, as the scheduled date approached, it became increasingly apparent that the CNE had failed to organize them adequately. Constant changes to the voter data base—which both the opposition and NGO's have alleged were intended to offer electoral advantage to President Chavez's supporters—made it impossible to complete programming of the electronic voting machines or carry out other necessary steps.

Faced with the prospect of a chaotic and highly contested election, the CNE decided at the last minute to serve as a friend of the court in a pending suit by two NGO's before the CNE seeking delay of the election. On May 25, the Supreme Court ordered the delay and gave responsibility for setting the new date to the CLN. This decision also gave the Controller General oversight powers over the CNE.

The members of the CNE resigned following the delay, after the CLN formally requested their resignations. After some initial reluctance the CLN agreed that a "national roundtable," on which some of its members and representatives of civil society would sit, would choose the new Council. That new Council included non-partisan civil society members, including its president. Observers generally agree that the new National Electoral Council, chosen by the CLN on June 3, organized the elections in a competent and fair way.

The CLN set the date for the elections at July 30. It also decreed that, for practical reasons, those elections would be limited to president of the republic, national and state legislators, governors, and mayors, with election of municipal and parish councils to be held on October 1. The CLN noted that July 30 was the earliest date by which even the smaller-scope elections it had now decided on could be held, as the new CNE had to redo almost all the preparatory work of its predecessor. The CLN also noted that to include municipal and parish councils in the July 30 vote would triple the number of candidates and offices and, for organizational reasons, would postpone the vote for several months and further prolong the country's period of constitutional transition. Citizens, including many members of the opposition and media, generally regarded these arguments as valid. However, leading presidential challenger Francisco Arias Cardenas criticized the decision of the CLN to split the elections and hold the first component on July 30, a decision that he alleged was intended to put him at a disadvantage. In July a confidential report by the Con-

troller General was leaked to the press; the report identified deficiencies in the work of the CNE.

During the election campaign, DISIP agents carried out searches of the offices of the opposition governor of Merida state, despite the fact that, upon taking office in 1999, the Chavez Government declared that the DISIP and other intelligence agencies no longer would be used for domestic political purposes. While the stated reason for the operations was to gather evidence for corruption investigations, the timing of the searches gave the impression of political harassment.

On July 30, voters reelected President Chavez with 59 percent of the vote. His challengers, Francisco Arias Cardenas and Claudio Fermin, received 38 percent and 3 percent respectively. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly, although not the two-thirds majority required to pass most important pending legislation. His supporters also won half the governorships. The Organization of American States and observers from various countries were of the opinion that, despite some technical irregularities, the vote was generally free and fair. A limited number of voting machines failed to accept ballots or otherwise broke down, and there was disorganization at some polling places, but in the opinion of observers these were localized problems. Standard backup procedures for voting machine failure, such as placing ballots in sealed boxes for later manual counting or processing by functioning voting machines, were followed. However, some of the losing candidates alleged fraud. For example, Arias maintained, among other things, that voting machines were programmed to undercount votes received by him. He and other disappointed candidates were pursuing existing administrative and judicial remedies at year's end. Losing candidates for several governorships alleged that fraud or irregularities affected the outcome of the voting. The CNE investigated these allegations, ordered recounts in some cases, and determined that the disputes were valid in several states, in which it ordered partial revotes. The CNE's follow-up work to the July 30 elections continued at year's end.

On December 3, voters participated in elections for municipal and parish councils and voted on a controversial referendum on labor issues (see Section 6.a.).

In December the President and the National Assembly replaced the interim appointees to the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGO's, who argued that the procedures set forth in the new Constitution regarding civil society participation in the selection process were not followed. The Ombudsman and others challenged the selection procedure in the courts; however, the appointments were made and the new officials took office in December, despite the fact that the Supreme Court had not yet ruled on the legal challenge.

In November the National Assembly passed an "enabling law" that gave President Chavez the authority to legislate by decree on selected issues related to the economy, reorganization of government ministries, and crime. However, only one law had been passed using these new powers by year's end.

Women and nonwhites participate fully in government and politics; however, they remain under-represented in senior leadership positions and national elective office. The National Assembly's Family, Women, and Youth Committee promotes political office-holding opportunities for women. In the July 30 elections, women won 20 seats as deputies in the 165-seat legislature. In August President Chavez named 3 women to his 14-member Cabinet as Ministers of Labor, Trade, and Environment. In December President Chavez appointed Adina Bastidas as vice president.

Indigenous people traditionally have not been integrated fully into the political system due to their limited knowledge of politics, low voter turnout, geographic isolation, and fewer economic and educational opportunities. During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote. The Yanomami argued that the Government's slowness in providing national identity cards, which are required to register to vote, was infringing on their right to suffrage. The Supreme Court ruled against the group's request for an exception to be made to the registration deadline, and they were unable to vote in the July 30 elections. The group of Yanomami subsequently was able to register, and they voted in the December municipal elections. The new Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 30 election. There are no indigenous members of the Cabinet.

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

A wide variety of human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases.



In January President Chavez criticized a report by PROVEA on the human rights violations in Vargas state as “suspicious and superficial” and said that the NGO’s refusal to name the witnesses on which the report was based was irresponsible. The President later pledged to investigate the abuses and met with the victims’ families, and the Government invited the IACHR to make an on-site visit to the country, which had not taken place at year’s end.

On November 21, the Supreme Court ruled that NGO’s that receive funding from foreign governments or whose leaders are not Venezuelan are not part of “civil society” and therefore may not represent Venezuelans in court or bring their own legal actions (see Section 2.b.).

A fundamental change in the Government’s own human rights bodies was made when the December 1999 Constitution created the position of “Defender of the People” (Ombudsman). The Ombudsman is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Prosecutor General and Controller General, makes up the Citizen Power branch of government. Throughout the year, the country’s first Ombudsman, Dilia Parra, repeatedly and frankly advocated for the respect of human rights and assisted investigations of abuses by acting as a liaison between complainants and the Prosecutor General. Despite a limited budget, the Ombudsman’s office established branches and public attention centers in all 23 states. On December 20, in a process that some observers charged was unconstitutional, the National Assembly named attorney German Mundarain as the new Ombudsman to replace Parra (see Section 3). The new Constitution also obliges the Government to make amends to the victims of human rights violations and commits it to implement decisions of international bodies on individual cases of abuse.

Human rights groups remained concerned about the Chavez administration’s lack of a human rights agenda and a lack of support for the national human rights agenda formulated by the previous Government in a July 1997 symposium with NGO’s. Unlike the previous year, President Chavez did not meet with NGO’s to discuss human rights issues. The Government continued to fail to support the National Human Rights Commission created by former President Rafael Caldera in 1996 as a mechanism to coordinate the Government’s human rights programs and to serve as a forum for dialog with NGO’s. Despite the commission’s paralysis, NGO’s have developed good relationships with specific government bodies such as the Ministry of Education to develop educational materials on human rights, and the Foreign Ministry to discuss the resolution of existing human rights cases against the Government in international courts.

The Defense Ministry’s human rights office expanded its staff from one to three officials and continued to carry out training courses as part of the armed force’s curriculum. The Defense Ministry continued to reject the validity of NGO reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the July 30 elections, the National Assembly established an Interior, Justice, Human Rights, and Constitutional Guarantees Committee.

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

The 1999 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 does not protect women adequately against societal and domestic violence, ensure the disabled access to jobs and public services, or safeguard adequately the rights of indigenous people. Amnesty International reported that in September police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 1.d.). The family of one of the detainees filed a formal complaint with the Public Ministry.

*Women.*—Violence against women is a problem, and women face substantial institutional and societal prejudice with respect to rape and domestic violence. Domestic violence against women is very common and has been aggravated by the country’s economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997, the most recent year for which statistics were available. According to local monitors, the police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women generally are unaware of legal remedies and have little access to them. On January 1, the 1999 Law Against Violence Toward Women and Children came into force. The PTJ opened the division against violence to accommodate its provisions. This law requires the police to receive reports of domestic violence and obligates hospital personnel to advise authorities of abuse.

The law makes rape extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the violation. A provision in the Penal Code provides that a man guilty of rape can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to deal responsibly with rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that such low figures do not accurately portray the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt. There were reports that a number of rapes were committed in Vargas state in December 1999 during the lawlessness that followed the flooding.

In 1996 the National Women's Council (which was reorganized during the year and renamed the National Institute for Women), an agency of the presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor, prepared a manual on violence against women and children, which includes information on where the victims might obtain assistance. There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned governmental agencies.

Sexual harassment in the workplace is a common problem.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Women and men are legally equal in marriage. Women account for roughly half the student body of most universities and have advanced in many professions, including medicine and law. In June the Government announced its intention to allow women to attend military academies and serve in expanded roles as officers in the armed forces; however, this had not occurred by year's end. Women gradually have surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still are underrepresented in the higher ranks of labor unions and private industry and, on average, earn 30 percent less than men.

The 1999 Constitution provides for sexual equality in exercising the right to work. The Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for a 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 major labor federation, these regulations are enforced in the formal sector, although social security payments often are delayed.

*Children.*—Government expenditures on education, health, and social services increased during the year due to an improved economy and a larger government budget. While the law provides for universal free education, about one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to UNICEF, only 75 percent of eligible children enter the first grade. During the year, some 500,000 children attended school for the first time when the Government prohibited registration fees. However, the 2000 annual report of the Community Centers for Learning (CECODAP) stated that 500,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly. In 1998 the Government attempted to remedy this problem by adopting a new regulation that requires hospitals to register the births of all children; during the year, the Government sent mobile teams into poor neighborhoods to register minors.

According to CECODAP's study, an estimated 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. According to a 1999 study by the National Nutrition Institute, 23 percent of children under the age of 15 have a nutritional deficit. Approximately 76 percent of minors live in poverty. These conditions contribute to the increase in preventable diseases that are leading causes of infant mortality. Children living in Vargas state suffered the effects of the flooding in that area, particularly with regard to sanitation and schooling.

An increase in poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. A 1994 survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking. Some 40,000 children were exploited sexually, according to a 1994 study.

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 claim that curfews permit the police to act arbi-

trarily in detaining persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers (see Section 1.c.).

In October 1997, Amnesty International reported past incidents in which minors were subjects of extrajudicial killings and abuse, as well as deficiencies in law and practice with regard to the detention of children. For example, security forces and law enforcement authorities often detain minors together with adults (see Section 1.c.). In April Congress passed the Organic Procedural Law on Adolescents and Children (a criminal code); however, observers expressed concern over the slow implementation of the law's provisions.

Reports of child abuse are rare due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, although very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

Children's rights advocates criticized the Government's efforts to reunite children and parents who had been separated in the flooding in Vargas state. At year's end, some 12 months after the natural disaster, some children still were separated from their families. CECODAP estimates that there are 120 children in refugee centers who have not yet been returned to their families. The national Ombudsman's office is investigating whether some of these children may have been trafficked. There were also reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids (see Section 6.f.).

*People with Disabilities.*—The physically disabled have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment.

A 1993 comprehensive law to protect the rights of the disabled requires that all newly constructed or renovated public parks and buildings provide access for the disabled. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government has not made a significant effort to implement the law, to inform the public of it, or to try to change societal prejudice against the disabled.

*Indigenous People.*—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plague their communities. There are approximately 316,000 indigenous people in 27 ethnic groups.

The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, and allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land, but many do not want to since most indigenous groups reject the concept of individual property and want the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

At year's end, the Supreme Court had not yet ruled on a lawsuit filed by environmental and indigenous organizations challenging a 1997 decree that permitted the expansion of legal mining activities in the Imataca forest reserve. The groups charged that only Congress can change the nature of the reserve, that there was an inadequate public review process prior to the change, and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area. In November 1997, the Supreme Court ordered the Government not to issue any new mining concessions in the Imataca reserve until the court ruled on the constitutionality of the presidential decree. In 1999 President Chavez said that he planned to enact a new law to regulate the use of the reserve and that the 1997 decree would be annulled, but at year's end no action had been taken.

The controversy over infrastructure development and the maintenance of traditional indigenous lifestyles is most evident in Bolivar state, where the Pemon continued to protest the building of power lines that export electricity to Brazil through Canaima national park. On July 20, a total of 55 of the 58 Pemon communities affected by the power lines signed an agreement under which the Government pledged, among other commitments, to establish a commission for the demarcation of native lands and to create a development fund for indigenous people. However,

many Pemon remain highly skeptical of the Government's willingness and ability to comply with the accord's provisions.

The Yanomami, among the most isolated of the indigenous people, have been subject to persistent incursions into their territory by illegal gold miners. The miners have introduced not only new diseases but social ills as well. In December 1996, a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleged that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In May 1998, the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In late 1999, an out-of-court settlement was reached under which the Government pledged, among other commitments, to provide better security and to carry out health care projects in the area.

During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote (see Section 3).

Since 1998 hundreds of members of the Warao indigenous group have migrated from their traditional homelands in the swampy Orinoco delta region to the capital of Caracas where they live in the streets, selling their traditional crafts and begging. The Warao say that flooding and petroleum exploration have eroded their traditional means of survival, which are fishing and horticulture. In addition, many Warao no longer want to or no longer possess the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police have maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998 they returned, on average, groups of 100 Warao, at least 15 times. Many of the Warao return to Caracas, citing lack of jobs and money in the delta and their ability to receive approximately \$225 (130,000 bolivars) per week in handouts in Caracas.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Both the Constitution and labor law recognize and encourage the right of workers to organize; however, concerns over labor rights increased during the year. According to the new Constitution, all workers, without prejudice or previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as to join—or decide not to join—these organizations in accordance with the law. The Constitution provides that these organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Additionally, labor organizers and leaders may not be removed from their positions during the period of time and under the conditions that they exercise their leadership functions. However, Articles 23 and 95 of the 1999 Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the internal elections of labor confederations, in violation of the Government's commitments to Conventions 87 and 98 of the International Labor Organization (ILO) charter. On December 3, a referendum was held that was followed by the resignation of the leaders of the country's major labor union confederation.

At year's end, labor law pursuant to the 1999 Constitution had not yet been drafted. The existing comprehensive 1990 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 code mandates registration of unions with the Ministry of Labor, but it reduces 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 then only for reasons listed in the law, such as the dissolution of a firm by agreement of two-thirds of the membership.

The ILO repeatedly has expressed concerns that the Organic Labor Act 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 workers). The ILO also notes that the long and detailed list of duties entrusted to workers' and employers' organizations and the requirement that foreign workers must be in residence for more than 10 years in order to hold trade union offices also are in violation of the Convention on Freedom of Association.

In early March, the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.b.) and suspended internal labor leadership elections for the same period of time. On July 14, the CNE prohibited labor leadership elections until February

2001. In late March, the CLN passed a decree that violated the Campesino Federation's right to associate freely by intervening in the federation's right to hold internal elections, embargoing federation property, and placing it in the custody of the national Ombudsman.

One major union confederation, the Confederation of Venezuelan Workers (CTV), three small union confederations, and a number of independent unions operate freely. About 20 percent of the national labor force is unionized. The CTV represents most of the unionized workers and has a membership of 800,000 workers. The CTV is especially strong in the public sector. The CTV's top leadership includes members of several political parties, but the majority are affiliated with one of the traditional parties, Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally have influenced each other.

On December 3, the Government held a public "workers referendum" to consider the "overhaul of union leadership" and the "suspension" of union officials. International labor authorities, including the International Confederation of Free Trade Unions and the ILO, declared the referendum to be a violation of freedom of association and an unacceptable government intervention in organized labor affairs. The fact that the referendum included the participation of all registered voters on an issue affecting independent labor organizations was viewed as particularly offensive to international labor standards and the right of freedom of association. A CNE spokesman defended the participation of all registered voters, observing that all citizens "are workers or related to workers." The Public Prosecutor and Ombudsman both declared the measure unconstitutional as violations of freedom of association and the Government's international agreements, as provided for in the 1999 Constitution, and recommended that the Supreme Court do the same; however, the Court ruled in favor of moving forward with the referendum.

In the referendum voters were asked to approve an "overhaul of union leadership in 180 days, under a special law drafted by the electoral council, in accordance with the principles of term limits and universal, direct and confidential suffrage" in accordance with the Constitution and to suspend "the function of union officials" during that time. Approximately 65 percent of those citizens who voted approved the question. The CNE later announced that voter turnout was 23 percent.

On December 6, the CTV leadership voluntarily resigned and was replaced by a transitional committee consisting of a broad spectrum of labor and civil society representatives that included individuals connected with the CTV as well as other labor organizations not traditionally aligned with the CTV. Following this change in leadership, the parties involved began to prepare for discussions on reforming the country's labor union structure.

On September 3, President Chavez announced the creation of the "Bolivarian" Worker's Force (FTB) as a new labor federation allied with the ruling MVR to displace, or at least compete with, the CTV. President Chavez said that the FTB was preparing an "all out war" to "demolish" the CTV. Seats on the new "transitional committee" heading the CTV had been set aside for members of the FTB.

The new Constitution and the comprehensive 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by the law, which still was being drafted at year's end. However, public servants may strike only if the strike does not cause "irremediable 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 the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, firefighters, teachers, and transportation workers. In mid-October, the main petroleum workers' union, FEDEPETROL, held a successful 4-day strike against the state oil company PDVSA and persuaded the Government to concede to strikers' demands for a 30-month contract. The strike was settled through tripartite negotiations, which included the active participation of then-Vice President Isaias Rodriguez, who noted the "historic role" of labor leaders in gaining benefits for workers.

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally; however, a November Supreme Court ruling regarding the legal abilities of NGO's that receive funding from foreign sources potentially could restrict the international affiliations of union organizers (see Section 2.b.).

*b. The Right to Organize and Bargain Collectively.*—According to the December 1999 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 State is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the solution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly has expressed concerns that this provision restricts freedom of association and in March 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 legislative body approves the decree.

The law also prohibits employers from interfering with the formation of unions or with their activities or from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The 1999 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 have been able to impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the 1999 Constitution, union officials have special protection from dismissal. Under the 1990 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 his years of seniority.

The right to bargain collectively was violated in early March, when the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.a.). On July 14, the CNE extended the decree until October 15.

Labor law and practice are the same in the sole export-processing zone, located in Punto Fijo, as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally are not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The 1990 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 which an estimated 1.2 million children work. According to UNICEF, approximately 47 percent of children are in the labor market, and work in agriculture, as artisans, in offices, and in the services sector.

Primary school education is compulsory, free, and universal (see Section 5). However, 64 percent of children leave school before the ninth grade. In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher considering that those who stated that they attended school also reported that they worked on average 7-1/2 hours per day, 4 to 7 days a week.

The 1990 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 smelters, in occupations that risk life or health, that could damage intellectual or moral development, or in public spectacles. The 1999 Constitution prohibits adolescents from working at jobs that will affect their development, protecting them from economic and social exploitation.

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under the age of 18 may work only between the hours of 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the National Institute for Minors survey of working children, half the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of children who work in the informal sector have permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The 1999 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 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. The monthly minimum wage is \$206 (142,000 bolivars) in the private sector for urban workers and \$170 (118,000 bolivars) for rural workers, effective May 1.

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 are added to these minimum figures; they vary with the worker's individual circumstances but in general increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that a worker's income is often less than the cost of a family's basic monthly food basket, estimated by the Center for Documentation and Analysis for Workers in August at \$308 (212,205 bolivars). The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, stood at \$905 (624,413 bolivars) for August.

Under the 1990 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. The Ministry of Labor has enforced minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector where labor laws and protections generally are not enforced.

The 1999 Constitution also 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 from working extraordinary hours, and workers also have the right to weekly time away from work and annual remunerated vacations. Some unions, such as the petroleum workers, 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 enforces these standards in the formal sector.

The 1999 Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which is 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 1990 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 close down unsafe job sites. Under the law, workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The new Constitution prohibits trafficking in persons, and this provision was codified in legislation during the year. There were reports that women were trafficked to Spain for purposes of prostitution. The national Ombudsman's office is investigating whether some of the children separated from their parents in the flooding in Vargas state may have been trafficked (see Section 5). There also were reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids. The ease with which fraudulent government documents of nearly all types are obtained contributed to the trafficking problem. The Government's efforts to prevent trafficking are the responsibility of the Prosecutor General's family protection directorate (which also handles prosecutions) and the National Institutes for Women and Minors. NGO's such as CECODAP also are involved in activities to combat trafficking.